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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ARB.P. 10/2021**

GETAMBER ANAND

..... Petitioner

Through: Mr Kartik Nayar and Mr Sarthak
Malhotra, Advocates

versus

DALMIA FAMILY OFFICE TRUST

..... Respondent

Through: Mr Rajiv Nayar, Sr. Advocate, Mr
Rajiv Virmani, Sr. Advocate with Mr
Ajay Bhargava, Mr Aseem
Chaturvedi, Ms Wamika Trehan and
Ms Raddhika Khanna, Advocates.

WITH

24.

+ **ARB.P. 11/2021**

GETAMBER ANAND

..... Petitioner

Through: Mr Kartik Nayar and Mr Sarthak
Malhotra, Advocates

versus

DALMIA FAMILY HOLDINGS LLP

..... Respondent

Through: Mr Rajiv Nayar, Sr. Advocate, Mr
Rajiv Virmani, Sr. Advocate with Mr
Ajay Bhargava, Mr Aseem
Chaturvedi, Ms Wamika Trehan and
Ms Raddhika Khanna, Advocates.

WITH

25.

+ **ARB.P. 12/2021**

GETAMBER ANAND

..... Petitioner

Signature Not Verified

Signing Date:06.11.2024 17:01:42
Certify that the digital and physical file have
been compared and the digital data is as per
the physical file and no page is missing.

Through: Mr Kartik Nayar and Mr Sarthak
Malhotra, Advocates

versus

DALMIA FAMILY OFFICE TRUST Respondent

Through: Mr Rajiv Nayar, Sr. Advocate, Mr
Rajiv Virmani, Sr. Advocate with Mr
Ajay Bhargava, Mr Aseem
Chaturvedi, Ms Wamika Trehan and
Ms Raddhika Khanna, Advocates.

WITH

27.

+ ARB.P. 669/2020 & I.A. 11184/2020

DOMUS GREENS PRIVATE LIMITED Petitioner

Through: Mr Kartik Nayar and Mr Sarthak
Malhotra, Advocates

versus

DALMIA FAMILY OFFICE TRUST & ORS. Respondents

Through: Mr Rajiv Nayar, Sr. Advocate, Mr
Rajiv Virmani, Sr. Advocate with Mr
Ajay Bhargava, Mr Aseem
Chaturvedi, Ms Wamika Trehan and
Ms Raddhika Khanna, Advocates.

WITH

40.

+ ARB.P.645/2020 & I.A. 10979/2020

ALMOND INFRABUILD PVT. LTD. Petitioner

Through: Mr Kartik Nayar and Mr Sarthak
Malhotra, Advocates

versus

DALMIA FAMILY OFFICE TRUST & ORS. Respondents

Through: Mr Rajiv Nayar, Sr. Advocate, Mr
Rajiv Virmani, Sr. Advocate with Mr
Ajay Bhargava, Mr Aseem
Chaturvedi, Ms Wamika Trehan and
Ms Raddhika Khanna, Advocates.

WITH

41.

+ ARB.P.648/2020 & I.A. 10982/2020

ANAND DIVINE DEVELOPERS PRIVATE
LIMITED

..... Petitioner

Through: Mr Kartik Nayar and Mr Sarthak
Malhotra, Advocates

versus

DALMIA FAMILY OFFICE TRUST & ORS. Respondents

Through: Mr Rajiv Nayar, Sr. Advocate, Mr
Rajiv Virmani, Sr. Advocate with Mr
Ajay Bhargava, Mr Aseem
Chaturvedi, Ms Wamika Trehan and
Ms Raddhika Khanna, Advocates.

WITH

42.

+ ARB.P.649/2020 & I.A. 10983/2020

ATS HOUSING PRIVATE LIMITED

..... Petitioner

Through: Mr Kartik Nayar and Mr Sarthak
Malhotra, Advocates

versus

DALMIA FAMILY OFFICE TRUST & ORS. Respondents

Through: Mr Rajiv Nayar, Sr. Advocate, Mr
Rajiv Virmani, Sr. Advocate with Mr
Ajay Bhargava, Mr Aseem
Chaturvedi, Ms Wamika Trehan and
Ms Raddhika Khanna, Advocates.

WITH

43.

