

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

Reserved on: 12.12.2022

Date of decision: 19.12.2022

+ **ARB.P. 792/2022 & I.A. 17174/2022**

WELSPUN ONE LOGISTICS PARKS FUND I Petitioner

Through: Mr.Jayant Mehta, Sr. Adv. with
Ms.Sanya Sud, Mr.Sanjeev
Sharma, Ms.Divya Joshi,
Mr.Siddharth & Ms.Ananya Pratap
Singh, Advs.

versus

MR. MOHIT VERMA & ORS. Respondents

Through: Mr.Arvind Nigam, Sr. Adv. with
Mr.Sumit Kochhar, Ms.Laavanya
Kaushik, Mr.Vineet Malhotra,
Ms.Skhita, Mr.Mohit Paul,
Mr.Vishal Gohri, Mr.Rajdeep
Panda, Mr.Chitranshul Sinha,
Ms.Sanjam Chawla & Ms.Akshita
Upadhyay, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

1. This petition has been filed by the petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') seeking appointment of an Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the 'Non-Binding Term Sheet' dated 26.11.2021 (hereinafter referred to as the 'Term Sheet') executed between the parties.

2. The Arbitration Agreement between the parties is contained in Clause 12 of the Term Sheet, and is reproduced hereinbelow:-

“12) Governing Law and Jurisdiction

This Term Sheet and any other documentation with respect to any transaction contemplated herein shall be governed by Indian law.

All disputes arising out of and/ or due to this Term Sheet shall be resolved by arbitration in accordance with the Arbitration and Conciliation Act, 1996 through a sole arbitrator to be mutually appointed by the parties with seat and venue in Delhi.”

3. Though the agreement is titled as ‘Non-Binding Term Sheet’, it further provides as under:-

“Notwithstanding the usage of “Non-Binding” as a suffix to the Term Sheet at certain places above, it is agreed that the Term Sheet shall be binding upon the parties to the following extent and clause only during the Term,;

(i) During the Term, the Sellers and the Buyer shall abide by the terms of this Term Sheet. Also, the Seller shall maintain exclusivity for Lands-A, Govt Lands/ Lease Lands for the Buyer and shall not support or cause the transfer of Lands-B to any third party.

(ii) Further, during the Term, both Parties shall act in good earnest and work towards closure of the transaction, including discussions and finalizations of the transaction documents.

(iii) The Clauses pertaining to Confidentiality, Expenses and Dispute Resolution, shall be binding upon the Parties.”

(Emphasis supplied)

4. Disputes having arisen between the parties, the petitioner invoked the Arbitration Agreement vide notice dated 06.06.2022. The same was replied to by the respondents, through their counsel, vide notice dated 05.07.2022, refusing the appointment of an Arbitrator.

5. The learned senior counsel for the respondents submits that the present petition is not maintainable inasmuch as the agreement being relied upon itself states that it is a '*Non-Binding Term Sheet*'. He submits that even though the agreement further states that the Dispute Resolution Clause in the said agreement would bind the parties, the same can be of no consequence inasmuch as the other terms of the agreement remain non-binding. He submits that a dispute cannot, therefore, be referred in a vacuum.

6. The learned senior counsel for the respondents further submits that the said Term Sheet is for the transfer of land in favour of the petitioner. Placing reliance on the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 (hereinafter referred to as the '**Regulations**'), he submits that in terms of Clause 17 of the Regulations, a Category II Alternative Investment Fund is permitted to invest only in un-listed investee companies or in the units of Category I or other Category II Alternative Investment Funds as may be disclosed in the placement memorandum; the fund cannot invest directly in the purchase of land. He submits that, therefore, the consideration under the subject Term Sheet is itself illegal and the Term Sheet is not enforceable in law. The agreement being unenforceable, the Arbitration Agreement contained therein would be equally void and unenforceable in law.

7. He submits that this Court, while exercising its jurisdiction under Section 11 of the Act, would also, at least *prima facie*, consider the invalidity of the underlying agreement and in case, it finds the same to be void, refuse reference of the parties to arbitration. In support, he places reliance on the judgment of the Supreme Court in ***Vidya Drolia v. Durga***

Trading Corporation, (2021) 2 SCC 1 and ***N.N. Global Mercantile (P) Ltd. v. Indo Unique Flame Ltd.***, (2021) 4 SCC 379.

