

NON-REPORTABLE**IN THE SUPREME COURT OF INDIA****CIVIL ORIGINAL JURISDICTION****ARBITRATION CASE (CIVIL) NO.8 OF 2015**

M/S SUPREMA INC

...PETITIONER

VERSUS

4G IDENTITY SOLUTIONS
PVT. LTD.

...RESPONDENT

J U D G M E N T

1. The petitioner Company which is incorporated under the laws of the Republic of Korea carries on the business of biometrics research, development and manufacturing. It has invoked the jurisdiction of this Court under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “the Act”) for appointment of an arbitrator to go into the disputes and differences that have arisen with the respondent Company which is a private limited company incorporated in India under the Companies

Act, 1956.

2. The averments made in the present application would go to show that pursuant to the contract awarded by Electronics Corporation of India Limited (hereinafter referred to as “the ECIL”) to the respondent Company for supply of Real Scanner G 10 fingerprint scanner (hereinafter referred to as “the product”) the respondent Company in turn entered into an agreement with the petitioner Company for supply of 10,500 units of the product in question.

3. According to the petitioner Company, the aforesaid 10,500 units of the product was duly supplied and delivered to the respondent Company and bills totalling a sum of USD 3,212,000 were raised on the respondent for payment.

4. The efforts of the petitioner to receive payment of its Bills for supply of the product did not succeed. Consequently, the petitioner issued notice of arbitration dated 20th June, 2013 to the respondent in terms of the

Master Agreement dated 15th July, 2011 entered into by and between the parties. The said reference to the Arbitration was in terms of Article 16 of the aforesaid Master Agreement.

5. Pursuant thereto, arbitration commenced under the Singapore International Arbitration Act. The proceedings in Arbitration were objected to by the respondent on the ground that the Singapore Arbitral Tribunal had no jurisdiction as the purchase orders in question had no connection with the Master Agreement. In the objections raised by the respondent it was, however, stated that the purchase orders though not relatable to the Master Agreement were governed by the Supply Agreement. The Supply Agreement contained a specific dispute resolution clause i.e. D12 which is to the following effect:

“All disputes and differences arising in connection with this contract shall be referred to 'the arbitration authority under provisions of the Arbitration and Conciliation Act, 1996'”

6. Accordingly, the Singapore Arbitral Tribunal by an award dated 8th April, 2014 held that it had no jurisdiction to decide the dispute. In the aforesaid circumstances, the present petition has been filed seeking appointment of an Arbitrator.

7. We have heard Shri Chinmoy Pradip Sharma, learned counsel for the petitioner. In spite of due service of notice, the respondent is not represented. Though the petition could have been heard ex parte on the date fixed i.e. 27th April, 2015, a further opportunity was granted to the respondent and the case was adjourned to 11th May, 2015. Even on 11th May, 2015 there is no representation on behalf of the respondent. In the above circumstances, there is no option but to proceed ex parte against the respondent in the matter.

8. On a consideration of the averments made in the present arbitration petition and the oral submissions advanced by the learned counsel for the petitioner, it is clear

that disputes and differences have arisen between the parties with regard to the entitlement of the petitioner to receive the amount of bills raised by it i.e. USD 3,212,000. Clause D12 of the Supply Agreement, which according to the respondent, governs the matter specifically provides for reference of all disputes and differences to “the arbitration authority under provisions of the Arbitration and Conciliation Act, 1996”.

9. In the above view of the matter, there can be no manner of doubt that the petitioner is entitled to have its claim to receive the aforesaid amount of the bills adjudicated by an Arbitrator appointed by the Court under Section 11(6) of the Act. Consequently, we allow the present petition and appoint Shri Justice B. Sudershan Reddy, a former judge of this Court as the Arbitrator and request him to resolve the dispute between the parties at an early date. The terms of appointment of Shri Justice B. Sudershan Reddy as the Arbitrator will be settled in consultation with the parties.

10. Let this order be communicated to the learned Arbitrator so that the arbitration proceedings can commence and conclude as expeditiously as possible.

11. The arbitration petition is disposed of in the above terms.

.....J.
(**RANJAN GOGOI**)

NEW DELHI
MAY 13, 2015



JUDGMENT