+

ARB.P. 656/2020 & I.A. 11049/2020

ATS INFRASTRUCTURE LIMITED

..... Petitioner

Through: Mr Kartik Nayar and Mr Sarthak
Malhotra, Advocates

versus

DALMIA FAMILY OFFICE TRUST & ORS. Respondents

Through: Mr Rajiv Nayar, Sr. Advocate, Mr
Rajiv Virmani, Sr. Advocate with Mr
Ajay Bhargava, Mr Aseem
Chaturvedi, Ms Wamika Trehan and
Ms Raddhika Khanna, Advocates.

WITH

44.

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ARB.P. 661/2020 & I.A. 11114/2020

DOMUS GREENS PRIVATE LIMITED

..... Petitioner

Through: Mr Kartik Nayar and Mr Sarthak
Malhotra, Advocates.

versus

DALMIA FAMILY OFFICE TRUST & ORS. Respondents

Through: Mr Rajiv Nayar, Sr. Advocate, Mr
Rajiv Virmani, Sr. Advocate with Mr
Ajay Bhargava, Mr Aseem
Chaturvedi, Ms Wamika Trehan and
Ms Raddhika Khanna, Advocates.

WITH

45.

+

ARB.P. 662/2020 & I.A. 11115/2020

ATS INFRASTRUCTURE LIMITED

..... Petitioner

Through: Mr Kartik Nayar and Mr Sarthak
Malhotra, Advocates

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versus

DALMIA FAMILY OFFICE TRUST & ORS. Respondents

Through: Mr Rajiv Nayar, Sr. Advocate, Mr
Rajiv Virmani, Sr. Advocate with Mr
Ajay Bhargava, Mr Aseem
Chaturvedi, Ms Wamika Trehan and
Ms Raddhika Khanna, Advocates.

AND

46.

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ARB.P. 663/2020 & I.A. 11116/2020

✓ ALMIND INFRABUILD PRIVATE LIMITED Petitioner

Through: Mr Kartik Nayar and Mr Sarthak
Malhotra, Advocates

versus

DALMIA FAMILY OFFICE TRUST & ORS. Respondents

Through: Mr Rajiv Nayar, Sr. Advocate, Mr
Rajiv Virmani, Sr. Advocate with Mr
Ajay Bhargava, Mr Aseem
Chaturvedi, Ms Wamika Trehan and
Ms Raddhika Khanna, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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08.01.2021

[Hearing held through videoconferencing]

1. These petitions have been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'). The petitioners pray that an Arbitral Tribunal be constituted for adjudicating the disputes that have arisen between the parties in respect of several agreements. It is apparent that there is some commonality in these petitions and, therefore, this court

considers it apposite, with the consent of the parties, to pass a consolidated order. The parties have identified nine separate transactions and agree that the said transactions are covered by number of separate agreements, which are stated hereinafter. The parties are *ad idem* that a separate reference is required to be made for each of the nine transactions. Although the Arbitral Tribunal may be at liberty to adjudicate the references simultaneously, the same shall for all intents and purposes be required to treat as separate arbitral proceedings. The parties are also *ad idem* that arbitration agreements exist between them and the disputes arising from the subject agreements are required to be resolved through arbitration.

2. There was some controversy regarding whether the Arbitral Tribunal is required to be constituted by three Arbitrators or by a Sole Arbitrator. However, the parties have since resolved that dispute and have agreed that notwithstanding the constitution of Arbitral Tribunal as envisaged in various clauses of the subject agreements, the disputes be referred to a Sole Arbitrator without disturbing the other conditions of the arbitration agreements (clauses).

3. The above captioned petitions include eight petitions under Section 11(6) of the Act, which have been preferred by five ATS Group Companies, namely, Almond Infrabuild Private Limited, Anand Divine Developers Private Limited, ATS Housing Private Limited, ATS Infrastructure Limited and Domus Greens Private Limited. Of these, in five petitions [ARB.P.645/2020, ARB.P.648/2020, ARB.P.649/2020, ARB.P. 656/2020, ARB P. 661/2020], the concerned petitioners seek appointment of the Respondent's Nominee Arbitrator for constituting a three Member Arbitral

Tribunal; and in three petitions [ARB P. 662/2020, ARB P. 663/2020 and ARB P. 669/2020], the petitioners seek appointment of a Sole Arbitrator, to try and adjudicate the disputes between the parties.

