

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF MARCH 2019

BEFORE

THE HON'BLE MR.JUSTICE ALOK ARADHE

CIVIL MISCELLANEOUS PETITION NO.169 OF 2018

BETWEEN:

M/s.GODAVARI BIO REFINERIES LTD
A COMPANY INCORPORATED UNDER
THE PROVISIONS OF INDIAN COMPANIES
ACT, 1956, NO. 45-47, SOMAIYA BHAVAN
M.G.ROAD, FORT, MUMBAI - 400 001.
REPRESENTED BY VINAY VENKATESH JOSHI
EXECUTIVE DIRECTOR.

...PETITIONER

(By Sri T.P.VIVEKANANDA, ADVOCATE FOR
Sri P.S.MANJUNATH, ADVOCATE)

AND:

M/s.GLOBAL ENERGY PRIVATE LIMITED
A COMPANY INCORPORATED UNDER
THE PROVISIONS OF INDIAN COMPANIES
ACT, 1956, REGD. OFFICE NO. 207,
GERA IMPERIUM II, PATTO PLAZA,
PANJIM, NORTH GOA,
GOA - 403 001.

...RESPONDENT

(By Sri BADRI VISHAL, ADVOCATE FOR
Sri H.SRINIVAS RAO, ADVOCATE)

The advocate for the petitioner has filed the above Civil Misc. Petition Under Sec.11(5) of the Arbitration and Conciliation Act 1996, praying this Hon'ble Court to in terms of

Article 8.3 of the Agreement as Annexure-A dated: 18/11/2014 and Annexure-B Agreement dated:27/02/2015 appoint an Arbitrator who is on the Panel of Arbitrators under Rules 8 of the Arbitration and Conciliation Centre Rules, 2012 and further direct the Arbitration shall be conducted under the aegis of Arbitration and Conciliation Centre (Domestic and International), Khanija Bhavan, Race Course Road, Bengaluru for adjudication of the dispute between the parties in respect of the claim of the petitioner for a sum of Rs. 99,97,711/- along with interest at the rate of 15% p.a. on the amount due from the respective dates of invoices till payment.

This petition coming on for Admission, this day, the court made the following:

ORDER

Sri.T.P.Vivekananda, learned counsel for
Sri.P.S.Manjunath, learned counsel for the petitioner.

Sri.Badri Vishal, learned counsel for Sri.H.Srinivas,
learned counsel for the respondent.

2. The petition is admitted for hearing. With the consent of learned counsel for the parties, the same is heard finally.

3. By means of this petition under Section 11(5) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act' for short), the petitioner seeks for appointment of an Arbitrator to adjudicate the dispute between the parties.

4. I have heard the learned counsel for the parties at length. Admittedly, the parties have entered into Power Purchase Agreement on 18.11.2014. Thereafter, the dispute arose between the parties. Clause 8.3 of the aforesaid Agreement provides for an Arbitration Clause. The petitioner was served with a notice dated 23.05.2017 by the respondent invoking the Arbitration Clause. However, no reasonable action has been taken by the respondent. Therefore, the petitioner has approached this Court.

5. After hearing the learned counsel for the parties and as agreed by them and bearing in mind, the mandate under Section 11(6-A) of the Arbitration and Conciliation Act, 1996, I deem it appropriate to appoint Mr. Justice S.R. Venkatesh Murthy, Former Judge of this Court as a Sole Arbitrator to adjudicate the dispute between the parties.

6. In view of preceding analysis the petition filed by the petitioner under Section 11(5) of the Act succeeds and is hereby allowed. In view of the aforesaid submissions, S.R. Venkatesh Murthy, Former Judge of this Court is

appointed as a Sole Arbitrator to adjudicate the dispute between the parties.

7. A copy of this order be dispatched to the Arbitration Centre, Khanija Bhavan, Bengaluru for necessary action in that regard. Learned counsel for the petitioner to also approach the Arbitration Centre with the relevant papers to be filed therein. The learned Arbitrator appointed herein shall thereupon enter reference and proceed with the matter in accordance with law and the Rules governing the Arbitration Centre.

Accordingly, the petition is disposed of.

**Sd/-
JUDGE**

DH