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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

ARB No. 47 of 2017 (O&M)
Date of Decision: 14.10.2022

M/s Axaltra Coating Systems India Pvt. Ltd.

-Petitioner

Versus

M/s Fahrenheit Automobiles Pvt. Ltd. and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Gaurav Chopra, Sr. Advocate, with
Mr. Reshabh Bajaj, Advocate,
for the petitioner.

None for the respondents.

RAJ MOHAN SINGH, J. (Oral)

1. Petitioner has preferred this petition under Section 11(6) of Arbitration and Conciliation Act, 1996 for appointment of an arbitrator for deciding the dispute between the parties arising out of supply agreement dated 18.09.2020.

2. Learned counsel for the petitioner submits that notice of motion was issued on 03.03.2017 and thereafter, respondents No.2 and 3 were duly served and they did not appear in the Court since the very inception. Fresh notices were issued to respondents No.1 and 4 and this is so apparent from various orders on record. Fresh notices were issued to

respondents No.1 and 4 repeatedly.

3. On 13.09.2022, learned senior counsel for the petitioner with reference to the names of Mr. Kunal Ramchandani and Mr. Sumit Nanda submitted that the aforesaid Directors are responsible for day to day affair of all the private limited group of companies belonging to the respondents. Respondents No.2 and 3 have already been served, therefore, service upon Mr. Kunal Ramchandani and Mr. Sumit Nanda would suffice to serve the respondents No.1 and 4 as well.

4. The case was adjourned for today by granting last opportunity to respondents No.2 and 3 to represent the case. It was also ordered that if no explanation is brought on record in respect of status vis-a-vis respondents No.1 and 4, then respondents No.1 and 4 shall be deemed to be duly served.

5. Today, none has appeared on behalf of the respondents.

6. Learned senior counsel for the petitioner submits that the supply agreement has arbitration clause which reads as under:-

“12.3 All disputes or differences whatsoever arising between the parties out of or relating to the construction, meaning and operation or effect of this Agreement or the

breach thereof shall be settled amicably. If, however, the Parties are not able to resolve them amicably within a period of thirty days or any longer period as agreed upon by the Parties from the date of commencement of such negotiation the same would be resolved by arbitration. The dispute may be referred to the arbitration by either Party after issuance of thirty days' notice in writing to other, clearly mentioning the nature of the dispute/differences. Such arbitration shall be conducted by a Sole Arbitrator to be appointed by Parties hereto by mutual consent. The Arbitration and Conciliation Act, 1996 or any statutory modification thereof shall apply to the arbitration proceedings and the venue for the arbitration proceedings shall be Gurgaon, Haryana (India). All the arbitration proceeding shall be carried out in English language.”

7. Petitioner has already issued a legal notice on 28.04.2016 and thereafter, invoked arbitration clause by notice of invocation dated 03.06.2016.

8. Owing to inaction on behalf of the respondents, the present petition was filed in the year 2017.

9. After the amendment Act of 2015 and in view of **TRF Limited vs. Energo Engineering Projects Limited, (2017) 8 SCC 377; Bharat Broadband Network Limited vs. United Telecoms Limited, (2019) 5 SCC 755; Perkins Eastman**

Architects DPC and another vs. HSCC (India) Limited, (2020) 20 SCC 760 and **Ellora Paper Mills Limited vs. State of Madhya Pradesh, (2022) 3 SCC 1**, the official arbitrator cannot be appointed. Learned counsel for the petitioner has projected a tentative claim/value of the claim to the tune of Rs.66,65,355/- along with interest.

10. In view of above, I deem it appropriate to appoint [Sh. Balbir Singh, District and Sessions Judge \(Retd.\), H.No.115-SP, Sector 25, Panchkula, 9416791008](#) as the sole Arbitrator, to resolve the dispute/difference between the parties. The appointment of the Arbitrator shall be subject to the declaration to be made by him as required under Section 12 of Arbitration and Conciliation Act, 1996 in respect of his independence and impartiality to settle the dispute between the parties.

11. The Arbitrator shall complete the proceedings within the specified time in terms of Section 29-A of the said Act. The Arbitrator shall be paid fee in accordance with the IVth Schedule of the Act as amended from time to time. The fee shall be borne by the petitioner and respondent(s) equally.

12. The venue will be Chandigarh Arbitration Centre or any other place to be fixed by the Arbitrator as per his convenience.

13. A copy of this order be dispatched to the Arbitrator at the following address:-

Sh. Balbir Singh, District and Sessions Judge (Retd.)
H.No.115-SP, Sector 25, Panchkula
9416791008

14. Petition stands disposed of accordingly.

14.10.2022

Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No