4. Mr. Getamber Anand (*as the Personal Guarantor*) has preferred three Arbitration Petitions under Section 11(6) of the Act, being ARB P. 10/2021 and ARB P. 12/2021, seeking appointment of a Sole Arbitrator; and ARB P. 11/2021, seeking appointment of the respondent's Nominee Arbitrator.

5. The subject matter of the aforementioned eleven (11) Arbitration petitions is covered by the following nine (09) transactions between the parties as named in the agreements covering each of the said transactions:-

- I. Arb P. 645/2020 - Almond Infrabuild Private Limited v. Dalmia Family Office Trust;
Arb P. 663/2020 - Almond Infrabuild Private Limited v. Dalmia Family Office Trust; and
Arb P. 12/2021- Getamber Anand v. Dalmia Family Office Trust.

The disputes in the above Arbitration petitions pertain to the transaction covered by the following Agreements:-

- (i) Investment Agreement dated 03.09.2013, between Dalmia Family Office Trust of one part and Almond Infrabuild Private Limited and Getamber Anand of the other part;
- (ii) First Supplemental Agreement dated 30.04.2018, between Dalmia Family Office Trust of one part and Almond Infrabuild Private Limited and Getamber Anand of the other part;
- (iii) Second Supplemental Agreement 18.12.2018 between Dalmia Family Office Trust of one part and Almond Infrabuild Private Limited and Getamber Anand of the other part;

- (iv) Third Supplemental Agreement dated 18.10.2019 between Dalmia Family Office Trust of one part and Almond Infrabuild Private Limited and Getamber Anand of the other part;
- (v) Corporate Guarantee Agreement dated 03.09.2013 between Dalmia Family Office Trust of one part and Almond Infrabuild Private Limited of the other part;
- (vi) Corporate Agreement dated 20.12.2018; between Dalmia Family Office Trust of one part and Almond Infrabuild Private Limited of the other part;
- (vii) Corporate Guarantee Agreement dated 18.10.2019 between Dalmia Family Office Trust of one part and Almond Infrabuild Private Limited of the other part;
- (viii) Personal Guarantee Agreement dated 03.09.2013, between Dalmia Family Office Trust of one part and Getamber Anand of the other part;
- (ix) Personal Guarantee Agreement dated 20.12.2018 between Dalmia Family Office Trust of one part and Getamber Anand of the other part;
- (x) Personal Guarantee Agreement dated 18.10.2019 between Dalmia Family Office Trust of one part and Getamber Anand of the other part

Arbitration Clause 14 of the Principal Agreement, that is, the Investment Agreement provides for disputes to be adjudicated by a panel of three Arbitrators. Clause 8 the Corporate Guarantee and the Personal Guarantee Agreements provides for the disputes to be adjudicated by a Sole Arbitrator.

However, as noted above the parties have agreed that all the subject disputes be adjudicated by a Sole Arbitrator.

Parties have, consented to the disputes arising out of the aforesaid Agreements being referred for arbitration before Hon'ble Mr. Justice Swatanter Kumar, former judge of the

Supreme Court of India, as the Sole Arbitrator.

- II. Arb P. 661/2020 –Domus Greens Private Limited v. Dalmia Family Office Trust &Anr;
Arb P. 669/2020- Domus Greens Private Limited v. Dalmia Family Office Trust; and
Arb P. 12/2021 - Getamber Anand v. Dalmia Family Office Trust.

The disputes in the above Arbitration Petitions pertain to the transaction covered by the following Agreements:-

- (i) Investment Agreement dated 03.09.2013, between Dalmia Family Office Trust of one part and ATS Infrastructure Limited, and Getamber Anand of the other part;
- (ii) First Supplemental Agreement dated 30.04.2018, between Dalmia Family Office Trust of one part and Domus Greens Private Limited, ATS Infrastructure Limited, and Getamber Anand of the other part (ATS Infrastructure Limited was a Confirming Party)
- (iii) Second Supplemental Agreement 18.12.2018 and between Dalmia Family Office Trust of one part and Domus Greens Private Limited, ATS Infrastructure Limited, and Getamber Anand of the other part (ATS Infrastructure Limited was a Confirming Party)
- (iv) Third Supplemental Agreement dated 18.10.2019 between Dalmia Family Office Trust of one part and Domus Greens Private Limited, ATS Infrastructure Limited, and Getamber Anand of the other part (ATS Infrastructure Limited was a Confirming Party)
- (v) Corporate Guarantee Agreement dated 03.09.2013, between Dalmia Family Office Trust of one part and ATS Infrastructure Limited of the other part;
- (vi) Corporate Agreement dated 20.12.2018 between Dalmia Family Office Trust of one part and Domus Greens Private Limited of the other part; and

