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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-10-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb O.P(COM.DIV.) No. 494 of 2025

GS Rewards and Loyalty Solutions Private Limited
Company incorporated under Companies Act,1956,
Business at 42/8,GCC Complex, Mount Road, Anna Salai, Chennai-600002.
Having its Registered Office at
New No. 138, Old No. 443, Mint Street,
Sowcarpet, Chennai-600079
Tamil Nadu
Represented by its Director Mr.Sripal Mutha

Petitioner(s)

Vs

Nippon Paint India Private Limited
Company incorporated under Companies Act, 1956
Having its Registered Office at
Plot No.K-8(1),Phase II,
Sipcot Industrial Park,
Mambakkam Village,
Sunguvarchatiram
Tamil Nadu, India-602106.

Respondent(s)



PRAYER Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, praying to appoint a sole arbitrator in terms of section 11(6) of the Arbitration and Conciliation Act, 1996 to resolve the disputes that have arisen between the Petitioner and the Respondent.

For Appellant(s): Mr. Vikram P. Jain

For Respondent(s): Mr. K. V. Sundararajan

ORDER

This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for the sake of brevity, hereinafter referred to as 'the Act') seeking for the appointment of an Arbitrator by this Court.

2. When the matter came up for hearing on 21.08.2025, this Court passed the following order:

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

2. There seems to be a dispute between the petitioner and the respondent arising out of the Supplier Agreement dated



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14.08.2019. There exists an arbitration clause in the Supplier Agreement dated 14.08.2019 and the same is extracted hereunder:

'18. Arbitration

All disputes shall be settled by way of arbitration under the provisions of the Arbitration & Conciliation Act, 1996 including its amendments thereof. The arbitration proceedings shall be adjudicated by a sole arbitrator appointed by mutual consent of both the parties within 30 days from the date of first written intimation of the intent to resolve the dispute by arbitration. If the parties fail to appoint the sole arbitrator by mutual consent, as above, the same shall be appointed as per the provision of the Arbitration and Conciliation Act, 1996, including its amendments thereof. The Seat of arbitration shall be Chennai and the language of arbitration shall be English. The decision of the arbitrator shall be final and binding upon the Parties. Both the parties shall bear the cost of the arbitration in equal proportion unless otherwise decided by the sole arbitrator.'



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3.The petitioner has invoked arbitration in accordance with the arbitration clause by issuing notice to the respondent on 27.01.2025 to comply with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996. No reply has been received for the same.

4.Since there is no consensus between the parties with regard to the name of the Arbitrator and since there exists an arbitration clause in the contract which is the subject matter of the dispute and since the petitioner has complied with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996, this Court is issuing notice to the respondents returnable by 18.09.2025. Private notice is also permitted.

3.After service of notice on the respondent, the respondent is represented through counsel.

4.The learned counsel for the respondent submitted that the claim made by the petitioner is barred by limitation and that a stale claim is now being attempted attempted to be resurrected before the learned Arbitrator.



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5.This Court heard the learned counsel appearing on either side and the materials available on record.

6.This Court had an occasion to deal with the entire issue in Arb.O.P.(Com.Div.)No.319 of 2025 and by order dated 16.09.2025, this Court held as follows:

*28. The result of the discussions is that the wheel has now come a full circle. The test formulated by the Hon'ble Supreme Court in the decision in **Duro Felguera, S.A.**, departed from the decision of the Hon'ble Supreme Court in **Hyundai Engineering & Construction Co. Ltd.**, has now been reinstated in the decision of the Hon'ble Supreme Court in **Re: Interplay between Arbitration Agreements under the Arbitration and Conciliation Act 1996 and The Indian Stamp Act, 1899**. Consequently, it must follow that the jurisdiction of the Court under Section 11(6A) is confined to examining the existence of an arbitration agreement. Nothing more and nothing less.*



29. *As the Hon'ble Supreme Court pointed out in the decision in **Managing Director Bihar State Food and Civil Supply Corporation Limited**, it is just as necessary to follow a precedent as it is to make one. The objections of the respondent on grounds of limitation and accord and satisfaction must, therefore, necessarily await adjudication before the Arbitral Tribunal.*

7. In the light of the above order, the objection made by the respondent on the ground of limitation has to necessarily await adjudication before the Arbitral Tribunal. It goes without saying that this issue can be raised as a preliminary issue also by the respondent before the Arbitral Tribunal. This is apart from the denial of the entire claim made by the petitioner.

8. In view of the above, this Court proceeds to appoint a sole Arbitrator.

Accordingly, **Mr.J.Sivanandaraaj, Senior Advocate, No.6, Indian Chambers, SICCI Annex Building, Ground & II Floor, Esplanade, Chennai**

600 108 PH:42162082 [Mobile:95410 24778] email:



sivanandaraaj@saplegal.in is appointed as sole Arbitrator. The sole Arbitrator
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is requested to enter upon reference, adjudicate upon arbitrable disputes that have arisen between the parties. The Arbitrator shall hold sittings in the 'Madras High Court Arbitration Centre under the aegis of this Court' (MHCAC) as per Madras High Court Arbitration Proceedings Rules 2017 and fee of Hon'ble sole Arbitrator shall be in accordance with the Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees) Rules 2017.

9. This petition is disposed of in the above terms. No Costs.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1.Mr.J.Sivanandaraaj,
Senior Advocate,
No.6, Indian Chambers,
SICCI Annex Building,
Ground & II Floor,
Esplanade, Chennai 600 108
PH:42162082 [Mobile:95410 24778]
email: sivanandaraaj@saplegal.in

2.The Director
Tamil Nadu Mediation and Conciliation
Centre-cum-Ex-Officio Member
Madras High Court Arbitration Centre
Chennai - 104.



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