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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 259 OF 2024
ALONGWITH
COMM. ARBITRATION APPLICATION NO. 36 OF 2025

Tata Capital Financial Services Ltd.

...Petitioner/
Applicant

Versus

Sameer Castings Private Limited & Ors.

...Respondents

Mr. Gaurav Jangle a/w Ms. Kunjita i/b I.V. Merchant & Co. for the
Petitioner/Applicant.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 30, 2025

PC :

1. Arbitration Petition No. 259 of 2024 is a Petition under Section 9 of the Arbitration and Conciliation Act, 1996 (“***the Act***”) and Commercial Arbitration Application No. 36 of 2025 is an Application under Section 11 of the Act.

2. It is seen from the record that the disputes and differences between the parties relate to an agreement to *inter alia* provide Working Capital dated June 19, 2019 read with Master Terms and Conditions of Working Capital dated December 31, 2018. Disputes and differences have arisen between the parties and arbitration was invoked by an Invocation Notice dated April 6, 2023. The arbitration agreement between the parties is contained in Clause 12 which is found at Page 72 of the Application. The arbitration agreement is not reproduced here in the interest of brevity. Suffice it to say that it falls within the jurisdiction of this Court.

3. It is seen from the record that in reply to Section 9 Petition the Respondent has not denied the existence of the arbitration agreement and has instead taken a stand that the agreement is inadequately stamped. Inadequate stamping of an agreement had repercussions for arbitrability of disputes under any arbitration agreement under the law declared by the Supreme Court at the time the reply was filed. However, the position in the law has changed by subsequent decisions of the Supreme Court.

4. In these circumstances, with the existence of the arbitration agreement not in doubt, no useful purpose will be served by letting these proceedings continue on the docket of this court. The Respondents have indeed been issued a notice that there is an invocation of arbitration and consequently the parties ought to proceed to adjudicate their disputes and differences before an Arbitral Tribunal appointed by this court, leaving all their contentions on merits open for the arbitral tribunal appointed hereby, to decide.

5. The Petition filed under Section 9 shall be treated as an Application under Section 17 by the Arbitral Tribunal.

6. In these circumstances, both the Section 9 Petition and Section 11 Application are hereby ***finally disposed of*** in the following terms:-

a) Ms. Nupur Jalan, a learned advocate of this Court (nupurjalan88@gmail.com), 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;

b) A copy of this Order shall be communicated to the Learned Sole Arbitrator by the Advocates for the Applicant within a period of one week from today. The Applicant 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 Advocates for the Applicant so as to enable them to file the same in the Registry of this Court. The Registry of this Court shall retain the said Statement on the file of this Application and a copy of the same shall be furnished by the Advocates for the Applicant to the Respondents;

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; and

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.

7. 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.]