



Arb. O.P(Com.Div).No.40, 43 to 46, 52 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**Dated : 25.07.2024**

Coram

**The Hon'ble Mr.Justice Krishnan Ramasamy**

**Arb. O.P(Com.Div).No.40, 43 to 46, 52 of 2024**

**Arb.O.P.(Com.Div.)No.40 of 2024**

M/s.Mercedes-Benz Financial Service India Pvt., Ltd.,  
(Formerly known as Daimler Financial Services Pvt., Ltd.,)  
Represented by its authorized signatory  
Mr.Ra.Sivadhara Adiyaman, S/o.Mr.V.Ramani,  
Plot No.8, 5<sup>th</sup> Floor, Baashyam Willow Square,  
9 & 10, First Street, ThiruVika Industrial Estate,  
Guindy, Chennai 600 032.

...Petitioner

Vs.

1. Jayesh Manharlal Nayak,  
3, Pramukh Swami Nagar-1,  
Behind KEYA MOTORS, TP-13,Vadodara,  
Gujarat 390 002.
2. Asmitaben Jayesh Nayak,  
3, Pramukh Swami Nagar-1,  
Behind KEYA MOTORS, TP-13,Vadodara,  
Gujarat 390 002.

... Respondents

**Prayer in Arb.O.P.(Com.Div.)No.40 of 2024:** This Arbitration Original Petition filed under Section 11(6)(a) of the Arbitration and Conciliation Act, 1996 in accordance with Clause 82 of the Agreements dated 02.07.2021 to adjudicate upon the disputes that have arisen between the parties in relation to the agreements.



*Arb. O.P(Com.Div).No.40, 43 to 46, 52 of 2024*

### **Appearance in all Arbitration Original Petitions**

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For Petitioner : Ms.R.Renukadevi

For Respondents : Ms.Meera Gnanasekaran  
for Ms.Alice Chitra Y

### **COMMON ORDER**

Since the issue involved and the relief sought for in all these six Arbitration Original Petitions are identical in nature, the same were heard together and disposed of by this common order.

2. These Arbitration Original Petitions have been filed under Section 11(6)(a) of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the Act') to appoint an Arbitrator to adjudicate the disputes that have arisen between the parties in relation to the agreements in accordance with Clauses 82 & 85 of the respective Loan Agreements.

3. The learned counsel appearing for the petitioner would submit that, the petitioner-company is engaged in the business of providing Financial Services throughout India. The respondents have approached the petitioner-company to avail financial assistance for the purpose of purchasing the Commercial Vehicles. In order to avail loan by the respondents, the respective



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loan agreements dated 02.07.2021, 18.03.2020, 04.08.2021, 23.06.2021, 24.03.2020 & 19.08.2021 were entered into between the parties, pursuant to which, certain amounts were to be paid by the respondents. However, the respondents/borrowers namely Maa Trans Solutions and Jayesh Manharlal Nayak have committed default in repayment of loan amounts. Therefore, the petitioner-company issued notices on 26.05.2022, 11.03.2022, 26.05.2022, 26.05.2022, 25.04.2022, 12.05.2022 to the respondents under Section 21 of the Act, calling upon the respondents to give their consent for appointment of a sole Arbitrator to resolve the dispute between them. Since the said notices evoked no response, finding no other option, the petitioner-company have filed the present Arbitration Original Petitions seeking for appointment of an arbitrator to adjudicate the dispute arisen between them, since in terms of the arbitral clause contained in the respective loan agreements, the dispute arisen between the parties is arbitral in nature.

4. Though the learned counsel for the respondents strongly opposed for appointment of Arbitrator, since the loan agreements were executed between the parties, he fairly submitted that, in the event, if this Court is inclined to appoint an Arbitrator, the Arbitrator may be a resident of Gujarat and the



*Arb. O.P(Com.Div).No.40, 43 to 46, 52 of 2024*

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arbitral venue may also be at Gujarat, as the respondents are from the State of Gujarat.

5. Intervening at this stage, the learned counsel for the petitioner submitted that, since the loan agreements were executed in Chennai and the petitioner's registered Office is at Chennai, the Arbitrator may be from Chennai and the arbitral venue may also be fixed at Chennai.

6. Upon hearing the learned counsel on both sides and on perusal of the materials available on record, this Court is of the considered view that the present dispute has arisen out of the respective loan agreements dated 02.07.2021, 18.03.2020, 04.08.2021, 23.06.2021, 24.03.2020 & 19.08.2021 and the same can be arbitrable in terms of relevant arbitration clauses contained in respective Loan Agreements.

7. Accordingly, this Court feels it appropriate to issue the following directions:-

(a) **The Hon'ble Dr.Justice Vineet Kothari, Former Acting Chief Justice, Gujarat High Court,** Possessing Mobile Nos.9480822552, Residing at No.947, 11<sup>th</sup> D Road, Sardarpura,



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*Arb. O.P(Com.Div).No.40, 43 to 46, 52 of 2024*

Jodhpur, Rajasthan 342 003, is appointed as a Sole Arbitrator to enter upon reference and adjudicate the disputes between the parties, arising out of the respective Loan Agreements.

- (b) The Arbitrator shall initiate arbitration proceedings and after issuing notice to the parties concerned and upon hearing them, pass an award, on merits and in accordance with law and uninfluenced by any of the observations made in this order, within a period of twelve months from the date of receipt of a copy of this order.
- (c) The Arbitrator shall be paid fees and other incidental charges, as per the Schedule IV of the Act and the same shall be borne by both the parties equally. In the event of non-appearance of the Respondents, the Petitioner shall bear the entire remuneration and other expenses and thereafter, the Petitioner is at liberty to recover the same directly from the Respondents.
- (d) The arbitrator may consider, in the event if any request is made by the parties for their appearance through Video Conferencing.
- (e) The Arbitrator is directed to pass an independent award.

8. In the result, these Arbitration Original petitions are allowed with the aforesaid directions. No costs.

**25.07.2024**

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*Arb. O.P(Com.Div).No.40, 43 to 46, 52 of 2024*

Note: Issue order copy on 08.08.2024.

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*Arb. O.P(Com.Div).No.40, 43 to 46, 52 of 2024*

**Krishnan Ramasamy,J.,**  
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**Arb. O.P(Com.Div).No.40, 43 to 46, 52 of 2024**

**25.07.2024**