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Arb.O.P(Com.Div.) No.525 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 13.02.2024

CORAM :

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

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M/s.Straits Laundry Pte. Limited,  
Represented by its Authorized Signatory  
Irshad Ahmed Sardar,  
No.11, Perak Road,  
Singapore – 208 132.

And also residing at  
Flat No.3, Sheriff Residency,  
KKR Garden, Main Road,  
Thapalpetti, Chennai – 600 060.

... Petitioner

Vs.

M/s.Timescan Logistics (India) Limited,  
Raja Annamalai Building,  
Annexe 3<sup>rd</sup> Floor,  
18/3 Rukmani Lakshmipathi Road,  
Marshalls Road,  
Egmore, Chennai – 600 008.

... Respondent

Prayer: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint an Arbitrator to adjudicate the disputes between the petitioner and the respondent in terms of the



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Arbitration Agreement dated 09.07.2020 and to direct the respondent to pay costs.

For Petitioner : Mr.Gokulraj.L

For Respondent : No appearance

### **ORDER**

The learned counsel for the petitioner is present.

2. There is no representation on behalf of the respondent.

3. Notice taken out on the respondent has been served and the name is also printed in the Cause List. Despite the same, the respondent has failed to appear either in person or through a Counsel.

4. This petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, for appointment of an Arbitrator under an Arbitration Agreement dated 09.07.2020 between the petitioner and the respondent. The said Agreement contemplates an Arbitration Clause for resolving the dispute between the parties. It reads as under:-



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**“19. Governing Law and Dispute Resolution Procedure:**

19.1 This Agreement shall be governed by and construed in accordance with the laws of India. Both parties hereby submit to the jurisdiction of the courts in Chennai in relation to all matters in connection with or arising from this Agreement.

19.2 Both parties shall co-operate with each other in an amicable manner with a view to achieving the successful implementation of this Agreement.

19.3 Notwithstanding Clause 19.2 a dispute arises between TIMESCAN LOGISTICS INDIA PVT. LTD and Customer during the term of this Agreement in relation to any matter which cannot be resolved by local operational management, then either party may refer the matter for determination in accordance with the procedure set out in Clause 19.4.

19.4 A dispute for determination under Clause 19.3 shall be resolved as follows:-

19.4.1 By referral in the first instance to the decision of the general manager (or equivalent) of the relevant business unit of TIMESCAN LOGISTICS INDIA PVT LTD and Customer; and

19.4.2 If a dispute is not resolved within thirty (30) days of its referral pursuant to Clause 19.4.1 such dispute shall be referred to the managing director (or equivalent) of TIMESCAN LOGISTICS INDIA PVT LTD and Customer.

19.5 If any dispute is not resolved within thirty (30) days of its referral pursuant to Clause 19.4.3 then the matter shall be referred to arbitration by a sole arbitrator in accordance with the provisions of Arbitration and Conciliation Act, 1996. The venue of arbitration shall be in Chennai.”



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5. The petitioner has also issued a notice under Section 21 of the Arbitration and Conciliation Act, 1996 on 07.06.2023 and thereafter on 28.07.2023. Despite the same, the respondent has failed to respond to the notices issued by the petitioner.

6. As there is an embargo under the provisions of the Arbitration and Conciliation Act, 1996, for appointing an Arbitrator by the petitioner itself in terms of the decision of the Hon'ble Supreme Court in **Perkins Eastman Architects DPC & Another Vs. HSCC (India) Limited**, 2019 SCC Online SC 1516, Court is of the view, there is no impediment for the Court to appointing Arbitrator as the respondent has admittedly forfeited the right to participate in the procedure prescribed for appointment of the Arbitrator.

7. Considering the same, **Mr.Pawan Jhabhak, Advocate, Enrollment No.MS/2801/2010, having Office at No.115, Luz Church Road, 1<sup>st</sup> Floor, Mylapore, Chennai – 600 007, Mobile No.91766 63600,** is appointed as the Sole Arbitrator to enter upon reference to adjudicate/resolve the *inter se* dispute between the parties.



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8. The learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, endeavour to complete the arbitral proceedings and pass an award strictly in accordance with the provisions of the Arbitration and Conciliation Act, 1996, as expeditiously as possible, preferably within a period of twelve months after the date of completion of pleadings under Sub-Section 4 to Section 23 as is contemplated in Section 29A of the Arbitration and Conciliation Act, 1996, without getting influenced by any of the observations made by this Court in this order.

9. The learned Arbitrator appointed herein shall be paid fees and other incidental charges as may be fixed with the consent of parties or in accordance with the provisions of the Arbitration and Conciliation Act, 1996, and the same shall be borne by the parties equally. In case, the respondent remains *ex parte*, the petitioner shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondent.

10. This Original Petition is allowed accordingly, leaving the parties to bear their own costs.



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11. Since this Court has appointed the Arbitrator, it is open to the petitioner as well as the respondent to seek other reliefs under Section 17 of the Arbitration and Conciliation Act, 1996, before the learned Arbitrator.

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Index : Yes/No  
Internet : Yes/No  
Speaking Order/Non-Speaking Order  
Neutral Citation : Yes/No

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