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

ARBITRATION APPLICATION NO. 41 OF 2025

Sergusa Solutions Private Limited

...Applicant

Versus

Toriox Foils

...Respondent

Mr. Mayank Bagla *a/w Ms. Swapan Samdani, Mr. Aditya Indulkar and Ms. Siddhi Bhutada i/b Swapan Samdani for the Applicant.*
Mr. Yash Dhruva *a/w Ms. Ruchita Jain i/b MDP Legal for the Respondent.*

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : MARCH 24, 2025

PC :

1. This Application has been filed 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 an Agreement dated May 31, 2023 (***“Agreement”***). The arbitration agreement is contained in Clause 29 (found at Page 34 of the Application). The Arbitration Agreement shows seat and venue of the arbitration at Panchkula/Mumbai. Indeed this Court has been approached and the matter falls within the jurisdiction of this Court. In the interest of brevity, the arbitration agreement is not being extracted here.

2. It is seen that arbitration was invoked on November 28, 2024. There is some controversy about whether the disputes and differences have already been resolved. There is also an allegation about forgery involved in the Board Resolution evidencing settlement of the disputes. These are

facets of facts that would entail examination of evidence, which falls squarely in the domain of the Arbitral Tribunal.

3. Consequently, leaving open the contentions about the matter having become stale the Arbitral Tribunal appointed here by, the Application is hereby finally disposed of in the following terms:-

A] Ms. Aneesa Cheema, 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;

Address: C/o Mayur Khandeparkar, 102, 1st Floor, Oval House,
Old British Hotel Lane, Kala Ghoda, Fort,
Mumbai – 400 001.

Email: aneesa.cheema@outlook.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 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 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;

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.

4. 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.

5. 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.]