

ORDER

OCD-6

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION

ORIGINAL SIDE

AP-COM/128/2025

M/S. MICKY METALS LIMITED
VERSUS
SEIKH ALI HOSSAIN

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 27th February, 2025.

Appearance:

Mr. Debraj Sahu, Advocate
Mr. Hareram Singh, Advocate
Ms. Swagata Ghosh, Advocate
Ms. Sayanwita Auddya, Advocate
... for the petitioner.

1. Despite service, none appears on behalf of the respondent.
2. Affidavit of service is taken on record.
3. The petitioner claims to have supplied TMT bars to the respondent and the respondent has failed to pay the dues. It is submitted by the learned Counsel for the petitioner that certain disputes with regard to payment cropped up and part payments was made. Thereafter, the parties sat together and entered into a Memorandum of Understanding (in short MOU) dated July 24, 2023. As per the MOU, the respondent allegedly acknowledged his liability to pay the dues of the petitioner and the terms

and conditions as to how such liabilities would be discharged by the respondent were clearly stated in the MOU. The MOU also contained an arbitration clause, to the effect that any dispute or difference arising out of the said MOU, would be settled by arbitration.

4. The petitioner contends that the respondent failed and neglected to honour the MOU and the cheque issued by the respondent was dishonoured. A notice under the Negotiable Instruments Act, 1881, has also been issued.
5. Apart from the said proceeding, the petitioner contends that the money due and payable will have to be decided by arbitration. A notice invoking arbitration was issued on December 4, 2023. The notice was duly received by the respondent on December 13, 2023. The postal receipt and the track reports are annexed to the application. The respondent did not take any steps after receipt of the notice invoking arbitration.
6. Under such circumstances, this Court is satisfied that there is existence of an arbitration clause and the dispute appears to be prima facie, alive. The jurisdiction clause provides that the venue and the seat of arbitration is Kolkata. However, the disputes as to whether the claims are arbitrable, admissible or time barred are matters to be decided by the learned Arbitrator.
7. Accordingly, the application is disposed of by appointing Mr. Aritra Basu, learned Advocate (M. No.9903176497) as the learned Arbitrator to

arbitrate upon the disputes between the parties. This order is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996.

8. The learned Arbitrator shall fix his remuneration in terms of the Schedule of the Act.

9. AP-COM/128/2025 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)