

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

Petition(s) for Arbitration (Civil) No(s). 33/2020

ESCO BIOTECH PRIVATE LIMITED

Petitioner(s)

VERSUS

ESCO MICRO PTE LIMITED

Respondent(s)

ORDER

The petitioner is before this Court in the instant Petition, filed under Section 11 (3) read with Section 11 (12) (a) of the Arbitration and Conciliation Act, 1996, seeking appointment of an Arbitrator, 1996 to resolve the dispute between the parties.

Heard the learned counsel for the parties. Though, the respondent has filed the objections to this petition and the petitioner has filed the rejoinder statement, reiterating petition averments, considering that the petitioner is seeking appointment of the Arbitrator, as provided under the Shareholders Agreement dated 09.07.2013, we find it expedient to accept the prayer for appointment of the Arbitrator since the relevant clause records as hereunder;

ARBITRATION

In the event of any dispute or difference arising between the parties in respect of their duties, rights and obligations under or arising out of this Agreement such disputes shall be resolved first by discussion between the parties and if a solution cannot be arrived at then the matter shall be referred to arbitration in India in accordance with Arbitration and Conciliation Act, 1996.

The learned counsel for the respondent, at this stage, would submit that though, the learned Arbitrator could be appointed by this Court, the respondent be reserved the liberty of urging all the contentions, including the arbitrability of the dispute, before the learned Arbitrator since according to the respondent, the dispute sought to be raised relates to an agreement for collaboration for marketing which contemplates on different procedure for resolution of disputes.

In that light, keeping open all the contentions of the parties, including the arbitrability, to be urged before the learned Arbitrator, we deem it appropriate to appoint Shri Justice Shiavax Jal Vazifdar, Former Chief Justice of High Court of Punjab and Haryana, presently at Mumbai, as learned sole Arbitrator, to resolve the dispute between the parties. Requirements under the Act, 1996 be complied.

All contentions of the parties are left open.

Let this order be communicated to the learned Arbitrator so that the arbitration proceedings can commence.

The Arbitration Petition is disposed of accordingly. No costs.

....., J.
(A.S. BOPANNA)

....., J.
(PAMIDIGHANTAM SRI NARASIMHA)

NEW DELHI
02nd September, 2022

ITEM NO.38

COURT NO.16

SECTION XVI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Arbitration (Civil) No(s). 33/2020

ESCO BIOTECH PRIVATE LIMITED

Petitioner(s)

VERSUS

ESCO MICRO PTE LIMITED

Respondent(s)

(IA No. 101819/2021 - PERMISSION TO PLACE ON RECORD SUBSEQUENT FACTS)

Date : 02-09-2022 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Petitioner(s) Mr. Pratap Venugopal, Adv.
Ms. S. Raman, Adv.
Mr. Akhil Abraham Roy, Adv.
Mr. Vijay Valsan, Adv.
M/S. K J John And Co, AOR

For Respondent(s) Mr. A. Lakshminarayanan, AOR

UPON hearing the counsel the Court made the following
O R D E R

The Arbitration Petition is disposed of in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT

(DIPTI KHURANA)
ASSISTANT REGISTRAR

(signed order is placed on the file)