



Arb.O.P (Com.Div.) Nos.100 to 104 & 110 to 113 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

Arb.O.P (Com.Div.) Nos.100 to 104 & 110 to 113 of 2024

Arb.O.P.(Com.Div.)No.100 of 2024:

M/s.Mercedes – Benz Financial Services India Private Limited,
(Formerly known as M/s.Daimler Financial Services India Private Limited)
5th Floor, Plot 8, Baashyam Willow Square,
9 & 10, First Street, Thiru Vi Ka Industrial Estate,
Guindy, Chennai 600 032, Tamil Nadu, India,
Represented by its Authorised Signatory,
Sadam Hussain.S.

... Petitioner

Vs.

1.NTC Supply Chain Solutions Private Limited,
Rep by its Authorised Signatory/Director-Mr.Prratek Patel,
E-10, Kalindi Colony, Shriniwaspuri,
South Delhi, New Delhi 110065, Delhi.

2.Prratek Patel

3.Frany Tushar Patel

... Respondent



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Prayer:

Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint a sole Arbitrator to adjudicate upon the differences and disputes between the parties under the said Loan cum Hypothecation Agreement and Deed of Guarantee both dated 10.01.2020 and supplemental agreement dated 31.12.2022 in respect of Contract Nos.20145877, 20145878 & 20145879.

For Petitioner
in all petitions : Mr.M.Arunachalam

For Respondents
in all petitions : Mr.R.Satish Kumar (vakalath not filed)

COMMON ORDER

These Arbitration Original Petitions have been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, (hereinafter called as “the Act”) to appoint a sole Arbitrator to adjudicate the dispute between the petitioner and the respondent.



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2. The learned counsel for the petitioner would submit that in all these petitions, the 1st respondent approached the petitioner for loan facilities and entered into loan agreements on various dates, as mentioned below:

<i>S.No</i>	<i>Petitions</i>	<i>No. of Contracts</i>	<i>Agreement date</i>
1	Arb.O.P.(Com.Div.)No.100/2024	3	10.01.2020
2	Arb.O.P.(Com.Div.)No.101/2024	5	17.04.2021
3	Arb.O.P.(Com.Div.)No.102/2024	2	10.01.2020
4	Arb.O.P.(Com.Div.)No.103/2024	7	22.06.2021
5	Arb.O.P.(Com.Div.)No.104/2024	3	10.01.2020
6	Arb.O.P.(Com.Div.)No.110/2024	4	10.01.2020
7	Arb.O.P.(Com.Div.)No.111/2024	2	10.01.2020
8	Arb.O.P.(Com.Div.)No.112/2024	5	27.12.2019
9	Arb.O.P.(Com.Div.)No.113/2024	8	08.04.2021

3. He would further submit that there is default in repayment of the loan amount by the 1st respondent. With regard to the same, the petitioner sent notices dated 29.11.2023 under Section 21 of the Act to the 1st respondent, for which, the 1st respondent sent replies dated 17.12.2023. However, the parties had not arrived at any consensus with regard to the appointment of Arbitrator.



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3. Further, he would submit that the present dispute, which is arising out of the Loan Agreements, is arbitrable in terms of respective Arbitration Clause of the said Agreements and thus, this petition has been filed for appointment of Arbitrator.

4. In reply, the learned counsel for the respondents had also accepted the submission made by the learned counsel for the petitioner and requests this Court to appoint a sole Arbitrator.

5. Heard the learned counsel for the petitioner and the respondents 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 Loan Agreements entered between them. Upon perusal of the said agreements, it is clear that the dispute among the parties shall be resolved by virtue of Arbitration as per the respective Arbitration Clauses of the said Agreements, which read as follows:



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Clause 85 of the Loan Agreements in Arb.O.P.(Com.Div.)
Nos.100, 101, 103, 110, 112 & 113 of 2024

“85. All claims and disputes arising under or relating to this loan agreement are to be settled by binding arbitration in the state of Tamil Nadu, specifically Chennai or another location as desired by the lender. The arbitration shall be conducted on a confidential basis and shall be subject to the Arbitration and Conciliation Act 1996 of India. Any decision or award as a result of any such arbitration proceedings shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses and reasonable attorney's fees. Any such arbitration shall be conducted by single arbitrator appointed by the lender. The arbitration proceeds shall include a written record of the arbitration hearing. The Parties reserve the right to object to any individual who shall be employed by or affiliated with a competing organization or entity. An award of arbitration may be confirmed in a court of competent jurisdiction”.

Clause 66 of the Loan Agreements in Arb.O.P.(Com.Div.)
Nos.102, 104, 111 of 2024

“66. All claims and disputes arising under or relating to this loan agreement are to be settled by binding arbitration in



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the state of Tamil Nadu, specifically Chennai or another location as desired by the lender. The arbitration shall be conducted on a confidential basis and shall be subject to the Arbitration and Conciliation Act 1996 of India. Any decision or award as a result of any such arbitration proceedings shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses and reasonable attorney's fees. Any such arbitration shall be conducted by single arbitrator appointed by the lender. The arbitration proceeds shall include a written record of the arbitration hearing. The Parties reserve the right to object to any individual who shall be employed by or affiliated with a competing organization or entity. An award of arbitration may be confirmed in a court of competent jurisdiction".

7. Considering the submissions made by the learned counsel for the petitioner and the respondents and also in view of the fact that the dispute between the petitioner and the 1st respondent squarely falls within the purview of respective arbitration clause of the Loan Agreements, this Court is inclined to appoint a sole Arbitrator.



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

i) **Mr.M.Muthusamy, Senior Advocate, No.277, Law Chambers, High Court Buildings, Chennai 600 104, Mobile No.94440 42965,** 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. The learned Arbitrator is also directed to decide the matter without influenced by the observations made by this Court in the present order.

iii) 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 respondents, 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.



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9. These Arbitration Original Petitions are 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 respondents to seek other reliefs under the provisions of Arbitration and Conciliation Act 1996 before the Arbitrator.

13.06.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation: Yes / No
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KRISHNAN RAMASAMY.J.,
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