



WEB COPY



Arb.O.P. (Com.Div.)Nos.49 and 50 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2024

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)Nos.49 and 50 of 2024

and

Arb.Appln.Nos.616 and 617 of 2023

Easa Krupa Engineering Private Limited,
represented by its Director Rathish Jayapal,
G1, Land Marvel Apartment,
1st Street, Sriram Nagar,
Thiruvanmiyur,
Chennai – 600 041.

.. Petitioner in both Original Petitions

Vs.

ACTC Studio Private Limited,
Represented by its Director Mr.Raja Hemanth
No.5/46, 3rd Street, AC Block,
6th Main Road, Anna Nagar,
Chennai – 600 040.

.. Respondent in both Original Petitions

Prayer in both Original Petitions: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint a Sole Arbitrator to adjudicate the dispute between the respondent and the petitioner company arising in connection/or out of the Investment Agreement dated 14.06.2023 and to direct the respondents to pay costs.



WEB COPY



Arb.O.P. (Com.Div.) Nos.49 and 50 of 2024

For Petitioner : Mr.B.Arvind Srevasta
(in both Petitions)

For Respondent : M/s.A.Asif Basha
(in both Petitions)

COMMON ORDER

These Original Petitions have been filed to appoint a Sole Arbitrator to adjudicate the dispute between the respondent and the petitioner company arising in connection/or out of the Investment Agreement dated 14.06.2023.

2. The dispute between the petitioner and the respondent in the respective Original Petitions are arbitrable in terms of Clause 12 of the Investment Agreement both dated 14.06.2023. They reads as identically:-

“12.Any Claim, dispute or difference relating to or arising out of this agreement shall be referred to the arbitration, of a sole arbitrator. Without prejudice to any other rights available to the Investor under any other statute to take action against the Borrower, any dispute or difference or claim that arises between parties or any of them concerning this Agreement or any condition herein as to the rights, duties or liabilities of parties hereto shall be referred to Arbitration appointed by the Investor according to the provisions of Section 29B(3)(Fast Track Arbitration) Arbitration and Conciliation Act, 1996 and rules thereunder and any amendment thereto from time to time. All proceedings shall be conducted in English.

13.It is agreed between the parties hereto that nothing



WEB COPY



Arb.O.P. (Com.Div.)Nos.49 and 50 of 2024

contained in Section 17 of Arbitration and Conciliation Act, 1996 shall in any way, affect the right of any of or prejudice the parties to/from seek/seeking such interim relief/in an court of competent jurisdiction, including interim relief under Section 9 of the Arbitration and Conciliation Act, 1996, and the rule framed thereunder, if in the opinion of the party seeking relief, such application for interim relief/s is necessary order to protect the rights of the party seeking relief under arbitration.

14.The award of the Arbitrator shall be in English and shall be a written award and shall be final, conclusive and binding on all the parties whether on question of law or of fact.

15.In the event of death, refusal, negligence, inability, incapability of the persons so appointed to act as the Arbitrator a new arbitrator shall be appointed;

16.The venue of arbitration shall be Chennai or such other place as may be determined at the sole discretion of the Investor and courts in Chennai or such other place shall have exclusive jurisdiction.

17.The agreement shall be subject to the jurisdiction of the courts of Chennai and shall be subject to the laws applicable in India.”

3. The petitioner had issued a notice under Section 21 of the Arbitration and Conciliation Act, 1996 on 07.11.2023 in respect of the alleged breach committed by the respondent. However, both the notices have not evoked any response from the respondent. Hence, these Original Petitions have been filed. Despite notice on the respondent, the respondent had not filed any counter, filed only applications in Arb.Appln.Nos.616 and 617 of 2023.



4. The Award was already passed in Arb.Appln.No.617 of 2023.

The Garnishee had also filed their counter and an affidavit undertaking the amounts collected from the sale of tickets.

5. Considering the same, Court is inclined to disposed the Arb.O.P.(Com.Div)Nos.49 and 50 of 2024 by appointing **Mr.J.Sivanandaraaj, Advocate, No.6, Indian Chambers (SICCI), Annex Building, Ground Floor, Esplanade, Chennai – 108, (Mobile No.9841024778)**, is appointed as an Sole Arbitrator to enter upon reference and adjudicate / resolve the *inter se* dispute between the parties.

6. An interim order passed by this Court in Arb.Appln.No.617 of 2023, shall continue for a period of six weeks from the date of receipt of a copy of this order.

7. Similarly, it is open for the applicant to move suitable application under Section under 17 of the Arbitration and Conciliation Act, 1996. The relief sought for in Arb.Appln.No.616 of 2023, since oral submission is made by the learned counsel for the respondent, the dispute



is not arbitrable. It is open for the respondent to move suitable application before the learned Arbitrator under Section 16 of the Act, to determine the jurisdiction to decide the dispute under the Arbitration and Conciliation Act, 1996.

8. 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, 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 29-A of the Arbitration and Conciliation Act, 1996, without getting influenced by any of the observations made by this Court in this order.

9. 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 remain *ex parte*, the petitioner shall pay the entire fee and



Arb.O.P. (Com.Div.) Nos.49 and 50 of 2024

other incidental charges to the Arbitrator and later recover the same from the respondent.

10. The parties are at liberty to workout the venue for Arbitration at Chennai.

11. These Original Petitions are disposed with the above observations, leaving the parties to bear their own costs.

12. Since the Court has appointed an Arbitrator, it is open to the petitioner as well as the respondent to seek other reliefs under Section 17 of the Arbitration and Conciliation Act, 1996, before the learned Arbitrator.

06.03.2024

jas

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

C.SARAVANAN, J.



WEB COPY



Arb.O.P. (Com.Div.)Nos.49 and 50 of 2024

jas

Arb.O.P.(Com.Div.)Nos.49 and 50 of 2024
and
Arb.Appln.Nos.616 and 617 of 2023

06.03.2024