- (vii) Corporate Guarantee Agreement dated 18.10.2019 between Dalmia Family Office Trust of one part and Domus Greens Private Limited of the other part
- (viii) Personal Guarantee Agreement dated 03.09.2013, between Dalmia Family Office Trust of one part and Getamber Anand of the other part;
- (ix) Personal Guarantee Agreement dated 20.12.2018 between Dalmia Family Office Trust of one part and Getamber Anand of the other part;
- (x) Personal Guarantee Agreement dated 18.10.2019 between Dalmia Family Office Trust of one part and Getamber Anand of the other part

Arbitration Clause 14 of the Principal Agreement, that is, the Investment Agreement provides for disputes to be adjudicated by a panel of three Arbitrators. Clause 8 the Corporate Guarantee and the Personal Guarantee Agreements provides for the disputes to be adjudicated by a Sole Arbitrator.

However, as noted above the parties have agreed that all the subject disputes be adjudicated by a Sole Arbitrator.

Parties have, consented to the disputes arising out of the aforesaid Agreements being referred for arbitration before Hon'ble Mr. Justice Swatanter Kumar, Retired Judge of the Supreme Court, as the Sole Arbitrator.

- III. Arb P. 656/2020 -ATS Infrastructure Limited v. Dalmia Family Holdings LLP;
- Arb P. 662/2020 – ATS Infrastructure Limited v. Dalmia Family Holdings LLP; and
- Arb P. 10/2021 – Getamber Anand v. Dalmia Family Holdings LLP

The disputes in the above Arbitration Petitions pertain to the transaction covered by the following Agreements:-

- (i) Investment Agreement dated 31.03.2014, between Dalmia Family Holdings LLP of one part and ATS Infrastructure Limited and Getamber Anand of the other part;
- (ii) First Supplemental Agreement dated 30.04.2018, between Dalmia Family Holdings LLP of one part and ATS Infrastructure Limited and Getamber Anand of the other part;
- (iii) Second Supplemental Agreement 18.12.2018, between Dalmia Family Holdings LLP of one part and ATS Infrastructure Limited and Getamber Anand of the other part;
- (iv) Third Supplemental Agreement dated 18.10.2019, between Dalmia Family Holdings LLP of one part and ATS Infrastructure Limited and Getamber Anand of the other part;
- (v) Corporate Guarantee Agreement dated 31.03.2014, between Dalmia Family Holdings LLP of one part and ATS Infrastructure Limited of the other part;
- (vi) Corporate Agreement dated 20.12.2018, between Dalmia Family Holdings LLP of one part and ATS Infrastructure Limited of the other part;
- (vii) Corporate Guarantee Agreement dated 18.10.2019, between Dalmia Family Holdings LLP of one part and ATS Infrastructure Limited of the other part;
- (viii) Personal Guarantee Agreement dated 25.07.2014, between Dalmia Family Holdings LLP of one part and Getamber Anand of the other part;
- (ix) Personal Guarantee Agreement dated 20.12.2018 between Dalmia Family Holdings LLP of one part and Getamber Anand of the other part; and

- (x) Personal Guarantee Agreement dated 18.10.2019 between Dalmia Family Holdings LLP of one part and Getamber Anand of the other part

Arbitration Clause 14 of the Principal Agreement, i.e., the Investment Agreement provides for disputes to be adjudicated by a panel of three Arbitrators. The Clause 8 the Corporate Guarantee and the Personal Guarantee Agreements provides for the disputes to be adjudicated by a Sole Arbitrator.

However, as noted above the parties have agreed that all the subject disputes be adjudicated by a Sole Arbitrator.

