

OCD-7

AP-COM/206/2025
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

EDWARD FOOD RESEARCH AND ANALYSIS CENTRE LIMITED
VS
METROHM INDIA P LTD

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 13th March, 2025.

Appearance:
Mr. Kuldip Mallick, Adv.
Mr. Diptomoy Talukder, Adv.
Mr.T. Talukder, Adv.
. . .for the petitioner.

The Court:

1. Despite service, none appears on behalf of the respondent. This is an application for appointment of an arbitrator.
2. The respondent had contested the application under Section 9 of the Arbitration and Conciliation Act, 1996, which had been filed before this Court.
3. The dispute arises from the purchase order which was issued by the petitioner, to the respondent, for purchase of a machine. The allegation is that the machine did not function properly and did not meet the specifications. Accordingly, demands were raised for replacement of the machine, on the basis of the warranty clause.

4. The learned advocate for the petitioner submits that the respondent denied the fact that the machine supplied by the respondent was defective. In fact, the respondent's case was that the petitioner was responsible for malfunctioning of the machine. While disposing of the application under Section 9 of the Arbitration and Conciliation Act, 1996, this Court had rejected the prayer of the petitioner for inspection of the machine.
5. In the opinion of the Court, such order would enable the petitioner to fish out evidence, to substantiate its claim. However, the petitioner was granted liberty to invoke the arbitration clause and pray for interim relief before the learned Arbitrator.
6. The petitioner, thereafter, invoked arbitration by a notice dated July 9, 2024. The purchase order was issued by the petitioner sometime in October 2022. The purchase order contains a clause for settlement of dispute by arbitration. The jurisdiction is Kolkata.
7. Under such circumstances, this application is entertained and disposed of in the absence of the respondent, who does not appear despite notice.
8. Under such circumstances, the Court appoints Mr. Biswanath Chatterjee, learned Advocate, Bar Library Club, [Mobile No. 9830465930] as the Arbitrator, to arbitrate upon the dispute between the parties. This order is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996.

9. The learned Arbitrator shall fix his own remuneration as per the provisions of the Arbitration and Conciliation Act.
10. AP-COM/206/2025 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)

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