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ORDER SHEET  
IN THE HIGH COURT AT CALCUTTA  
Ordinary Original Civil Jurisdiction  
ORIGINAL SIDE  
[Via Video Conference]

AP/411/2021

TATA CAPITAL FINANCIAL SERVICES LIMITED  
Versus  
M/S. ROHIT AUTOMOBILES AND ORS.

BEFORE:  
The Hon'ble JUSTICE RAVI KRISHAN KAPUR  
Date : 15<sup>th</sup> November, 2021

*Appearance:*  
*Mr. Swatarup Banerjee, Adv.*  
*...for the petitioner*

*Mr. Vinay Teliwal, Adv.*  
*...for the respondents*

The Court:- The disputes by and between the parties arise out of an agreement dated 28<sup>th</sup> October, 2019 read with the agreement dated 31<sup>st</sup> December, 2018.

In or about March, 2014 the parties entered into a Channel Finance Agreement dated 21<sup>st</sup> March, 2014. The agreement contemplated that the petitioner would disburse advances by way of a revolving financial facility for purchase of Hero MotoCorp Motor Vehicle. Thereafter, the petitioner advanced an aggregate sum of approximately Rs.2.25 crores to the respondent. Since March, 2020 the relationship between the parties deteriorated and the respondent stopped making any payment of the aforesaid dues. Accordingly, an aggregate

sum of Rs.4.09 crores became due and payable by the respondent to the petitioner. Notwithstanding repeated requests the respondent has failed, neglected and refused to make any payment on the aforesaid amount either on account of principal or on account of interest. In paragraphs 10 and 11 of the petition, the petitioner has referred to the unencumbered assets of the respondent and prays for an injunction in respect thereof.

On 10<sup>th</sup> November, 2020, during the course of the hearing, it was submitted that the respondent would give details as to the exact status of the assets mentioned in paragraphs 10 and 11 of the petition as to whether any of the assets were encumbered or not. Notwithstanding an opportunity, the respondent has failed to give any details as to the exact status of the aforesaid assets and properties.

In view of the aforesaid, I am satisfied that the petitioner has a strong prima facie case in its favour, the balance of convenience and irreparable injury warrants orders being passed in favour of the petitioner. Accordingly, there will be an order of injunction in terms of prayer (b) of the Notice of Motion.

By consent of the parties Mr. Raj Ratna Sen, a member of the Bar Library Club, is appointed as an Arbitrator to adjudicate upon the disputes and differences between the parties. The Arbitrator is at liberty to fix its remuneration and is requested to complete the arbitration proceedings within a period of six months from the date of communication of this order. The costs of the arbitration would be shared by the parties equally.

In view of the aforesaid, AP/411/2021 is disposed of.

Liberty is granted to the parties to make an appropriate application before the Arbitrator for appropriate reliefs.

It is made clear that the aforesaid observations are prima facie in nature and will not bind the Arbitrator at the hearing of the arbitration proceedings.

(RAVI KRISHAN KAPUR, J.)

TO