

OCD 4

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/470/2025

SREI EQUIPMENT FINANCE LIMITED
VS
BCL SECURE PREMISES PRIVATE LIMITED

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : August 13, 2025

Mr. Swatarup Banerjee, Adv.
Mr. Avishek Guha, Adv.
Mr. S. K. Sariful Haque, Adv.
Mr. Ankush Majumder, Adv.
Mr. Adipta Kumar Pandit, Adv.
...for petitioner.

Mr. Lokenath Chatterjee, Adv.
Ms. Mary Datta, Adv.
...for respondent.

1. This is an application for appointment of an Arbitrator. The parties entered into a service provider agreement dated March 01, 2019, and another addendum agreement was executed on September 30, 2020.
2. By the addendum agreement, clause 5.2 of the service provider agreement was substituted. According to the petitioner, the addendum agreement forms an integral part of the service provider agreement. In terms of the addendum agreement, the petitioner contends to have paid Rs.40 lakhs as security deposit to the respondent. The petitioner was admitted under the Corporate Insolvency Process by an order dated October 8, 2021. The respondent submitted its claim

before the administrator for an amount of Rs.57.40 lakhs. The administrator accepted the said claim. The respondent received payment with respect to the claim in the approved resolution plan.

3. The specific case of the petitioner is that, once the new management took over the board of the petitioner, the officers made enquiries, searches, reviews and found that the respondent had unilaterally adjusted Rs.40 lakhs prior to submitting a claim of Rs.57 lakhs before the Administrator.
4. The dispute raised by the petitioner is that the respondent was only to receive Rs. 17 lakhs upon such adjustment and not Rs.57.40 lakhs. Thus, the petitioner raised a dispute with regard to non refund of the retention money and the claim was around Rs.41 lakhs. The correspondence between the parties have been relied upon by the petitioner to the effect that, the respondent had admitted the adjustment of Rs.40 lakhs. As of now, according to the petitioner, the respondent owes approximately Rs.41 lakhs to the petitioner. By a letter dated October 6, 2023, the petitioner terminated the service provider agreement and the addendum agreement. The respondent requested the petitioner to reconsider the termination.
5. The respondent invoked arbitration by a letter dated January 20, 2024. The respondent did not take any steps for constitution of the Tribunal although, a notice had been

issued. The petitioner invoked arbitration by a notice dated May 23, 2024.

6. Mr. Banerjee submits that the matter should be referred to a sole Arbitrator, to be appointed by this Court in terms of clause 23 of the service provider agreement dated March 1, 2019.

“23. ARBITRATION

Any disputes or differences arising out of or in connection with the agreement during its subsistence or thereafter between the parties including any disputes and differences relating to the interpretation of the agreement or any clause thereof shall be settled by arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and rules framed there under and any amendment, modification, statutory enactment thereto from time to time and shall be referred to the sole Arbitration of an Arbitrator mutually appointed by the parties in writing. The proceedings shall be held at Kolkata and no objection shall be entertained in this regard. The cost of the Arbitration proceedings shall be borne by the parties to this agreement. The award of the arbitrator shall be final, conclusive and binding on the parties.”

7. Mr. Chatterjee submits that although the respondent issued a notice invoking arbitration, the parties were in the process of negotiation. Mr. Chatterjee further submits that the claim of the petitioner does not have any foundational basis. Several breaches were committed by the petitioner. The agreement was for a period of 6 years, but was prematurely

terminated for no reason at all. The respondent has a counter claim amounting to more than Rs.53 lakhs.

8. There exists an arbitration agreement between the parties and both the parties invoked arbitration. The dispute is alive.
9. Under such circumstances, the application is allowed. Mr. Saptansu Basu, learned senior Advocate, is appointed as an Arbitrator to arbitrate upon the disputes between the parties.
10. The learned Arbitrator shall comply with the provisions of Section 12 of the Arbitration and Conciliation Act, 1996. The learned Arbitrator shall be at liberty to fix his remuneration as per the schedule of Arbitration and Conciliation Act, 1996.

(SHAMPA SARKAR, J.)