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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2025

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THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

Arb O.P(COM.DIV.) No. 99 of 2023

and

A.No.1367 of 2023

Gammon India Ltd.,
represented by is authorized sinatory
Mr.Jaysingh ashar,
(Chennai Metro Rail Project),
Registered office,
Veer Savarkar Marg,
Pradhadevi,
Mumbai - 400 025

...Petitioners

Vs

1. M/s. Globe detective Agencies Pvt.Ltd.,
Agurchand Mansion,
152, Mount Road,
Chennai - 600 002.

2. M/s. GDA Security Pvt.Ltd.,
Agurchand Mansion,
152, Mount Road,
Chennai - 600 002.

..Respondents

PRAYER: Arbitration Original Petition filed under Sections 34(2)(b)(ii) of the Arbitration and Conciliation Act, 1996, to set aside the award dated 25.07.2024 passed by the Arbitral Tribunal.



For Petitioner : Mr.P.J.Rishikesh
For Respondents : Mr.C.A.Diwakar

ORDER

This petition has been filed under Section 34 of the Arbitration and Conciliation Act, challenging the Arbitral Award dated 26.10.2022 passed in favour of the respondent against the petitioner.

2. The respondent is a Security Service Provider. In the usual course of their business, the respondent entered into a contract with the petitioner for providing security service under different contracts all containing an arbitration clause. The dispute between the parties has arisen out of those contracts. Since there was an arbitration clause in all the contracts and since there was no consensus between the parties with regard to the name of the Arbitrator, the respondent approached this Court seeking for appointment of an Arbitrator under Section 11 of the Arbitration and Conciliation Act.

3. This Court appointed an Arbitrator. The Arbitrator acted upon the reference. After affording fair hearing to both the parties, the Arbitrator has passed the impugned award, directing the petitioner to pay the respondent a sum of Rs.26,38,436/- together with interest. Aggrieved by the impugned award passed by the Arbitrator, the petitioner has filed this petition under



Section 34 of the Arbitration and Conciliation Act, challenging the said award.

4. Primarily, the petitioner has raised the following grounds.

(a) The invoices which are marked as Exhibits before the Arbitrator were unsigned invoices and therefore, without any evidence, the impugned award has been passed against the petitioner.

(b) The emails which were relied upon by the Arbitrator which are marked as Exhibits are not supported by Section 65-B of the Indian Evidence Act Certificates.

5. Learned counsel vehemently argued the matter in support of the grounds raised in this petition filed under Section 34 of the Arbitration and Conciliation Act. He drew the attention of this Court to various documents filed by both the parties. In particular, he referred to the unsigned invoices, which the respondent claims that they were received by the petitioner. He also relied on Section 65-B of the Indian Evidence Act as well as the email communications which have been marked as Exhibits and would submit that the said Exhibits are not supported by Certificates under Section 65-B of the Indian Evidence Act.

6. However, on the other hand, the learned counsel for the



respondents drew the attention of this Court to the various letters of the petitioner acknowledging their liability to the respondents which have been marked as Exhibits before the Arbitral Tribunal. He would also submit that strict rules of procedure as prescribed under C.P.C. as well as under the Indian Evidence Act are not applicable to arbitration. Therefore, he would submit that only after giving due consideration to the evidence available on record, which would clearly go to prove that the respondents have proved their claim insofar as the award amount is concerned, the Arbitrator has passed the impugned award, directing the petitioner to pay the award amount to the respondents.

7. This Court has given a careful consideration to the impugned award.

8. As rightly pointed out by the learned counsel for the respondents, the Arbitrator, only after considering the evidence available on record, has come to the right conclusion that the respondent is entitled for the award amount and has passed the impugned award. The reasons for coming to the said conclusion as seen from the arbitral award are as follows:

(a) The emails have been sent by the respondents/claimants through email dated 12.03.2015, 14.03.2015, 11.06.2015, 25.06.2015, 14.07.2015



and 18.07.2015 (Exs.C8, C9, C12, C15 & C18) demanding payment from the petitioner/respondent towards their outstanding dues.

(b) The respondent by their further emails dated 18.07.2015 and 11.08.2015 (Exs.C18 and C19) intimated the petitioner that they are withdrawing deployment of their security guards due to their non-payment of the outstanding dues.

(c) The letter dated 11.12.2015 (Ex.C21) was also sent by the respondent to the petitioner calling upon the petitioner to clear the outstanding dues, at the earliest. A series of letters in the form of emails have been exchanged between the parties from April 2014 to June 2015 (ExC3 to C21) and in each of the replies sent by the petitioner to the respondent (Ex.C4, C5, C6 and C14), their standing response was that they are facing some difficulties and would shortly make arrangements for settling the claim of the respondent.

(d) The petitioner has not questioned the validity of the contract entered into with the respondent. The petitioner has also not questioned the conciliation statement submitted by the respondent.

9. Only after giving due consideration to the evidence available on record, the Arbitrator, under the impugned award has come to the correct



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conclusion that a sum of Rs.26,38,436/- is liable to be paid by the petitioner to the respondent. The interest awarded at 9% per annum from 15.11.2016 under the impugned award cannot also be treated to be unreasonable. Even though the respondent had claimed interest at 18% per annum before the Arbitrator, the Arbitrator has awarded only 9% interest by keeping in mind the provisions of Section 34 of C.P.C. which in the considered view of this Court is a correct assessment.

10. The scope for challenging the Arbitral award is limited. Unless and until the petitioner satisfies any of the parameters as per the well settled law, the question of interfering with the Arbitral Award does not arise. Since only based on the evidence placed on record, the impugned arbitral award has been passed, this Court does not find any merit in this petition. Accordingly, this Arb.O.P.(Com.Div).No.99 of 2023 is dismissed. Consequently, connected O.A. No.1367 of 2023 is closed.

05.02.2025

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Index : Yes / No

Internet : Yes / No



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ABDUL QUDDHOSE,J.

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