



WEB COPY

Arb Appeal No. 14 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-01-2026

CORAM

**THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**Arb Appeal No. 14 of 2024
and CMP.No.25991 of 2024**

M/s.Priya Enterprises
Rep. by its Proprietor, Shankar,
Having Office at D.No. 30/445C,
Opposite St. James Convent School,
Vytila Tripunithura Road, Maradu Post,
Chambakkara, Ernakulam – 682 304.

Appellant(s)

Vs

M/s.Roots Industries India Ltd
Rep. by Senior General Manager,
P.Vijay, Office at RKG Industrial
Estate, Ganapathy,
Coimbatore 641 006,
and Factory at Kathirnaickenpalayam
Road, Thoppampatti Post,
Coimbatore 641 017.

Respondent(s)

PRAYER:

Arbitration Appeal filed under Section 37 of the Arbitration and Conciliation Act, to set aside the order in I.A.No.2 of 2024 in C.O.S.No.31 of 2024 dated 09.09.2024 on the files of Hon'ble Commercial Court (District Judge Cadre), Coimbatore.



For Appellant(s): M/s.Fathima
For Mr.Praveen K Joy

For Respondent(s): Mr. K.S.Karthik Raja

JUDGMENT
(Order of the Court was made by C.V.Karthikeyan J.)

The Arbitration appeal has been filed, questioning an order dated 09.09.2024 in I.A.No.2 of 2024 in I.A.No.2 of 2024 in C.O.S.No.31 of 2024 by the Commercial Court / District Judge Cadre at Coimbatore.

2. The said application in I.A.No.2 of 2024 had been filed by the defendant / appellant herein, taking recourse Section 8 of the Arbitration and Conciliation Act, seeking to dismiss the Original Suit as not maintainable and to refer the disputes to arbitration on the strength of an agreement.

3. It is to be noted that the suit had been filed for recovery of a sum of Rs.6,49,72,511/-. There was an agreement of distributorship on 01.04.2017 and the agreements had been entered on 01.04.2015, 01.04.2017 and 01.04.2020. Clause No.6 of the agreement relates to settlement of disputes. The learned Judge, who had examined the application under Section 8 of the Arbitration and Conciliation Act, had extracted Clause No.6, which is as follows:

“In the event of any dispute or differences between the parties arising out of or in connection with this agreement or with regard to the performance, of any obligations hereunder by either



party, the parties here to shall use their best efforts to settle such disputes or differences by mutual negotiations, should an agreement not be referred to arbitration under the Arbitration and Conciliation Act, 1996”

4. A plain reading of the said clause shows that the parties have not intended that, if there are any disputes, to refer them to arbitration. Section 8 of the Arbitration and Conciliation Act, 1996 would come into play only if there is a specific agreement to refer disputes to arbitration. If there is no such agreement, then no party could be forced to arbitrate the particular dispute. The normal course would be to take recourse to a civil suit and seek necessary reliefs.

5. The learned Judge had also held that Clause No.6 clearly states that the issue should be settled by negotiation and not by arbitration.

6. We are informed that the suit has now progressed further and examination of witnesses had also commenced and practically concluded and is now awaiting a minor amendment with respect to the change in the name of the company in the cause title. Keeping the appeal pending would not be of no avail to the appellant and it would be advisable for the appellant to participate in the trial proceedings.



7. We find no merit in the appeal and accordingly, the Arbitration Appeal stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(C.V.K., J.) (K.B., J.)
06-01-2026

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To

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