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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 49/2017**
RADHEY SHAM TANDON MFG. PVT. LTD. Petitioner
Through: Mr Bharat Malhotra, Advocate.
versus
BAJAJ FINANCE LTD. Respondent
Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **16.01.2017**

IA No.532/2017

1. Allowed, subject to all just exceptions.

ARB.P. 49/2017 & IA No.531/2017

2. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act') praying that an arbitrator be appointed to adjudicate the disputes between the parties in relation to the loan agreement. The loan agreement includes an arbitration clause, which is set out below:-

“32. All claims, disputes, differences or questions of any nature arising between the parties to this terms & conditions, whether during or after the termination of this Terms & conditions, in relation to the construction, meaning or interpretation of any term used or clause of this Terms & conditions or as to the rights, duties, liabilities of the parties arising out of this terms & conditions, shall be referred to the arbitrator appointed by BFL. The Parties hereto mutually agree and confirm that the arbitration proceedings shall be conducted in accordance with the Arbitration and Conciliation Act, 1996 as amended from time to time and the proceedings shall be held at Pune or State Capital City of the place/town from where Borrower belongs. Pending the

giving of the Award including Interim Award, the Borrower shall be liable to perform its obligation under this terms & conditions including payment of the instalments and other outstanding to the BFL in keeping with the provisions of this terms & conditions.”

3. It is seen that in terms of the said clause, the respondent has already appointed the sole arbitrator, who has also entered upon the reference. The petitioner is essentially aggrieved as the arbitrator appointed by the respondent has issued notice for holding the arbitral hearings in Pune. The learned counsel for the petitioner states that the loan agreement was entered in Delhi and the loan was availed from the respondent’s office in Delhi. He further submits that no part of the cause of action has arisen in Pune. Be that as it may, the arbitration clause itself indicates that the sittings can be held in Pune as well as the state capital city of the place/town from where the borrower belongs (which in this case would be New Delhi). In these circumstances, considering that entire cause of action has arisen in New Delhi and the respondent has its office in Delhi, it would be open for petitioner to request the arbitrator to hold the sittings in Delhi instead of Pune.

4. Since the arbitrator has already been appointed, the relief sought for by the petitioner in this petition cannot be granted. The petition is, accordingly, disposed of.

VIBHU BAKHRU, J

JANUARY 16, 2017/ac