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Arb.O.P(Com.Div.) No.48 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.) No.48 of 2024

M/s.Quick Sort Traders,
Represented by its Proprietor
D.Venkatesh Kumar,
SP 94, Sidco Industrial Estate,
Ambattur, Chennai – 600 058.

... Petitioner

Vs.

M/s.M/s.ADI IMPEX SERVICES,
Partner-cum-Authorized Representative
Mr.Sanjivv Narulaa,
Office at 302 Circle P Opposite Panchavati Auto
Saktkej Gandhinagar Road Vejalpur,
Ahemdabad, Gujarat – 380 015.

... Respondent

Prayer: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint an Arbitrator to adjudicate the disputes between the petitioner and the respondent in terms Clause 15 of the Memorandum of Understanding (MOU) dated 18.05.2023 and to direct the respondent to pay the costs.

For Petitioner	: Mr.V.Venkatesan
For Respondent	: No appearance



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ORDER

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There is no representation on behalf of the respondent.

2. Court records indicates that no vakalat has been filed, despite the name of the counsel being printed in the Cause List.

3. This Original Petition has been filed for appointment of an Arbitrator under the Memorandum of Understanding dated 18.05.2023 signed between the petitioner and the respondent.

4. The aforesaid Memorandum of Understanding dated 18.05.2023 contemplates a clause for resolution of dispute through Arbitration.

Relevant clause reads as under:-

“15. Arbitration Clause:

All disputes are subject to CHENNAI Jurisdiction only. Disputes arising out of the transactions under consideration shall be referred to Arbitration under Arbitration and Conciliation Act, 1996 as amended upto date. The place of conducting Arbitration proceedings shall be at CHENNAI only. The Sole Arbitrator for the adjudication shall be mutually appointed by the parties.”



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5. The petitioner has also issued a Statutory Arbitration Notice under Section 21 of the Arbitration and Conciliation Act, 1996 on 18.11.2023, which was also served on the respondent, to which, the respondent has also responded on 13.12.2023 wherein, the respondent has suggested the name of the counsel from this High Court to be designated as the Arbitrator.

6. Both the parties have however not arrived at a consensus in the name of the learned Arbitrator. Considering the nature of dispute, this Court is inclined to appoint **Hon'ble Dr.Justice.P.Jyothimani, (Retd.,) Former Judge of this Court residing at C-9, AGS Colony, Beach 1st Cross Street, Kottivakkam, Chennai – 600 041, (Mobile No.94980 20044)**, as the Sole Arbitrator to resolve the *inter se* dispute between the parties.

7. The learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, endeavour to complete the arbitral proceedings and pass an award strictly in accordance with the provisions of the Arbitration and Conciliation Act, 1996, as expeditiously as possible,



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preferably within a period of twelve months after the date of completion of pleadings under Sub-Section 4 to Section 23 as is contemplated in Section 29A of the Arbitration and Conciliation Act, 1996, without getting influenced by any of the observations made by this Court in this order.

8. The learned Arbitrator appointed herein shall be paid fees and other incidental charges as may be fixed with the consent of parties or in accordance with the provisions of the Arbitration and Conciliation Act, 1996, and the same shall be borne by the parties equally. In case, the respondent remains *ex parte*, the petitioner shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondent subject to the Final Award to be passed by the learned Arbitrator.

9. This Original Petition is allowed accordingly, leaving the parties to bear their own costs.

10. Since this Court has appointed the Arbitrator, it is open to the petitioner as well as the respondent to seek other reliefs under Section 17



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of the Arbitration and Conciliation Act, 1996, before the learned
Arbitrator.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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C.SARAVANAN, J.

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