



WEB COPY

Arb.O.P.(Comm.Div.) No. 262 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2024

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

Arb.O.P.(Comm.Div.) No. 262 of 2024

M/s.E2E Supply Solutions Limited,
A Company duly registered under the Companies Act, 1956
Having its registered Office at 4th Floor, East Coast Center,
No.534, anna Salai,
chennai 600 014.

... Petitioner

-VS-

M/s.Dalmia Cement (Bharat) Limited,
A Company duly registered under the Companies Act, 1956
Having its registered Office at Dalmiapuram,
Dist.Tiruchirapalli,
Tamil Nadu – 621 651.

... Respondent

PRAYER: Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint Arbitrator, pursuant to Clause 22 of the Service Contract dated 29.06.2015 executed between the petitioner and respondent, to adjudicate the dispute between the parties and pass such further order.

For Petitioner : Mr.G.Vivekanand

For Respondent : Mr.P.J.Rishikesh

ORDER

This Arbitration Original Petition has been filed under Section 11(6)



of the Arbitration and Conciliation Act, 1996 (hereinafter called as 'the Act')

seeking for an appointment of an Arbitrator to resolve the dispute between the parties which had arisen out of Service Contract dated 29.06.2015.

2. The learned counsel for the respondent would contend that the notice under Section 21 of the Act had been issued on 10.09.2020 and the petitioner had filed the present petition much beyond the three years limitation period. He had placed reliance heavily on the judgment of the Hon'ble Apex Court in the case of *Arif Azim Company Limited Vs APTECH Limited* reported in 2024 5 SCC 313 to contend that the limitation period for making an application under Section 11(6) of the Act is 3 years from the date of expiry of 30 days period on which the notice under Section 21 of the Act has been issued.

3. In that context, he would submit that the present 11(6) petition is wholly time barred. On the other hand, the learned counsel for the petitioner would submit that the Section 21 notice was issued on 10.09.2020 and the period of 30 days would expire in the month of October 2020. In view of the judgement of the Hon'ble Apex Court extending the period of limitation to



exclude the period between 15.03.2020 and 28.02.2022. The period of limitation for the present case according to him would start from 01.03.2022 and that therefore, the application is well within the period of limitation.

4. Even though, serious objections had been raised on the question of limitation, accepting the contentions of the learned counsel for the petitioner that eventhough the period of limitation kicks in from the month of October 2020, considering the judgement of the Hon'ble Apex Court in “Cognizance of Extension of Limitation” dated 10.01.2022, I am inclined to hold that the benefit of the said judgment would be available to the petitioner and I am of the view that the said application was within the period of limitation.

5. When this Court had expressed it's view, the learned counsel appearing for the respondent had suggested the name of the Hon'ble Mr. Justice N. Paul Vasantha Kumar, Former Chief Justice, High Court of Jammu & Kashmir to be appointed as a sole Arbitrator and the learned counsel appearing for the petitioner has no objection to appoint the learned Judge as a sole Arbitrator.



6. In view of the consent given by the learned counsels appearing in either side, I am inclined to appoint **Hon'ble Mr. Justice N.Paul Vasantha Kumar, Former Chief Justice, High Court of Jammu & Kashmir** residing at **24-A, 2nd Street, Kamaraj Avenue, Adayar, Chennai – 600 020** as a sole Arbitrator. The learned Sole Arbitrator is entitled to fix his fees as per the Schedule-IV to the Act. This Court further requests the learned Sole Arbitrator to endeavour to decide the dispute as expeditiously as possible.

K.KUMARESH BABU, J.
Gba

4. Accordingly, this Arbitration Original Petition is ordered. However, there shall be no order as to costs.

19.08.2024

Index :Yes/No
Speaking Order/ Non-Speaking Order
Gba

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