Parties have, consented to the disputes arising out of the aforesaid Agreements being referred for arbitration before Hon'ble Mr. Justice Swatanter Kumar, Retired Judge of the Supreme Court, as the Sole Arbitrator.

IV. Arb P. 645/2020 - Almond Infrabuild Private Limited v. Dalmia Family Office Trust;

Arb P. 12/2021- Getmaber Anand v. Dalmia Family Office Trust;

The disputes in the above Arbitration Petitions pertain to the transaction covered by the following Agreements:

- (i) Flats Buyer Agreement dated 15.06.2015, between Dalmia Family Office Trust of one part and Almond Infrabuild Private Limited of the other part
- (ii) Buy Back Agreement dated 15.06.2015, between Dalmia Family Office Trust of one part and Almond Infrabuild Private Limited of the other part;
- (iii) First Supplemental Agreement to the Flats Buyer Agreement dated 18.12.2018 between Dalmia Family Office Trust of one part and Almond Infrabuild Private Limited of the other part;

- (iv) First Supplemental Agreement to the Buy Back Agreement dated 18.12.2018 between Dalmia Family Office Trust of one part and Almond Infrabuild Private Limited of the other part;
- (v) Second Supplemental Agreement to the Flats Buyer Agreement dated 22.10.2019 between Dalmia Family Office Trust of one part and Almond Infrabuild Private Limited of the other part;
- (vi) Second Supplemental Agreement to the Buy Back Agreement dated 22.10.2019 between Dalmia Family Office Trust of one part and Almond Infrabuild Private Limited of the other part;
- (vii) Personal Guarantee Agreement dated 15.06.2015, between Dalmia Family Office Trust of one part and Getamber Anand of the other part;
- (viii) Personal Guarantee Agreement dated 20.12.2018 between Dalmia Family Office Trust of one part and Getamber Anand of the other part;
- (ix) Personal Guarantee Agreement dated 22.10.2019 between Dalmia Family Office Trust of one part and Getamber Anand of the other part;

Arbitration Clause 13 of the Principal Buy Back Agreement provides for disputes to be adjudicated by a panel of three arbitrators. The Clause 8 the Personal Guarantee Agreement provides for the disputes to be adjudicated by a Sole Arbitrator. However, as noted above the parties have agreed that all the subject disputes be adjudicated by a Sole Arbitrator.

Parties have, consented to the disputes arising out of the aforesaid Agreements being referred for arbitration before Hon'ble Mr. Justice Swatanter Kumar, Retired Judge of the Supreme Court, as the Sole Arbitrator.

V. Arb P. 648/2020 – Anand Divine Developers Private Limited v. Dalmia Family Office Trust;

Arb P. 12/2021 - Getmaber Anand v. Dalmia Family Office Trust;

The disputes in the above Arbitration Petitions pertain to the transaction covered by the following Agreements:

- (i) Flats Buyer Agreement dated 11.06.2015, between Dalmia Family Office Trust of one part and Anand Divine Developers Private Limited of the other part;
- (ii) Buy Back Agreement dated 11.06.2015, between Dalmia Family Office Trust of one part and Anand Divine Developers Private Limited of the other part;
- (iii) First Supplemental Agreement to the Flats Buyer Agreement dated 18.12.2018, between Dalmia Family Office Trust of one part and Anand Divine Developers Private Limited of the other part;
- (iv) First Supplemental Agreement to the Buy Back Agreement dated 18.12.2018, between Dalmia Family Office Trust of one part and Anand Divine Developers Private Limited of the other part;
- (v) Second Supplemental Agreement to the Flats Buyer Agreement dated 22.10.2019, between Dalmia Family Office Trust of one part and Anand Divine Developers Private Limited of the other part;
- (vi) Second Supplemental Agreement to the Buy Back Agreement dated 22.10.2019
- (vii) Personal Guarantee Agreement dated 11.06.2015, between Dalmia Family Office Trust of one part and Getamber Anand of the other part;
- (viii) Personal Guarantee Agreement dated 20.12.2018 between Dalmia Family Office Trust of one part and Getamber Anand of the other part;

- (ix) Personal Guarantee Agreement dated 22.10.2019 between Dalmia Family Office Trust of one part and Getamber Anand of the other part.

