



WEB COPY



Arb.O.P. (Com.Div.) No.568 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2024

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)No.568 of 2023

M/s.Sri Avantika Contractors (I) Ltd,
having its Registered Office at:
7/1/618, 610-B, Nilgiri Block, Aditya Enclave,
Ameerpet, Hyderabad, Telangana – 500 038
Rep by its Chief Financial Officer,
Mr.M.L.Pranay Kumar Reddy
CIN: U51100TG2005PLC046422
Email:sriavantikainfo@gmail.com

.. Petitioner

Vs.

Airport Authority of India
Having its Corporate Headquarters at
Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi – 110 003.

.. Respondent

Prayer: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint an Arbitrator to adjudicate upon the disputes between the petitioner and the respondent in terms of Clause 4.1 of the Contract Agreement dated 25.03.2021 and to direct the respondent to pay the costs.



Arb.O.P. (Com.Div.) No.568 of 2023

For Petitioner : Mr.Nithyavendhan for
Mr.Chandramouli Prabhakar

For Respondent : Mr.Umayal Muthaiah for
Mr.K.K.Siva Shanmugam

ORDER

This petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an Arbitrator to adjudicate upon the disputes between the petitioner and the respondent in terms of Clause 4.1 of the Contract Agreement dated 25.03.2021 and to direct the respondent to pay the costs.

2. The respondent has not filed counter. The dispute between the petitioner and the respondent is arbitrable in terms of Contract agreement dated 25.03.2021. Relevant Clause reads as under:-

“Article 4.0

4.1 Settlement of Disputes:-

It is specifically agreed by and between the parties that all the difference or disputes arising out of the Agreement of touching the subject matter of the Agreement shall be decided by process of Dispute Resolution Mechanism and Adjudication through arbitration, as specified in Clause 25 of General Condition of Contract of the Contract Document and the provision of the Indian Arbitration Act, 1996 as amended by the arbitration and conciliation (Amendment) Act, 2015 or any statutory modification or re-enactment thereof and the



rules made thereunder and for the time being in force shall apply to the arbitration proceeding under this clause. For all purpose, the jurisdiction of Court shall with in Chennai.”

3. The petitioner has also issued a notice under Section 21 Arbitration and Conciliation Act, 1996 on 30.01.2023, wherein, the petitioner has stated liable to pay a sum of Rs.7,62,52,821/- towards damages.

4. The learned counsel for the respondent on the other hand would submit that there is no arbitral dispute, as the bank guarantee and the performance bank guarantee that was furnished by the petitioner was returned.

5. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondent.

6. Mere return of bank guarantee and the performance bank guarantee would not *ipso facto* mean that there is no arbitral dispute between the petitioner and the respondent.



7. *Prima facie*, the record indicates that dispute is arbitral which can be resolved in terms of Clause 4.1 of the Contract agreement dated 25.03.2021.

8. The Court is inclined to pass the following order:-

(i) **Hon'ble Mrs.Justice Prabha Sridevan, (Retired)**, residing at **No.7, Krishnaswamy Iyer Avenue, Mylapore, Luz Church Road, Chennai – 4**, is appointed as an Arbitrator to enter upon reference and adjudicate / resolve the *inter se* dispute between the parties.

(ii) 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 29-A of the Arbitration and Conciliation Act, 1996, without getting influenced by any of the observations made by this Court in this order.

(iii) The learned Arbitrator appointed herein shall be paid fees and other incidental charges as may be fixed with the consent of parties or in



Arb.O.P. (Com.Div.) No.568 of 2023

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 remain *ex parte*, the petitioner shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondent.

9. The parties are at liberty to workout the venue for Arbitration at Chennai.

10. The Original Petition is allowed with the above observations, leaving the parties to bear their own costs.

11. Since the Court has appointed an 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.

05.02.2024

jas

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



WEB COPY



Arb.O.P. (Com.Div.) No.568 of 2023

C.SARAVANAN, J.

jas

Arb.O.P.(Com.Div.)No.568 of 2023

05.02.2024