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Arb O.P(COM.DIV.) No. 300 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-07-2025

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THE HON'BLE MR JUSTICE ABDUL QUDDHOSE

Arb O.P(COM.DIV.) No. 300 of 2025

Jayem Automotives Private Limited
No. 2, Ondipudur Road, Singanallur, Coimbatore -
641 005

..Petitioner(s)

Vs

Vehicle Research and Development Establishment
No. 2, Ondipudur Road, Singanallur, Coimbatore -
641 005 Rep.by its Director
P.O Vahar Nagar,
Ahmednagar, Maharashtra 414006

..Respondent(s)

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To appoint the Honble Mr.Justice V.Parthiban (Retd) or any other person as this Honble Court may deem fit, proper and appropriate to act as the Sole Arbitrator to enter into reference and arbitrate the disputes that have arisen between the petitioner and the Respondent. (ii) Award the costs of the instant petition to the Petitioner.

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For Petitioner(s): M/s Aparajitha Vishwanath

For Respondent(s): M/s. K.R.Samratt,
Senior Panel Counsel (central
Government)
For Respondent



ORDER

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This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (in short “the Act”) seeking for appointment of an Arbitrator by this Court.

2. There seems to be a dispute between the petitioner and the respondent arising out of the Contract Agreement dated 24.11.2016. According to the petitioner, on account of the improper termination of the contract by the respondent, the petitioner has suffered huge losses. They have a claim against the respondent. The Contract Agreement dated 24.11.2016 contains an arbitration clause and the same is re-produced hereunder:-

“34. ARBITRATION : Any question, dispute or difference arising under the contract (except as to any matter, the decision of which is specially provided for) shall be referred to the sole arbitration of the Chief Controller, Research & Development, Ministry of Defence, Department of Defence Production, or in case of his being unable or unwilling to act as arbitrator to some other person appointed by him. It will not be valid objection that he had to deal with the matters to which the contract relates or that in course of his duties as a Government servant he had expressed views on all or



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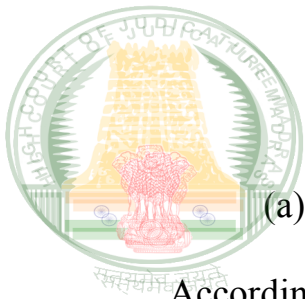


any of the matter, disputes or differences. The award of the arbitrator shall be final and binding on the parties.

The arbitrator shall be entitled to extend the time of award by consent of the parties from time to time. The venue of arbitration and the expenses of arbitration will be in the discretion of the arbitrator. Subject as aforesaid, the Arbitration Act, 1940, and the rules thereunder and any statutory modification there of for the time being in force shall be deemed to apply to the arbitration proceeding under this condition.”

3. The petitioner has invoked arbitration in accordance with the arbitration clause by issuing notice to the respondent on 15.04.2025 to comply with the requirements of Section 21 of the Act. A reply has also sent by the respondent to the petitioner on 14.05.2025 to the arbitration invocation notice. Since there has been no consensus between the parties with regard to the name of the Arbitrator, this petition has been filed under Section 11 of the Act seeking for appointment of an Arbitrator by this Court.

4. A counter affidavit has been filed by the respondent before this Court raising the following objections:-



(a) This Court lacks territorial jurisdiction to decide this petition.

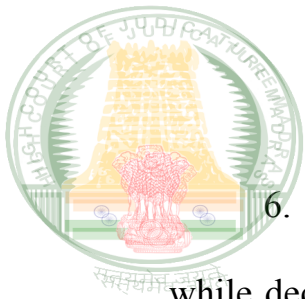
According to them, since the respondent is having its office at Ahmednagar, Maharashtra, and they having terminated the contract only from Maharashtra, the present petition is not maintainable.

(b) The respondent also contends that since arbitration clause does not provide for seat of arbitration, the present petition is not maintainable before this Court as the termination of the contract was made by the respondent only from Maharashtra.

5. The petitioner has filed documents along with this petition to substantiate their case that this petition is maintainable before this Court. The petitioner has filed Contract Agreement dated 24.11.2016, which makes it clear that the stamp paper was purchased by the petitioner only at Coimbatore, Tamil Nadu. The petitioner is also having its office only at Coimbatore. The products were manufactured by the petitioner only at Coimbatore for supply to the respondent, which is the subject matter of the dispute. The arbitration clause does not specifically stipulate the seat of arbitration. The venue of arbitration has also not been fixed in the arbitration clause and it has been left for the Arbitrator to decide the venue of arbitration. When the petitioner is the claimant and when the petitioner is having its office only at Coimbatore and

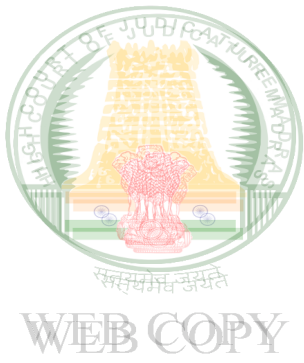


that too, when the products were manufactured by the petitioner only at Coimbatore for supply to the respondent, this Court, while deciding an application under Section 11 of the Act, being a referral Court, has got only limited scrutiny, and therefore, when on a prima-facie consideration this Court finds that there exists an arbitration clause in the Contract Agreement dated 24.11.2016, which is the subject matter of the dispute, and when a part of the cause of action also having arisen within the State of Tamil Nadu, and when the petitioner is having its office at Coimbatore, and when the products supplied by the petitioner to the respondent were manufactured only at Coimbatore; and when the arbitration clause does not stipulate the seat of arbitration, this Court will have to necessarily appoint an Arbitrator under Section 11 of the Act. If at all the respondent has any objection with regard to arbitrability of the dispute or with regard to jurisdiction of the Arbitrator appointed by this Court to adjudicate the dispute between the parties, they will have to either file an application under Section 16 of the Act or file a statement of defence raising all objections available to them under law including the objection with regard to jurisdiction of the Arbitrator to decide the dispute between the parties in the arbitral proceedings.



6. The law is well settled that this Court has got only limited scrutiny while deciding an application under Section 11 of the Act. When there exists an arbitration clause and when the dispute raised by the respondent cannot be adjudicated by this Court while deciding an application under Section 11 of the Act and when the petitioner has complied with the requirements of Section 21 of the Act, this Court has to necessarily appoint an Arbitrator as prayed for in this petition. Accordingly, this petition is allowed as prayed for with the following directions:-

(a) This Court hereby appoints Hon'ble Mr. Justice Sanjay V. Gangapurwala, former Chief Justice of Madras High Court, residing at No. 2-2-278, Durga Mata Mandira Samor, Govardhanagiri, Kharakuwa, Aurangabad-431001, Mobile No. 9545111995, as the Sole Arbitrator to adjudicate the dispute between the petitioner and the respondent arising out of the Contract Agreement dated 24.11.2016, which is the subject matter of the dispute between the parties in this petition.



(b) The Sole Arbitrator appointed by this Court shall be paid remuneration/fees as per the schedule agreed upon by the parties to the dispute.

(c) The Arbitrator shall adhere to the provisions of the Arbitration and Conciliation Act, 1996.

(d) The Arbitrator shall also pass the arbitral award within the stipulated period as prescribed under the Arbitration and Conciliation Act, 1996.

(e) The respondent is at liberty to raise all objections including the objections, which have been raised through their counter affidavit filed before this Court, by filing an application under Section 16 of the Act before the Arbitrator, or through their statement of defence filed in the arbitral proceedings.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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ABDUL QUDDHOSE J.

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