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Arb.O.P (Com.Div.) No.165 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.165 of 2024

M/s.New India Enterprise,
Rep by its Proprietor,
Mr.Lal Deo Prasad,
No.111, Arbindapally, Ichapur,
Ichapur-Nawabganj P.O.,
24, North Parganas District,
Kolkata, West Bengal 700 120.

... Petitioner

Vs.

M/s.BGR Energy Systems Ltd.,
Rep by its Managing Director,
having Corporate Office at
No.443, Anna Salai, Teynampet,
Chennai 600 018.

... Respondent

Prayer:

Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an Arbitrator to adjudicate the disputes between the petitioner and the respondent in terms of Service Order No.3300034205 dated 19.05.2021 and to direct the respondent to pay



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For Petitioner : Mr.R.Ganesh Kumar

For Respondent : Mr.C.P.Prashanth Gopal

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 and the respondent had entered into Service Order dated 19.05.2021. Subsequent to the said Service Order, the dispute arose between the parties with regard to the invoices raised by the petitioner. Therefore, the petitioner sent a notice dated 26.08.2023 and letter dated 30.10.2023 invoking Arbitration in terms of the Clause 20 of the Service Order.

3. Further, he would submit that the present dispute, which is arising out of the Service Order dated 19.05.2021, is arbitrable in terms of Clause



20 of the said Service Order and thus, this petition has been filed for appointment of Arbitrator.

4. In reply, the learned counsel for the respondent 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 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 Service Order dated 19.05.2021. Upon perusal of the said agreement, it is clear that the dispute among the parties shall be resolved by virtue of Arbitration as per the Clause 20 of the said Service Order, which reads as follows:

20. SETTLEMENT OF DISPUTES: Any dispute or difference whatsoever arising between the parties out of or relating to this contract shall be settled by mutual discussion. If the parties fail to solve such dispute or difference by mutual



consultation, same shall be settled by arbitration in accordance with the arbitration and Conciliation Act 1996 as amended till date and the award made in pursuance thereof shall be binding on the parties. The seat of arbitration shall be Chennai. The Language of Arbitration shall be English.

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 squarely falls within the purview of clause 20 of the Service Order dated 19.05.2021, this Court is inclined to appoint a sole Arbitrator.

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

i) **Ms.R.Sucharitha, Judicial Member (Retd.), residing at A4, Kumars Suja Apartment, No.5, Kamala Bai Street, T.Nagar, Chennai 600 017, Mobile.No.94440 28065,** 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



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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 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 before the Arbitrator.

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Speaking/Non-speaking order

Index : Yes / No

Neutral Citation: Yes / No

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Note: Issue order copy on 04.07.2024



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KRISHNAN RAMASAMY.J.,
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