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Arb.O.P.(Comm.Div.) No. 407 of 2024

C.V.KARTHIKEYAN, J.

This Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator consequent to an agreement entered into between the petitioner a manufacturer of tractors, spare parts, harvesting machines and diesel engines and the respondents, who had been appointed as dealer to market and sell the products of the petitioner herein.

2. The dealership agreement was dated 03.01.2023 and should have been in force till 31.12.2025. There was an earlier agreement dated 10.01.2019.

3. It is contended on behalf of the petitioner that the petitioner had been incorporated in the year 1996 under the Companies Act 1956 with the Registrar of Companies, Chennai. The respondents had approached the petitioner to avail dealership of the products of the petitioner. A letter of intent had been issued on 22.08.2016 and subsequently, the dealership



agreement had been initially entered into on 10.01.2019 and a further agreement was entered into on 03.01.2023.

4. It had been stated that however, continuously, there were dues payable by the respondents to the petitioner. It had been stated that the respondents had admitted by letter dated 01.06.2019 that they were due and payable a sum of Rs.2,82,67,721/-. Thereafter, by another letter dated 20.01.2021, they again admitted an outstanding balance of Rs.1,65,03,344/-. It had been stated a meeting was held between the petitioner and the respondent on 23.03.2022 where again the respondents admitted that they were due and liable to pay a sum of Rs.123.69 lakhs.

5. The petitioner had issued a demand notice through their counsel on 27.05.2022 seeking payment of the outstanding amount and the respondents by E-mail dated 16.09.2022, admitted to the outstanding amount of Rs.118.24 lakhs. A signed balance confirmation dated 12.09.2022 was also entered into by E-mail dated 16.09.2022. There was a meeting on 15.12.2022 and in the meeting, it had been recorded that the second and third respondents / partners of the first respondent



had agreed that a sum of Rs.106.3 lakhs was due and payable to the petitioner as on 01.12.2022.

6. It had also been stated that a memorandum of understanding had been entered into on 05.01.2023 to display five Tractors as a part of marketing and sales obligation. But, however, the Tractors had been sold by the respondents to customers and payments had not been forwarded to the petitioner herein. It had been further stated that the petitioner had sought appointment of an Advocate Commissioner, who had been appointed by order dated 27.02.2024. It had been stated that the respondents had last remitted the payment towards supplies on 30.12.2023.

7. The petitioner had terminated the dealership agreement by notice dated 27.07.2023 with effect from 30.08.2023. It is contended that a sum of Rs.87,93,389/- is due towards principle alone.

8. In that agreement, there was a clause to refer the disputes to Arbitration. The said Clause is as follows:-

***“14.10 Dispute Resolution:***

14.10.1. Any and all disputes, which may arise under, out of, in connection with, or in relation to this agreement, representation made by the company or anyone on behalf of the company or the legal relations and/or mutual rights, performance and obligations of the parties hereunder, shall be resolved through negotiations by the authorised officers or representatives of the company and Dealer before seeking outside resolution of the dispute. Those disputes not resolved by negotiations, within thirty (30) days from the date of notification of the dispute, shall be resolved through arbitration by a sole Arbitrator to be mutually appointed by the parties. The seat of arbitration shall be at Chennai and the proceedings would be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996 as in force in India or any statutory modifications or reenactments thereof. The language of the Arbitration proceedings shall be in English.”



9. It is under those circumstances that this Petition has been filed.

10. Notice had been directed to the respondents. So far as the Court notice is concerned, communication had been received from the Principal District and Sessions Judge, at Nizamabad in Telungana State that notice to the respondents had been served through the process server attached to the District and Sessions Court at Nizamabad. The relevant documents had been filed by the Registry. Private notice had been directed and the respondents had been served. Necessary affidavit of service has also been filed. The names and addresses of the three respondents have also been printed in the cause list. However, there is no response on behalf of the respondents.

11. Taking into consideration the fact that there a dispute had arisen owing to the amounts due and payable by the respondents, and since there is a clause relating to refer the disputes to Arbitration, this Petition stands allowed.



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12. Accordingly, Dr.T.Ramasamy, Advocate, Vadivalayam, Old No. 27, New No. 16, Loganathan Nagar, Second Street, Choolaimedu, Chennai – 600 094, mobile No. 9444012425, is appointed as Sole Arbitrator to enter reference on the issues between the petitioner and the respondents. The arbitrator may determine his fees in accordance with the schedule to the Act. He may endeavour to pass the final award without any undue delay. The petitioner and respondents are directed to co-operate with the Arbitrator now appointed by this Court, and to ensure that the arbitral proceedings are concluded as expeditiously as possible.

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19.11.2024

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