Arbitration Clause 13 of the Principal Buy Back Agreement provides for disputes to be adjudicated by a panel of three arbitrators. The Clause 8 of the Personal Guarantee Agreement provides for the disputes to be adjudicated by a Sole Arbitrator. However, as noted above the parties have agreed that all the subject disputes be adjudicated by a Sole Arbitrator.

Parties have, consented to the disputes arising out of the aforesaid Agreements being referred for arbitration before Hon'ble Mr. Justice Swatanter Kumar, Retired Judge of the Supreme Court, as the Sole Arbitrator.

VI. Arb P. 649/2020 - ATS Housing Private Limited v. Dalmia Family Office Trust;

Arb P. 12/2021 - Getmaber Anand v. Dalmia Family Office Trust;

The disputes in the above Arbitration Petitions pertain to the transaction covered by the following Agreements:-

- (i) Flats Buyer Agreement dated 20.05.2015, between Dalmia Family Office Trust of one part and ATS Housing Private Limited of the other part;
- (ii) Buy Back Agreement dated 20.05.2015, between Dalmia Family Office Trust of one part and ATS Housing Private Limited of the other part;
- (iii) First Supplemental Agreement to the Flats Buyer Agreement dated 18.12.2018, between Dalmia Family Office Trust of one part and ATS Housing Private Limited of the other part;
- (iv) First Supplemental Agreement to the Buy Back Agreement dated 18.12.2018, between Dalmia Family Office Trust of

one part and ATS Housing Private Limited of the other part;

- (v) Second Supplemental Agreement to the Flats Buyer Agreement dated 22.10.2019, between Dalmia Family Office Trust of one part and ATS Housing Private Limited of the other part;
- (vi) Second Supplemental Agreement to the Buy Back Agreement dated 22.10.2019
- (vii) Personal Guarantee Agreement dated 20.05.2015, between Dalmia Family Office Trust of one part and Getamber Anand of the other part;
- (viii) Personal Guarantee Agreement dated 20.12.2018 between Dalmia Family Office Trust of one part and Getamber Anand of the other part;
- (ix) Personal Guarantee Agreement dated 22.10.2019 between Dalmia Family Office Trust of one part and Getamber Anand of the other part.

Arbitration Clause 13 of the Principal Buy Back Agreement provides for disputes to be adjudicated by a panel of three arbitrators. The Clause 8 of the Personal Guarantee Agreement provides for the disputes to be adjudicated by a Sole Arbitrator. However, as noted above the parties have agreed that all the subject disputes be adjudicated by a Sole Arbitrator.

Parties have, consented to the disputes arising out of the aforesaid Agreements being referred for arbitration before Hon'ble Mr. Justice Swatanter Kumar, Retired Judge of the Supreme Court, as the Sole Arbitrator.

VII. Arb P. 645/2020 – Almond Infrabuild Private Limited v. Dalmia Family Office Trust;

Arb P. 11/2021 – Getamber Anand v. Dalmia Family Office Trust;

The disputes in the above Arbitration Petitions pertain to the transaction covered by the following Agreements:

- (i) Loan Agreement dated 15.06.2015, between Dalmia Family Office Trust of one part and Almond Infrabuild Private Limited of the other part;
- (ii) Supplemental Loan Agreement dated 18.12.2018 between Dalmia Family Office Trust of one part and Almond Infrabuild Private Limited of the other part.
- (iii) Personal Guarantee Agreement dated 15.06.2015, between Dalmia Family Office Trust of one part and Getamber Anand of the other part;
- (iv) Personal Guarantee Agreement dated 20.12.2018 between Dalmia Family Office Trust of one part and Getamber Anand of the other part.

Arbitration Clause 14 in the Principal Agreement i.e., the Loan Agreement provides for the disputes to be adjudicated by a panel of three arbitrators. Clause 8 of the latest Personal Guarantee Agreement provides for the disputes to be adjudicated by a panel of three arbitrators.

However, as noted above the parties have agreed that all the subject disputes be adjudicated by a Sole Arbitrator.

Parties have, consented to the disputes arising out of the aforesaid Agreements being referred for arbitration before Hon'ble Mr. Justice Swatanter Kumar, Retired Judge of the Supreme Court, as the Sole Arbitrator.

