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Arb.O.P (Com.Div.) No.249 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

Arb.O.P (Com.Div.) No.249 of 2024

M/s.OST Logistics,
Represented by its Proprietor,
Rama Saravanan,
Having Office at S-1, 2nd Floor,
Kurien Complex,
No.19, Railway Colony,
1st Street, Nelson Manickam High Road,
Chennai 600 029.

... Petitioner

Vs.

M/s.MRF Limited,
Represented by its Plant Head,
Having its Registered Office at
124, Greams Road,
Chennai 600 006.

Also at:
M/s.MRF Limited,
Represented by its Plant Head,
having its Factory at
630, Tiruvottiyur High Road,
Wimco Nagar, Tiruvottiyur,
Chennai 600 019.

... Respondent



Prayer:

Arbitration Original Petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 to appoint the Arbitrator for resolving the disputes between the parties.

For Petitioners : Mr.S.Namasivayam
For Respondent : Mr.M.Vijayan,
for M/s.King and Partridge

ORDER

This Arbitration Original Petition has been filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 (hereinafter called as “the Act”) 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 an Agreement dated 26.11.2019 for the transportation of staffs of the respondent. Subsequently, a dispute arose between the parties with regard to the invoices raised by the



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petitioner and payment of dues by the respondent, which was not resolved between the parties amicably and as on date, the respondent is liable to pay a sum of Rs.25,33,823.21/-.

3. Further, he would submit that the dispute between the parties is arising out of the aforesaid Agreement dated 26.11.2019 and the same is arbitrable in terms of Clause 48 of the said Agreement. Therefore, the petitioner sent a notice dated 15.09.2023, under Section 21 of the Act, invoking Arbitration in terms of the Clause 48 of the Agreement. However, no consensus was arrived at between the parties. Hence, 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.



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6. In the present case, it appears that the dispute between the parties is arising out of the Agreement dated 26.11.2019. Upon perusal of the said Agreement, it is clear that the said dispute shall be resolved by virtue of Arbitration as per the Clause 48 of the said Agreement, which reads as follows:

“DISPUTE RESOLUTION:

48. All disputes arising from or in connection with this Agreement shall be settled under Arbitration by the sole arbitrator to be nominated by the "MRF". The award of the said Arbitrator shall be final and binding on the "SERVICE PROVIDER" and "MRF" The parties herein shall bear the arbitration charges equally and the arbitrator shall be empowered to pass any interim order any time during such arbitration. The arbitration proceedings shall be conducted as per the provision of The Arbitration and Conciliation Act 1996. The venue of arbitration shall be at Chennai. The language of arbitration will 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 arose out of the Agreement dated 26.11.2019 and the same can be resolved by virtue of Clause 48 of the Agreement, this Court is inclined to appoint a sole Arbitrator.

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

i) **Ms.M.Rajalakshmi, District Judge (Retd.), No.25, M.G.Ramachandran Road, Besant Nagar, Kalashetra Colony, Chennai 600 090, Cell No.87549 20985,** 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 respondent, the petitioner



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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 02.08.2024



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KRISHNAN RAMASAMY.J.,

nsa

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