



Arb.O.P (Com.Div.) No. 122 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2025

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No. 122 of 2025

M/s.TATA CAPITAL Limited
Having its registered office at 11th Floor
Tower – A, Peninsula Business Park
Ganpatrao Kadam Marg, Lower Panel
Mumbai – 400013

Having one of its branch offices at
1st Floor, Centennial Square, No.6A
Dr.Ambedkar Salai, Kodambakkam
Chennai-600024

Represented by its Authorised Signatory
Power of Attorney-Mr.M.Manoj

...Petitioner

vs.

1. H.T.Eco Motors
Represented by its Proprietor G.Gopinath
145/10, Ward 39, Ettayapuram Road
Behind Sundaram Arulraj Hospital
Thoothukkudi, Tamil Nadu – 628 003.

2. G.Gopinath
3. Padmapriya

... Respondents

Prayer : Arbitration Original Petition (Commercial Division) filed under
Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to,

a) appoint a Sole Arbitrator to adjudicate upon the differences and
disputes between the parties under the said Loan cum Guarantee



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(Channel Finance) Agreement dated 08.12.2022 and pass such further or other orders as this Hon'ble Court may be deem fit and proper in the facts and circumstances of the case and thus render justice.

For petitioner : Mr.M.Arunachalam

For Respondents : Mr.S.Conscious Ilango

ORDER

This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking for appointment of a sole Arbitrator by this Court.

2. There seems to be a dispute between the petitioner and the respondents arising out of the following contracts:-

(a) Loan cum Guarantee (Channel Finance) Agreement dated 28.09.2021; and

(b) Channel Finance Agreement /Renewal Letter dated 08.12.2022.

Both of the aforesaid agreements contain an Arbitration Clause and the same is extracted hereunder:



“12. Arbitration :

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If any dispute, difference or claim arises between any of the Obligor and the Lender in connection with the Facility or as to the interpretation, validity, implementation or affect of the Facility Documents or as to the rights and liabilities of the parties under these T&Cs or alleged breach of the Facility Documents or anything done or omitted to be done pursuant to the Facility Documents, the same shall be settled by arbitration by a sole arbitration to be appointed as per the procedure below and to be held at such place as agreed by the Parties in Serial No. 17 of Annexure 1 hereto of the Agreement

The Party Invoking the arbitration (Claimant) shall address a notice to the other Party (“Respondent”) suggesting the names of not more than three arbitrators, all of whom shall be either retired judges of the District Court, High Court or the Supreme Court or a lawyer having minimum 10 years relevant experience. The Respondent shall either :

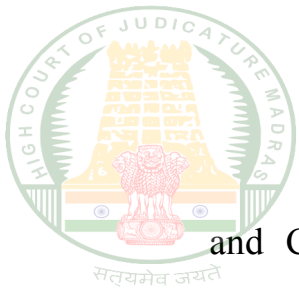
(i) Confirm in writing acceptance of one amongst the proposed names as the sole arbitrator to the Claimant within a period of ten (10) days from the date of notice (“Notice Period”); or

(ii) Convey objection, if any, in writing to the Claimant, against the proposed names of the sole arbitrator within the said Notice Period.

However, if the Claimant does not receive any response from the Respondent within the said Notice Period, the Claimant shall be entitled to nominate any one person from amongst the proposed three names as the sole arbitrator and such arbitrator shall be deemed to be appointed by both the Parties.

In the event, the Respondent conveys its objection as per (ii) above then the sole arbitrator will be appointed by a Court having jurisdiction. The arbitration shall be conducted under the provisions of the Arbitration and Conciliation Act 1996 together with its amendments, any statutory modifications or re-enactment thereof for the time being in force. The arbitration proceeding shall be conducted in English language. The award of the arbitrator shall be final and binding on all parties concerned. The cost of arbitration shall be borne by the Obligor/s.”

4. The petitioner has invoked arbitration in accordance with the Arbitration Clause by issuing notice to the respondent on 16.02.2024 and has complied with the requirements under Section 21 of the Arbitration



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and Conciliation Act, 1996. Despite receipt of the said notice, the respondents did not sent any reply and they have also not agreed for appointment of an arbitrator as requested by the petitioner. Therefore, it became necessity for the petitioner to file this petition under Section 11 of the Arbitration and Conciliation Act, 1996 seeking for appointment of an arbitrator. Till date counter has not been filed by the respondents. As seen from the earlier proceedings, sufficient time has been granted to the respondents to file counter.

5. The learned counsel for the respondents also admits the existence of the arbitration clause in the contracts which are the subject matter of the dispute between the parties. No useful purpose would be served if one more opportunity is granted to the respondents to file counter, that too when it is an admitted fact that the contracts which are the subject matter of dispute contain an arbitration clause. Since there exists an Arbitration clause in the Agreement, which is the subject matter of the dispute between the parties and since the petitioner has complied with the requirements under Section 21 of the Arbitration and Conciliation Act, 1996 by issuing notice to the respondent on 22.03.2024 and since there is no consensus between the parties with regard to the



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name of the Arbitrator, this Court has to necessarily appoint an Arbitrator

under Section 11 of the Arbitration and Conciliation Act, 1996.

6. For the foregoing reasons, this Arbitration Original Petition is allowed as prayed for by issuing the following directions :-

a) This Court appoints Mr. J.Justin David, Retired District Judge, residing at OAK, B1, Maple Orchard, Ben Foundation, Padikuppam Road, Anna Nagar West, Chennai – 600 040, (Mobile No.9443551078) as the sole Arbitrator to adjudicate the dispute between the parties arising out of the Loan cum Guarantee (Channel Finance) Agreement dated 28.09.2021 and subsequent Channel Finance Agreement /Renewal Letter dated 08.12.2022.

(b) The Arbitrator shall be paid his/her remuneration / fees in accordance with the 4th schedule of the Arbitration and Conciliation Act, 1996.

(c) Both the parties shall equally share the arbitrator's fees.

(d) The Arbitrator shall conduct the arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and shall complete the arbitration within the specified time as prescribed under the said Act.



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ABDUL QUDDHOSE, J.

Maya

(e) Liberty is granted to the respondents to raise all objections including objections with regard to the arbitrability of the dispute either by filing an application under Section 16 of the Arbitration and Conciliation Act, 1996 or by filing a counter in the main arbitration proceedings.

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Index: Yes/ No

Speaking order / Non speaking order

Neutral citation : Yes / No

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