

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO. 4 OF 2025
WITH
INTERIM APPLICATION (L) NO.18569 OF 2024

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Devashish Polymer Pvt. Ltd
Through One Of Its Authorised Signatory
Nikhil Mody ...Petitioner

Versus

Gujarat Fluorochemicals Ltd ...Respondent

Mr. Sushant Valimbe and Mr. Hrithik Chavan for the Petitioner.
Mr. Yash Chokshi a/w. Roselin Alex i/b Khaitan & Co. for the
Respondent.

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 23, 2025

PC :

1. This Petition has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 (*"the Act"*).
2. Today, when the matter is called out Learned Counsel for the parties jointly submit that they have consensus to refer all disputes and differences between them to an arbitral tribunal appointed by this Court.
3. Learned Counsel for the Petitioner however, submit that unless he gets data from the Respondent pursuant to clause 5.10 of the

Technology License and Technology Service Agreement dated January 20, 2015, it would be difficult for him to crystallize the monetary claim against the Respondent.

4. Learned Counsel for the parties submit that they continued to engage with each other commercially and continued to avail of the benefits under the aforesaid Agreement. Consequently, Learned Counsel for the Respondent contends that the Respondent has given the data certified by the Chartered Accountant and Chartered Engineer as required under clause 5.10 of the Agreement.

5. Consequently, it is apparent that the disputes and differences relate to data integrity and quality of data exchanged by them. Obviously it is a dispute between the parties and such dispute relates to an Agreement which contains an arbitration agreement and such dispute and differences fall under the domain of the arbitral tribunal.

6. Since the parties do not have any dispute about existence of the arbitration agreement, it is for the arbitral tribunal to issue appropriate directions *inter alia* under Section 17 of the Act to enable the parties to address their respective positions and formulate the issues on which we would request the arbitral tribunal to adjudicate disputes between them.

7. In these circumstances, without the need to file an application under Section 11 of the Act, by consent of the parties, the Section 9 Petition is finally disposed of by passing the following order:

A] Ms. Nidhi Vandana Chauhan, an Advocate of this Court, is hereby appointed as the Sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of and in connection with the Agreement referred to above;

Email Id : nidhi.chauhan231@gmail.com

B] A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Petitioner within a period of one week from the date of upload of this order. The Petitioner shall provide the contact and communication particulars of the parties to the Arbitral Tribunal along with a copy of this Order;

C] The Learned Sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the parties within a period of two weeks from receipt of a copy of this Order;

D] The parties shall appear before the Learned Sole Arbitrator on such date and at such place as indicated, to obtain appropriate directions with regard to conduct of the arbitration including fixing a schedule for pleadings, examination of witnesses, if any, schedule of hearings etc. At such meeting, the parties shall provide a valid and functional email address along with mobile and landline numbers of the respective Advocates of the parties

to the Arbitral Tribunal. Communications to such email addresses shall constitute valid service of correspondence in connection with the arbitration;

E] All arbitral costs and fees of the Arbitral Tribunal shall be borne by the parties equally in the first instance, and shall be subject to any final Award that may be passed by the Tribunal in relation to costs. With the aforesaid directions, this Petition is *finally disposed of*.

8. Needless to say, nothing contained in this order shall be an expression of an opinion on the merits of the matter and all contentions of the parties are kept open to be agitated before the Learned Sole Arbitrator in accordance with law. The consent of the parties to proceed to arbitration shall not constitute any erosion of their respective positions on the merits of the case.

9. The Section 9 Petition is *finally disposed of* in the aforesaid terms. All attendant Interim Applications are also *disposed of* accordingly.

10. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]