

ORDER

OCD-16

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/236/2025
R. K. TRANSPORT PRIVATE LIMITED
VERSUS
SHREE BALAJI TRANSPORT & ROAD WAYS PRIVATE LIMITED

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 21st April 2025.

Appearance:

Ms. Alisha Das, Advocate
Mr. Suman Bhowmik, Advocate
Mr. Samrat Das, Advocate
Ms. Elina Dey, Advocate
... for the petitioner.

Mr. Avishek Guha, Advocate
Mr. Ankush Majumdar, Advocate
... for the respondent.

1. This is an application for appointment of an arbitrator.
2. On the last occasion, the Court had raised a question with regard to the validity of the notice invoking arbitration. Learned advocate for the petitioner has answered the query of the Court by stating that the last invoice was raised on March 8, 2019 and part payment was made sometime in July 2019. The period between March 15, 2020 and February 28, 2022 had been exempted by the Hon'ble Apex Court in computing the period of limitation for filing any application or initiating any proceeding under the Arbitration and Conciliation Act, 1996. Thus, this period is also available to the petitioner for the purpose of calculation

of the period of limitation for invocation and in making a money claim. The notice invoking arbitration was issued on July 29, 2024.

3. Under such circumstances, this Court is of the view that all questions with regard to limitation, admissibility of the claim, arbitrability of the issues etc. are to be raised by the respondent before the learned arbitrator. The objections of Mr. Guha can be raised before the learned arbitrator and this Court is satisfied that there is a valid arbitration clause. Moreover, the notice invoking arbitration was also served upon the respondent.
4. The application is disposed of, by appointing Mr. Samrat Sen, Senior Advocate, High Court at Calcutta, as the learned Arbitrator, to arbitrate upon the disputes between the parties. This appointment is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996. The learned Arbitrator shall fix his remuneration as per the Schedule of the Arbitration and Conciliation Act, 1996.

(SHAMPA SARKAR, J.)