

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Arbitration Case No. 222 of 2021 (O&M)

Date of decision: 3rd March, 2023

Trident Ltd.

Petitioner

Versus

Gurulaxmi Cottex Pvt. Ltd.

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Shekhar Verma, Advocate for the petitioner.
Mr. Amit Jhanji, Senior Advocate with Ms. Zaheen Kaur,
Advocate for the respondent.

AVNEESH JHINGAN, J (Oral):

This is a petition under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') for appointment of an arbitrator for adjudication of disputes between the parties.

The petitioner placed a purchase order on the respondent-company. The clause in the general terms and conditions of the purchase order provided for dispute resolution through arbitration mechanism and that the jurisdiction would be exclusively of the court at Barnala.

There was a dispute between the parties.

The petitioner raised claim vide notice dated 1.1.2021, thereafter, notice under Section 21 of the Act was issued on 25.1.2021. The needful having not been done, the present petition was filed.

Learned senior counsel for the respondent relies upon the decision of the Supreme Court in *Ravi Ranjan Developers Pvt. Ltd. v. Adiya Kumar Chatterjee, 2022 SCC OnLine SC 568* to submit that this court has no jurisdiction to entertain the petition under Section 11 of the Act. He further submits that there was no clause for dispute resolution

through arbitration in the initial purchase order. The contention is that the dispute is not arbitrable.

The contention raised by learned senior counsel for the respondent with regard to jurisdiction of this court lacks merit. The Supreme Court in *Ravi Ranjan Developers Pvt. Ltd.'s (supra)* was dealing with a clause where it was agreed between the parties that venue of the arbitral tribunal would be at Calcutta, whereas in the present case, the clause is specific that exclusive jurisdiction would be of courts at Barnala.

The Supreme Court in *BGS SGS Soma JV v. NHPC Ltd., 2020(4) SCC 234* held that:

“However, the fact that in all the three appeals before us the proceedings were finally held at New Delhi, and the awards were signed in New Delhi, and not at Faridabad, would lead to the conclusion that both parties have chosen New Delhi as the “seat” of arbitration under Section 20(1) of the Arbitration Act, 1996. This being the case, both parties have, therefore, chosen that the Courts at New Delhi alone would have exclusive jurisdiction over the arbitral proceedings. Therefore, the fact that a part of the cause of action may have arisen at Faridabad would not be relevant once the “seat” has been chosen, which would then amount to an exclusive jurisdiction clause so far as Courts of the “seat” are concerned.”

The contention as to whether the issue is arbitrable or not can be dealt with in arbitration proceedings by the arbitral tribunal.

Accordingly, the present petition is disposed of by appointing Mr. Ashok Paul Batra, Additional District and Sessions Judge (Retd.), 171/172, Orbit Apartments, VIP Road, near Metro Mart, Zirakpur, as sole arbitrator.

The arbitrator may decide the venue of the arbitration with the consent of both the parties.

Needless to say that the respondent would be at liberty to raise the issue of limitation before the arbitrator.

The arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended. The fee of the arbitrator will be equally borne by both the parties.

The arbitrator is requested to complete the proceedings as per time limit specified under Section 29A of the Act.

It is clarified that the reference shall be subject to the petitioner's complying with all the requirements of the agreement including the condition of pre-deposit.

Since the main case has been disposed of, pending applications, if any, stand disposed of.

Copy of the order be sent to the appointed arbitrator.

**[AVNEESH JHINGAN]
JUDGE**

3rd March, 2023

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |