



2024:DHC:8164



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision : 21.10.2024

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ARB.P. 1110/2024

M/S SHRI BUDDHO MATEY LLP THROUGH ITS PARTNER MR
SANJAY GUPTAPetitioner

Through: Ms. Shreya Bhola, Adv.
versus

ZYNGO EV MOBILITY PRIVATE LIMITED AND OTHERS

.....Respondents

Through: Mr. Rahul Yadav, Adv. (through v/c).

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (Oral)

1. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter '*the A&C Act*') seeking appointment of a sole arbitrator for adjudicating the disputes arising between the parties.
2. The disputes between the parties have arisen in context of two master lease agreements dated 09.06.2020 and 25.03.2021 relating to leasing of automobile vehicles. The first master lease agreement dated 09.06.2020 was for the lease of 25 L3 Kinetic Model vehicles and the second master agreement, dated 25.03.2021 was relating to lease of 25 L5 Kinetic vehicles.
3. An arbitration clause is incorporated in Clause 24 of the master lease agreement dated 09.06.2020 as under :-

"24. DISPUTE RESOLUTION

*Any dispute, controversy or claim arising out of or relating to this Agreement pertaining to the validity, interpretation, breach or termination thereof ("**Dispute**"), including claims seeking redress or asserting rights under applicable law, shall be resolved and finally*



settled in accordance with the provisions of the Arbitration and Conciliation Act, 1996 as may be amended from time to time or its re-enactment (the "Arbitration Act"). For any dispute, the party may submit the Dispute to the Delhi International Arbitration Centre (DIAC), Delhi High Court Campus, Shershah Road, New Delhi for the adjudication of the Dispute. The parties consent to a single, consolidated arbitration for all Disputes that may at the time exist. The arbitral tribunal shall be composed of one arbitrator to be appointed by Delhi International Arbitration Centre (DIAC). The arbitration proceedings shall be conducted in the English language and any document not in English submitted by any party shall be accompanied by an English translation. The arbitration shall be conducted in New Delhi. The parties agree to be bound by any award or order resulting from any arbitration conducted hereunder. The Courts at New Delhi shall have exclusive jurisdiction"

4. An arbitration clause has also been incorporated in clause 22 of the master lease agreement dated 25.03.2021 is as under:-

"DISPUTE RESOLUTION

Any dispute, controversy or claim arising out of or relating to this Agreement pertaining to the validity, interpretation, breach or termination thereof ("Dispute"), including claims seeking redress or asserting rights under applicable law, shall be resolved and finally settled in accordance with the provision of the Arbitration and Conciliation Act, 1996 as amended from time to time or its re-enactment (the "Arbitration Act"). For any dispute, the party may submit the Dispute to the sole arbitrator shall be appointed by M/s Shri Buddho Mate LLP, Delhi for the adjudication of the Dispute. The arbitration proceedings shall be conducted in the English language and any document not in English submitted by any party shall be accompanied by an English translation. The arbitration shall be conducted in New Delhi. The parties agree to be bound by any award or order resulting from any arbitration conducted hereunder. The courts at New Delhi shall have exclusive jurisdiction"

5. The petitioner sent a notice of demand dated 28.02.2024 under Section 138 NI Act, 1881 for raising a demand of Rs. 60,67,875/- towards the unpaid monthly instalments under the master lease agreements on account of dishonour of a cheque dated 03.02.2024. However, this notice



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was returned to the petitioner upon the receiver not being found.

6. It is relevant to note that the present petition has been filed based on distinct arbitration clauses contained in two agreements executed between the same parties. The petitioner sent a common notice dated 14.03.2024 under Section 21 of the A&C Act invoking arbitration for adjudication of the disputes under the master lease agreement dated 09.06.2020 and the master lease agreement dated 25.03.2021. The respondent has acknowledged the receipt of the aforesaid notice by an email dated 26.03.2024.

7. This Court *vide* order dated 29.07.2024, issued notice to the respondents. Subsequently, *vide* order dated 30.09.2024, the respondent was granted time to file a reply to the present petition. However, no reply has been filed by the respondent.

8. In the circumstances, since the existence of the arbitration agreement is admitted, there is no impediment in the constitution of an arbitral tribunal to adjudicate the disputes between the parties under the aforesaid agreements. Admittedly, the issues/controversy involved for consideration is identical under both the agreements. Consequently, this Court deems it apposite to appoint the same person to adjudicate the disputes between the parties under the aforesaid agreements. In terms of the dicta laid down in *Perkins Eastman Architects DPC v. HSCC (INDIA) Limited*, (2020) 20 SCC 760, *TRF Limited v. Energo Engineering Projects Limited*, (2017) 8 SCC 377 and *Bharat Broadband Network Limited v. United Telecoms Limited*, (2019) 5 SCC 755, an independent Sole Arbitrator is required to be appointed to adjudicate the disputes between the parties.

9. Accordingly, Ms. Veronica Mohan, Advocate (Mob. No. +91 9810005343) is appointed as the Sole Arbitrator to adjudicate the disputes



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between the parties under the aforesaid agreements. It is clarified that although a common Arbitrator is being appointed, the reference under both the agreements shall be independent of each other. However, it shall be open for the learned Sole Arbitrator to have common hearings for the sake of convenience.

10. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties requisite disclosure as required under Section 12 of the A&C Act; and in the event there is any impediment to the appointment on that count, the parties are given liberty to file an appropriate application in this court.

11. The learned Sole Arbitrator shall be entitled to fee in accordance with Fourth Schedule to the A&C Act; or as may otherwise be agreed to between the parties and the learned Sole Arbitrator.

12. Parties shall share the arbitrator's fee and arbitral costs, equally.

13. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.

14. Needless to say, nothing in this order shall be construed as an expression of this court on the merits of the case.

15. The present petition stands disposed of in the above terms.

OCTOBER 21, 2024/dn

SACHIN DATTA, J