



Arb.O.P (Com.Div.) No.84 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

Arb.O.P (Com.Div.) No.84 of 2024

M/s.Pennar Industries Ltd.,
Formerly known as
M/s.Pennar Engineered Building System Ltd.,
Represented by its Authorised Signatory/AGM,
Mr.A.Bhaskar Rao,
Floor No.3, DHFLVC Silicon Towers,
Kondapur, Hyderabad 500 084.

... Petitioner

Vs.

M/s.Larsen and Toubro Limited,
L&T Construction, Building & Factories,
Represented by its Directors/Authorised Signatory,
Having Head Office at:
#PB No.979, Mount Poonamallee Road,
Manapakkam, Chennai 600 089

And Registered Office at:
L&T HOUSEBALLARD ESTATE,
MUMBAI, Maharastra 400 001.

... Respondent



Prayer:

Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an independent and impartial Sole Arbitrator to adjudicate the disputes between the petitioner and the respondent in terms of the Contract under Clause 24 in Annexure III – Terms and Conditions of the Contract, which forms part and parcel of the Agreement/Letter of Intent (LOI) dated 25.11.2014 as set out under details of claims and to direct the respondents to pay the cost of this petition.

For Petitioner : Mr.A.Vikash

For Respondent : Mr.Anirudh Krishnan

ORDER

This Arbitration Original Petition has been filed to appoint an Arbitrator to adjudicate the dispute between the petitioner and the respondent.

2. The learned counsel for the petitioner would submit that the petitioner is engaged in the business of manufacturing, marketing, supplying and installation of the steel structure. The respondent had approached the



petitioner and issued the Letter of Intent (LOI) dated 25.11.2014 for the total contract value of a sum of Rs.30,30,00,000/-. Thereafter, several work orders and purchase orders were issued by the respondent to the petitioner. At this juncture, the dispute arose between the parties with regard to the payment of dues and hence, the petitioner sent a notice dated 29.11.2023 invoking Arbitration in terms of the Clause 24 of the LOI.

3. Further, he would submit that the present dispute, which is arising out of the LOI dated 25.11.2014, is arbitrable in terms of Clause 24 of the said LOI and thus, this petition has been filed for appointment of Arbitrator.

4. Though the learned counsel for the respondent made objections with regard to the invocation of Arbitration, he would fairly submit that the respondent may be permitted to raise the said objections before the learned Arbitrator. Accordingly, he accepted the submission made by the learned counsel for the petitioner for the appointment of Arbitrator and seeks leave of this Court to raise all their objections before the learned Arbitrator. In this



regard, he had also filed a memo dated 27.06.2024, stating their objections, which read as follows:

i) Certain claims raised by the petitioner are time-barred under the applicable statute of limitation.

ii) The claims raised by the petitioner cannot be consolidated as they relate to various contracts and hence, dispute resolution under each contract has to be distinct.

iii) Some of the contracts provide for resolution of disputes by Courts of law and consequently there can be no arbitral reference in relation to these contracts.

5. Heard the learned counsel for the petitioner and the respondent and also perused the materials available on record.

6. In the present case, it appears that the dispute between the parties is arising out of the LOI dated 25.11.2014. Upon perusal of the said agreement, the dispute among the parties shall be resolved by virtue of Arbitration as per the Clause 24 of the said LOI, which reads as follows:

“In case of differences of opinion still persisting, then



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the matter shall be referred to Arbitration in accordance with the provision of the Arbitration and Conciliation Act, 1996 as amended from time to time. Such Arbitration proceedings will take place in Chennai only and shall be subject to jurisdiction of the Courts in Chennai.”

7. Considering the submissions made by the learned counsel for the petitioner and the respondent and also in view of the fact that the dispute between the petitioner and the respondent can be resolved in terms of clause 24 of the LOI dated 25.11.2014, this Court is inclined to appoint a sole Arbitrator.

8. Accordingly, this Court feels it appropriate to pass the following order:

i) The Hon'ble Mr.Justice M.Govindaraj, Former Judge, Madras High Court, residing at No.4/225, Sri Kapaleeswarar South 2nd Street, Neelangarai, Chennai -41 and (Contact No.9444094403) is appointed as sole arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties.



ii) The learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the Order.

iii) The learned Arbitrator is also directed to decide the matter without influenced by the observations made by this Court in the present order. Further, the aforesaid objections raised by the respondent shall also be decided by the learned Arbitrator on merits and in accordance with law.

iv) The learned Sole Arbitrator appointed herein shall be paid fees and other incidental charges, as per Schedule IV of the Act and the same shall be borne by the parties equally. In the event of non-appearance of the respondent, the petitioner shall bear the entire remuneration and other expenses and thereafter, the petitioner can recover the same directly from the respondent and vice versa.

9. This Arbitration Original Petition is ordered accordingly, leaving the parties to bear their own costs. Since this Court has appointed an Arbitrator, it is open to the petitioner as well as the respondent to seek other reliefs under the provisions of Arbitration and Conciliation Act 1996



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before the Arbitrator.

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Speaking/Non-speaking order

Index : Yes / No

Neutral Citation: Yes / No

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KRISHNAN RAMASAMY.J.,
nsa

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