8. The learned senior counsel for the respondents further submits that the petitioner itself, in its notice dated 04.04.2022, had asserted that it would take over the responsibility of procurement of lands mentioned as ‘Land A2’ and ‘Lands B’ in the Term Sheet from third parties, thereby evidencing novation of the agreement. He submits that once the agreement stands novated, the Arbitration Agreement contained in the original Term Sheet would no longer bind the parties. In support, he places reliance on ***Union of India v. Kishorilal Gupta & Bros.***, (1960) 1 SCR 493.

9. The learned senior counsel for the respondents finally submits that even otherwise, the present petition has been filed by a non-legal entity. He submits that the petitioner “*Welspun One Logistics Parks Fund I*” is only a ‘Scheme’ floated by “*Welspun One Warehousing Opportunities Fund*”, which is a registered Trust. The scheme itself has no legal status and, therefore, cannot maintain the present petition. As far as the Trust is concerned, as its objects do not provide for investment in land, but only allows investment in other companies, the Term Sheet is beyond the objects of the Trust and is, therefore, not enforceable by the Trust. He submits that, therefore, the petitioner has no legal standing to institute and maintain the present petition. He further submits that even the Term Sheet has been signed for and on behalf of the petitioner herein, which is a non-legal entity, and not for the Trust. Therefore, the Term Sheet cannot bind the respondents.

10. On the other hand, the learned senior counsel for the petitioner submits that though the nomenclature of the Term Sheet is “*Non Binding*”, the terms thereof clearly state that the Dispute Resolution clause and other clauses thereof will bind the parties. Whether the agreement can be enforced or not is for the Arbitrator to consider and adjudicate upon. He submits that it is for the Arbitrator to also adjudicate whether the said Term Sheet is enforceable in law or not. He submits that this Court, while exercising its powers under Section 11 of the Act, cannot enter into this dispute and adjudicate thereon.

11. On the issue of the standing of the petitioner to institute the present petition, he places reliance on the order dated 01.08.2022 passed on a petition under Section 9 of the Act between the parties, being OMP (I) (COMM) 157/2022, wherein similar plea of the respondents was rejected by the Court. He submits that a Special Leave Petition against the said order was dismissed by the Supreme Court vide its order dated 24.08.2022 and, therefore, the objection of the respondents in this regard is no longer maintainable. He submits that even otherwise, the present petition has been filed, though in the name of the Scheme, through the Trust, that is, Welspun One Warehousing Opportunities Fund and its Investment Manager-Welspun One Logistics Parks Fund I. He submits that, therefore, the present petition is maintainable and the parties should be referred to arbitration.

12. I have considered the submissions made by the learned counsels for the parties.

13. In *Vidya Drolia* (Supra), the Supreme Court (Justice Sanjiv Khanna for the Bench) answered the following issues:-

“2. A deeper consideration of the order of reference reveals that the issues required to be answered relate to two aspects that are distinct and yet interconnected, namely:

2.1 (i) meaning of non-arbitrability and when the subject-matter of the dispute is not capable of being resolved through arbitration.

2.2. (ii) the conundrum – “who decides” – whether the court at the reference stage or the Arbitral Tribunal in the arbitration proceedings would decide the question of non-arbitrability.

2.3 The second aspect also relates to the scope and ambit of jurisdiction of the court at the referral stage when an objection of non-arbitrability is raised to an application under Section 8 or 11 of the Arbitration and Conciliation Act, 1996 (for short, the ‘Arbitration Act’).”

14. In answering the above issues, the Supreme Court held as under:-

“76. In view of the above discussion, we would like to propound a four-fold test for determining when the subject matter of a dispute in an arbitration agreement is not arbitrable:

76.1. (1) When cause of action and subject matter of the dispute relates to actions in rem, that do not pertain to subordinate rights in personam that arise from rights in rem.

76.2. (2) When cause of action and subject-matter of the dispute affects third party rights; have erga omnes effect; require centralized adjudication, and mutual adjudication would not be appropriate and enforceable.

76.3. (3) When cause of action and subject-matter of the dispute relates to inalienable sovereign and public interest functions of the State and hence mutual adjudication would be unenforceable.

76.4. (4) When the subject-matter of the dispute is expressly or by necessary implication non-arbitrable as per mandatory statute(s).

