

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

ARB-35-2014 (O&M)
Date of decision:- 01.05.2015

M/s Vibha Enterprises

...Petitioner

Versus

M/s Honda Motorcycle and Scooter India Pvt. Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE

Present: Mr. Pankaj Gupta, Advocate,
for the petitioner.

Mr. Harsh Aggarwal, Advocate,
for the respondent.

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S.J. VAZIFDAR, A.C.J. (ORAL)

This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 for the appointment of an arbitrator.

2. The parties had entered into an agreement dated 24.12.2012. Clause 29 thereof reads as under:-

“29. Arbitration & Jurisdiction

29.1 Each party shall in good faith perform this agreement based on confidence placed by one party in the other and relied upon by such party. Any dispute, controversy or claim, arising out of or relating to this agreement, or the breach, termination or validity thereof shall be settled by arbitration under the Arbitration and Conciliation Act, 1996, subject to any statutory modification thereto.

29.2 The award of the arbitrators shall be final and binding upon the parties and the award shall include allocation of the cost of the arbitration proceedings.

29.3 The seat of arbitration shall be Gurgaon.

29.4 For all purposes in relation to this agreement, the Courts at Gurgaon alone shall have exclusive jurisdiction. No other Courts shall have jurisdiction to deal with any dispute or any matter between the parties arising out of this agreement.”

3. The respondent opposes the petition for the appointment of an arbitrator on the ground that there is no dispute. Alternatively, the respondent contends that the dispute is only imaginary. The contention that there is no dispute is not well founded. The contention is that there is no dispute as the petitioner has itself stopped taking delivery of the vehicles.

4. The petitioner on the other hand contends that there were various defaults on the part of the respondent. For instance, in a notice dated 05.01.2014 (Annexure A4), the petitioner raised various allegations including that the respondent in order to de-establish the petitioner's business awarded dealership to another party with the supply of certain models to two sub-dealers who are not appointed by the petitioner; that the respondent pressurized and forced the petitioner to take certain models in huge quantities beyond its demand which caused stagnation in the sale of the inventories and that the respondent had without the petitioner's consent stopped the supply of vehicles since September, 2013 causing loss to the petitioner.

5. Whether the petitioner's case is well founded on merits or not is a different matter altogether. That is for the arbitrator to decide. The contention that there is no dispute is, therefore, rejected.

6. The respondent does not accept the appointment of the arbitrator. However, subject to the same, both the parties agree that the reference may be made only to a sole arbitrator and that the seat of arbitration be in Chandigarh and not in Gurgaon as provided in the agreement.

7. Accordingly, Mr. B.R. Gupta, retired Additional District & Sessions Judge, now residing at H.No. 587, Sector 8-B, Chandigarh is appointed as the sole arbitrator by consent. The seat of arbitration shall be in Chandigarh.

8. Disposed of.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

01.05.2015

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