VIII. Arb P. 648/2020 - Anand Divine Developers Private Limited v. Dalmia Family Office Trust;

Arb P. 11/2021: Getamber Anand v. Dalmia Family Office Trust;
The disputes in the above Arbitration Petitions pertain to the transaction covered by the following Agreements:

- (i) Loan Agreement dated 11.06.2015, between Dalmia Family Office Trust of one part and Anand Divine Developers Private Limited of the other part;

- (ii) Supplemental Loan Agreement dated 18.12.2018 between Dalmia Family Office Trust of one part and Anand Divine Developers Private Limited of the other part.
- (iii) Personal Guarantee Agreement dated 11.06.2015, between Dalmia Family Office Trust of one part and Getamber Anand of the other part;
- (iv) Personal Guarantee Agreement dated 20.12.2018, between Dalmia Family Office Trust of one part and Getamber Anand of the other part

Arbitration Clause 14 in the Principal Agreement i.e., the Loan Agreement provides for the disputes to be adjudicated by a panel of three arbitrators. Clause 8 of the latest Personal Guarantee Agreement provides for the disputes to be adjudicated by a panel of three arbitrators.

However, as noted above the parties have agreed that all the subject disputes be adjudicated by a Sole Arbitrator.

Parties have, consented to the disputes arising out of the aforesaid Agreements being referred for arbitration before Hon'ble Mr. Justice Swatanter Kumar, Retired Judge of the Supreme Court, as the Sole Arbitrator.

IX. Arb P. 649/2020 - ATS Housing Private Limited v. Dalmia Family Office Trust; Arb P. 11/2021 - Getamber Anand v. Dalmia Family Office Trust;

The disputes in the above Arbitration Petitions pertain to the transaction covered by the following Agreements:

- (i) Loan Agreement dated 20.05.2015, between Dalmia Family Office Trust of one part and ATS Housing Private Limited of the other part;
- (ii) Supplemental Loan Agreement dated 18.12.2018, between Dalmia Family Office Trust of one part and ATS Housing Private Limited of the other part

- (iii) Personal Guarantee Agreement dated 20.05.2015, between Dalmia Family Office Trust of one part and Getamber Anand of the other part;
- (iv) Personal Guarantee Agreement dated 20.12.2018, between Dalmia Family Office Trust of one part and Getamber Anand of the other part

Arbitration Clause 14 in the Principal Agreement i.e., the Loan Agreement provides for the disputes to be adjudicated by a panel of three arbitrators. Clause 8 of the latest Personal Guarantee Agreement provides for the disputes to be adjudicated by a panel of three arbitrators.

However, as noted above the parties have agreed that all the subject disputes be adjudicated by a Sole Arbitrator.

Parties have, consented to the disputes arising out of the aforesaid Agreements being referred for arbitration before Hon'ble Mr. Justice Swatanter Kumar, Retired Judge of the Supreme Court, as the Sole Arbitrator.

6. Accordingly, with the consent and at the instance of the parties, this Court appoints Hon'ble Mr. Justice Swatanter Kumar, former judge of the Supreme Court of India (Address: A-118, 2nd Floor, Defence Colony, New Delhi- 110024; Phone- +91 9560413636) as the Sole Arbitrator to adjudicate all disputes and differences arising between all the parties in connection with/or in relation to nine sets of agreements as set out in paras 3(I) to 3(IX) hereinabove. As clarified earlier, the disputes relating to nine sets of agreements shall be treated as separate references and separate arbitral proceedings. The appointment of the learned Arbitrator is subject to the Arbitrator making a disclosure under Section 12(1) of the Act and not being disqualified under Section 12(5) of the Act.

7. It is clarified that all rights and contentions of the parties including the contentions regarding whether the said agreements subsist are reserved. Nothing stated in this order would be construed as any of the parties giving up any of their rights and contentions. This includes the contentions regarding any of the agreements referred to above have been superseded or novated. The fact that the parties have agreed that the Arbitral Tribunal be constituted by a sole Arbitrator instead of three members as envisaged in certain Agreement would not in any manner be read to mean that the concerned parties have given up any of their contentions regarding the said agreements

8. The respective non-claimants would also be at liberty to file their counter claims in the aforesaid references.

9. The petitions are allowed in the aforesaid terms.



VIBHU BAKHRU, J

JANUARY 8, 2021
MK