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Arb.O.P (Com.Div.) No.51 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2025

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THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.51 of 2025

M.Muruganandham

.. Petitioner

VS

B.Subramanyam Reddy

.. Respondent

Prayer: Arbitration Original Petition (Commercial Division) filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to pass an order appointing an Arbitrator for resolving the dispute between the petitioner and the respondent in pursuant to Clause 26 of Agreement dated 06.05.2014 towards the arrears of Statutory/Government liabilities between the petitioner and the respondent.

For Petitioner : Mr.Muralidharan for
Mr.N.G.P.Rajaram

ORDER

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



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2. There seems to be a dispute between the petitioner and the respondent arising out of the Memorandum of Understanding dated 06.05.2014. According to the petitioner, the respondent had agreed to pay the statutory dues under the Memorandum of Understanding dated 06.05.2014. According to the petitioner, the statutory dues amounting to Rs.6.31 crores has not been paid by the respondent to the petitioner till date despite several reminders. There exists an arbitration clause in the Memorandum of Understanding dated 06.05.2014 and the same is extracted hereunder:

'26.Resolution of Disputes: Any dispute or controversy between any of the parties arising out of or in connection with this Agreement shall be referred to arbitration in accordance with the Arbitration and Conciliation Act, 1996. The place of arbitration shall be Chennai.'

3. The petitioner has also invoked arbitration in accordance with the arbitration clause by issuing notice to the respondent on 27.07.2024 in compliance with Section 21 of the Arbitration and Conciliation Act, 1996. The arbitration invocation notice has also been received by the respondent



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as seen from the postal acknowledgment card dated 30.07.2024 filed by the petitioner before this Court. Since the respondent has not given his consent for appointment of an Arbitrator, the petitioner has been constrained to file this petition under Section 11 of the Arbitration and Conciliation Act seeking for appointment of an Arbitrator by this Court.

4. Notice sent to the respondent has been returned as un-claimed, which amounts to deemed service. The name of the respondent is also printed in the cause list today.

5. Since the respondent has chosen not to enter appearance in this petition, the respondent is set exparte by this Court. The petitioner has filed documents along with this petition and would categorically contend that the arbitral claim to be made by the petitioner against the respondent is within the period of limitation.

6. Since the respondent has chosen not to enter appearance and has been set exparte by this Court, the question of limitation is left open for the



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Arbitrator to decide. Since there exists an arbitration clause in the Memorandum of Understanding dated 06.05.2014, which is the subject matter of the dispute between the parties and since the petitioner has complied with the statutory requirement under Section 21 of the Arbitration and Conciliation Act by issuing notice to the respondent on 27.07.2024, this Court is inclined to appoint an Arbitrator as prayed for in this petition.

7.For the foregoing reasons, this Arbitration Original Petition is allowed by issuing the following directions:

(a)This Court appoints Hon'ble Mr.Justice F.M.Ibrahim Kalifulla, Former Judge of Supreme Court of India, having address at No.22, Sivananda Road, Gill Nagar Extension, Choolaimedu, Chennai - 600 094 (Mobile Nos.75500 48928) as the Sole Arbitrator to adjudicate the dispute arising out of the Memorandum of Understanding dated 06.05.2014, on merits and in accordance with law;

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



Arb.O.P (Com.Div.) No.51 of 2025

(c)Both the parties shall equally share the Arbitrator's fees;

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(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.

No costs.

25.03.2025

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Arb.O.P (Com.Div.) No.51 of 2025

ABDUL QUDDHOSE, J.

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Arb.O.P (Com.Div.) No.51 of 2025

25.03.2025