
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION APPLICATION NO. 124 OF 2024

Castrol India Ltd. ...Applicant

Versus

Cargo Motors Pvt. Ltd. ...Respondent

Mr. Madhur R. Baya, a/w Nikita Banatwala, for the Applicant.

Mr. Ryan D'souza, a/w Harshavardhan G Khambete, for Respondent.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 13, 2025

PC :

1. This is an Application under Section 11 of the Arbitration and Conciliation Act, 1996 (“***the Act***”) seeking appointment of an arbitrator.

2. It is a common ground that an arbitration agreement exists and disputes and differences have arisen over the termination of the contract containing the arbitration agreement. The termination is said to have been effected in February 2019 whereas the arbitration was invoked in May 2024. Thereafter, this Application has been filed.

3. It is now clearly declared law that the Court exercising

jurisdiction under Section 11 of the Act ought not to get involved in ruling upon issues of limitation, which essentially pose a mixed question of fact and law. What the conduct of the parties has been since 2019, the inter-play with the extension of timelines granted by the Supreme Court in a *suo motu* Writ Petition pursuant to the Covid-19 pandemic, and the correspondence between the parties, are all part of the evidence that will be dealt with by the arbitral tribunal, as and when appointed.

4. Since it is apparent that the application under Section 11 has been filed shortly after the invocation, and no arbitral tribunal has been formed, it is only appropriate that the arbitral tribunal be constituted without any comment on the merits of the case, including limitation. Consequently, the following order is passed:-

- a) Taking into account, inputs from Officers of the Court, Mr. Aditya N. Mehta, Learned 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. The contact particular of the Arbitrator are as under:

Mr. Aditya N. Mehta,
Add: 4th Floor, Techno Heritage Building,
76 Nagindas Master Road,

Fort, Mumbai- 400 001

Email ID: aditya.n.mehta@gmail.com

- b) A copy of this Order will 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 Arbitration and Conciliation Act, 1996 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 Respondent;
- 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; and
- f) The parties have agreed that the venue and seat of the arbitration will be in Mumbai. It is clarified that it shall be open to the Arbitral Tribunal to conduct the proceedings online through electronic mode;.

5. This Application is ***finally disposed of*** in the aforesaid terms.

6. 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.]