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Arb.OP(Com.Div)No.119 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Arb.OP(Com.Div)No.119 of 2024

M/s.P.K.Vaduvammal, represented by its
Partner, P.C.Shyamsunder, Chennai-4

Petitioner

Vs

Sujith Kumar, Sole Proprietor
M/s.Sarkl Construction, Chennai-73

Respondent

Prayer:- This Arbitration Original Petition has been filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 to appoint a Sole Arbitrator for the purpose of adjudicating the disputes between the Petitioner and the Respondent in respect of the commercial disputes, arising out of the purchase orders, dated 10.10.2022, 28.11.2022 and 23.12.2022.

For Petitioner : Mr.K.Karthik

For Respondent : No Appearance

ORDER

1. This Arbitration Original Petition has been filed, under Section 11(5) of the Arbitration and Conciliation Act, 1996 to appoint a Sole Arbitrator to adjudicate the disputes between the Petitioner and the Respondent in respect of the commercial disputes, arising out of the purchase orders, dated 10.10.2022, 28.11.2022 and 23.12.2022.



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2. In spite of service of notice to the Respondent and also the name of the Respondent being printed in the cause list today, there is no representation for the Respondent either through a counsel or in person. This Court heard the learned counsel for the Petitioner, considered his submissions and also perused the materials placed on record.
3. According to the Petitioner, the Petitioner is a MSME registered Partnership Firm, engaged in the business of supplying iron steels, metals and related goods. In the course of such business, the Respondent had issued three purchase orders, dated 10.10.2022, 28.11.2022 and 23.12.2022 for supply of goods by the Petitioner. As per the said purchasers orders, the Petitioner had duly supplied the goods to the Respondent on various dates and raised three invoices for the same, dated 30.11.2022, 30.11.2022 and 24.12.2022. After several demands, the Respondent had issued two cheques, bearing Nos.000177, dated 04.01.2023 and 000188, dated 25.01.2023, but when the said cheques were presented for encashment, they were returned, with an endorsement "Funds Insufficient", by memos, dated 06.01.2023 and 07.04.2023. Hence, the Petitioner had issued a legal notice, dated 19.01.2024, calling upon the Respondent to settle the outstanding amount, which was served on the Respondent on 23.01.2024. However, the Respondent did not come forward to settle the dues. There is a condition in the said purchase orders for initiation of arbitration proceedings under



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Clause 12 of the same. Hence, based on Clause 12 of the said purchase orders, issued by the Respondent, which stipulates for initiation of arbitration proceedings to resolve the disputes between them, this Arbitration Original Petition has been filed, seeking the relief as stated above.

4. It is seen that in spite of service of notice, as per the order of this Court, dated 14.03.2024 and thereafter, the name of the Respondent being printed in the cause list today, the Respondent has not entered appearance either through a counsel or in person.
5. The dispute between the parties herein is arising out of the three Purchase orders, as stated above. On a perusal of the said purchase orders, it is clear that the same are arbitrable under Clause 12 of the said Purchase Orders, which reads as follows:-

“12. Arbitration - Chennai, Tamil Nadu jurisdiction only”.

Hence, considering the submissions of the learned counsel for the Petitioner and the materials placed on record, this Court is inclined to appoint a Sole Arbitrator to resolve the dispute between the parties, as prayed for.

6. Accordingly, this Arbitration Original Petition is disposed of, with the following directions:-

(a) Mrs.R.Rathina Thara, Advocate, residing at Siddhi Vinayakar Koil Street, T.Nagar, Chennai 600017 (Cell No.9840451276), is appointed as a Sole Arbitrator to enter upon reference and



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adjudicate the disputes between the parties, arising out of the above said purchase orders.

- (b) The Sole 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 six months from the date of receipt of a copy of this order.



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(c) The Sole 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 Respondent, the Petitioner shall bear the entire remuneration and other expenses and thereafter, the Petitioner is at liberty to recover the same directly from the Respondent.

01.04.2024

Index:Yes/No

Web:Yes/No

Speaking/Non Speaking

Neutral Citation:Yes/No

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