
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

COMM. ARBITRATION APPLICATION NO. 134 OF 2025

Snehadeep Structures Pvt. Ltd.

...Applicant

Versus

Maharashtra Small Scale Industries
Development Corporation Ltd.

...Respondent

Ms Ujwala Kamat, for the Applicant.

**CORAM : SOMASEKHAR SUNDARESAN, J.
DATE : APRIL 21, 2025**

PC :

1. This is an Application under Section 11 of the Arbitration and Conciliation Act, 1996 (***“the Act”***), seeking appointment of an arbitrator in connection with disputes and differences that are said to have arisen between the parties under a Supply Order dated March 30, 1995 (***“Agreement”***). The arbitration agreement is contained in Clause 27 (found at Page 115 of the Application). In the interest of brevity, the arbitration agreement is not being extracted here. Suffice it to say that this matter falls within the jurisdiction of this Court.

2. The disputes and differences between the parties had already been subjected to arbitration which culminated in an Award dated June 30, 2003. The said Award came to be upheld in the proceedings under Section 34 of the Act but the Order passed under Section 34 was set aside by the Division Bench of this Court in the Section 37 proceedings by a Judgment dated March 26, 2018. Thereafter, the judgment passed

by the Section 37 Court was assailed before the Hon'ble Supreme Court, which upheld the Learned Division Bench's Judgment by an Order dated March 5, 2024. Consequently, the arbitral Award having been set aside and the Arbitration Agreement evidently subsisting between the parties, the parties would need to commence arbitration afresh.

3. It is apparent from the record that the arbitration agreement was invoked by the Applicant on April 29, 2024, to which there is a reply dated May 29, 2024 from the Respondent. The Respondent has objected the invocation on the premise that claims raised by the Applicant are barred by limitation. This issue raised by the Respondent presents a mixed question of fact and law which requires examination of evidence, which squarely falls in the domain of the arbitral tribunal.

4. The scope of review under Section 11 is explicitly set out in Section 11(6A) of the Act. It is now trite law, with particular regard to the decisions of a seven-judge bench in the *Interplay Judgement*¹ followed by multiple others, including *SBI General*² and *Patel*³ that the Section 11 Court ought not to venture beyond examining the existence of a validly existing arbitration agreement that has been formally executed. Even questions of existential substance is a matter that falls squarely in the domain of the arbitral tribunal, in view of Section 16 of the Act.

5. Being satisfied that an arbitration agreement is validly in existence, and that arbitration has been duly invoked, it is in the fitness of things to refer the disputes and differences between the parties in

¹ In Re: Interplay Between Arbitration Agreements Under Arbitration and Conciliation Act, 1996 & Stamp Act, 1899 - (2024) 6 SCC 1

² SBI General Insurance Co. Ltd. v. Krish Spinning - 2024 SCC OnLine SC 1754

³ Ajay Madhusudan Patel v. Jyotrindra S. Patel - 2024 SCC OnLine, 2597

connection with the aforesaid Agreement to arbitration by a Sole Arbitrator.

6. In these circumstances, this Application is hereby ***finally disposed of***, in terms of the following order:

A] Ms. Yogita Deshmukh, a 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;

Email ID: yogitadeshmukhoffice@gmail.com

B] A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Applicant from the date on which this order is uploaded on the website of this Court. 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 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.

7. Needless to say, nothing contained in this order is an expression of an opinion on merits of the matter or the relative strength of the parties. All issues on merits are expressly kept open to be agitated before the arbitral tribunal appointed hereby.

8. 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.]

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