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Arb.OP(Com.Div.)No.393 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.10.2024

Coram:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Arb.OP(Com.Div.) No.393 of 2024

M/s.Cholamandalam Investment and Finance

Company Limited,

“Chola Crest”, C 54 & 5, Super B-4,

Thiru Vi Ka Industrial Estate,

Guindy, Chennai – 600 032.

Rep by its Authorised Signatory.

... Petitioner

Vs.

1. M/s. Lalit Services,

Rep. by its Prop. Lalit Singh Thakur,

Ward No.7, Lormi Road,

Pandariya, Kawardha,

Chattisgarh – 491559

2. Jyoti Thakur

... Respondents

Prayer: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, seeking to appoint a Sole Arbitrator to adjudicate the dispute arising under agreement and trade advance dated 13.01.2022 between the petitioner and the respondents.

For Petitioner : Mr.D.Pradeep Kumar

For Respondents : Mr.Bharathi Vora



ORDER

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This petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, seeking appointment of a sole arbitrator to adjudicate the dispute arising under agreement and trade advance dated 13.01.2022 between the petitioner and the respondents.

2. The petitioner states that the first respondent, who is a vehicles dealer and the second respondent had approached the petitioner seeking trade advance facility and accordingly they entered into an agreement dated 13.01.2022 with a limit for a sum of Rs.10,00,000/-. Thereafter, the respondents had requested the petitioner to extend financial facility and also executed deed of guarantee. The petitioner cites the arbitration clause in the loan agreement dated 13.01.2022 and submits that the dispute which has arisen between the petitioner and the respondents herein is liable to be referred to arbitration in terms thereof. The relevant clause in the agreement deed is set out below:-

“24. ARBITRATION :It is mutually agreed that in the event of any dispute or misunderstanding that might be arising between the parties herein,whether as to the interpretation of the terms and conditions of this agreement or as to the identification of the specific rights and obligations of the parties herein, or otherwise the parties undertake to settle the same by way of referring such dispute to the arbitration of the sole arbitrator to be appointed at the exclusive option



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of the LENDER. The procedure prescribed under the Arbitration and Conciliation Act of 1996 shall be adopted by the parties in this regard and the law applicable shall be Indian law. The venue of the arbitration proceedings shall be Chennai and the award passed by the arbitrator shall be conclusive and final and be binding on the parties herein. Courts in Chennai alone shall have exclusive jurisdiction to try any consequential proceedings arising from the said award."

3. The petitioner also points out that a notice dated 02.08.2024 was issued to the respondents under Section 21 of the Arbitration Act, for which the respondents replied by way of a letter admitting that there is an arbitration agreement between the parties. However, thereafter there is no reply from the respondents.

4. Notice was ordered on the respondents on 30.09.2024, and the learned counsel appearing for the respondents also present before this Court today. Therefore, there is no impediment to proceed with the matter.

5. On perusal of clause 24 of the agreement deed dated 13.01.2022, it is evident that the disputes are required to be resolved through arbitration. The petitioner has also duly invoked the arbitration clause. In view of the failure of the respondents to respond thereto, or took consent to the nominee proposed by the petitioner, the Sole Arbitrator is required to be appointed in accordance with Section



Arb.OP(Com.Div.)No.393 of 2024

11 of the Arbitration and Conciliation Act.

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6. Therefore, this Court is inclined to appoint an arbitrator from Chennai. Accordingly, this petition is allowed by appointing **Mr.Kushal Kumar Sancheti**, (En.No.78/1993) Advocate having address at Unit No.5 A K Nayak Bhavan, 5th Floor, No.14, Second Line Beach Road, Chennai – 600 001. (Mobile: 9444380117) as the Sole Arbitrator. The sole Arbitrator is directed to enter upon reference and adjudicate the dispute in accordance with law. It is open to the Sole Arbitrator to fix his fees and expenses in relation to the arbitral proceedings.

29.10.2024

Neutral citation: Yes/no
Index : Yes/No
Speaking/Non Speaking

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Arb.OP(Com.Div.)No.393 of 2024

To
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Mr.Kushal Kumar Sancheti,
Advocate
Unit No.5 A K Nayak Bhavan,
5th Floor, No.14,
Second Line Beach Road,
Chennai – 600 001.



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Arb.OP(Com.Div.)No.393 of 2024

G.K.ILANTHIRAIYAN, J.

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Arb.OP(Com.Div.) No.393 of 2024

29.10.2024