76.5. These tests are not watertight compartments; they dovetail and overlap, albeit when applied holistically and pragmatically will help and assist in determining and ascertaining with great degree of certainty when as per law in

India, a dispute or subject-matter is non-arbitrable. Only when the answer is affirmative that the subject-matter of the dispute would be non-arbitrable.

76.6. *However, the aforesaid principles have to be applied with care and caution as observed in Olympus Superstructures (P) Ltd.:*

“35...Reference is made there to certain disputes like criminal offences of a public nature, disputes arising out of illegal agreements and disputes relating to status, such as divorce, which cannot be referred to arbitration. It has, however, been held that if in respect of facts relating to a criminal matter, say, physical injury, if there is a right to damages for personal injury, then such a dispute can be referred to arbitration (Keir v. Leeman). Similarly, it has been held that a husband and a wife may refer to arbitration the terms on which they shall separate, because they can make a valid agreement between themselves on that matter (Soilleux v. Herbst, Wilson v. Wilson and Cahill v. Cahill).”

15. On the issue of “Who Decides Arbitrability?”, the Supreme Court further held as under:-

“154. Discussion under the heading “Who Decides Arbitrability?” can be crystallised as under:

154.1. *Ratio of the decision in Patel Engg. Ltd. on the scope of judicial review by the court while deciding an application under Sections 8 or 11 of the Arbitration Act, post the amendments by Act 3 of 2016 (with retrospective effect from 23-10-2015) and even post the amendments vide Act 33 of 2019 (with effect from 9-8-2019), is no longer applicable.*

154.2. *Scope of judicial review and jurisdiction of the court under Sections 8 and 11 of the Arbitration Act is identical but extremely limited and restricted.*

154.3. *The general rule and principle, in view of the legislative mandate clear from Act 3 of 2016 and Act 33 of 2019, and the principle of severability and competence-competence, is that the Arbitral Tribunal is the preferred first authority to determine and decide all questions of non-arbitrability. The court has been conferred power of “second look” on aspects of non-arbitrability post the award in terms of sub-clauses (i), (ii) or (iv) of Section 34(2)(a) or sub-clause (i) of Section 34(2)(b) of the Arbitration Act.*

154.4. *Rarely as a demurrer the court may interfere at Section 8 or 11 stage when it is manifestly and ex facie certain that the arbitration agreement is non-existent, invalid or the disputes are non-arbitrable, though the nature and facet of non-arbitrability would, to some extent, determine the level and nature of judicial scrutiny. The restricted and limited review is to check and protect parties from being forced to arbitrate when the matter is demonstrably “non-arbitrable” and to cut off the deadwood. The court by default would refer the matter when contentions relating to non-arbitrability are plainly arguable; when consideration in summary proceedings would be insufficient and inconclusive; when facts are contested; when the party opposing arbitration adopts delaying tactics or impairs conduct of arbitration proceedings. This is not the stage for the court to enter into a mini trial or elaborate review so as to usurp the jurisdiction of the Arbitral Tribunal but to affirm and uphold integrity and efficacy of arbitration as an alternative dispute resolution mechanism.”*

16. Justice N.V. Ramana (as he then was) in a Supplementary Opinion, held as under:-

“244. *Before we part, the conclusions reached, with respect to Question 1, are:*

244.1. *Sections 8 and 11 of the Act have the same ambit with respect to judicial interference.*

244.2. *Usually, subject-matter arbitrability cannot be decided at the stage of Section 8 or 11 of the Act, unless it is a clear case of deadwood.*

244.3. *The court, under Sections 8 and 11, has to refer a matter to arbitration or to appoint an arbitrator, as the case may be, unless a party has established a prima facie (summary findings) case of non-existence of valid arbitration agreement, by summarily portraying a strong case that he is entitled to such a finding.*

244.4. *The court should refer a matter if the validity of the arbitration agreement cannot be determined on a prima facie basis, as laid down above i.e. “when in doubt, do refer”.*

244.5. *The scope of the court to examine the prima facie validity of an arbitration agreement includes only:*

244.5.1. *Whether the arbitration agreement was in writing? Or*

244.5.2. *Whether the arbitration agreement was contained in exchange of letters, telecommunication, etc.?*

244.5.3. *Whether the core contractual ingredients qua the arbitration agreement were fulfilled?*

244.5.4. *On rare occasions, whether the subject-matter of dispute is arbitrable?”*

17. In *N.N. Global* (Supra), the doctrine of separability of the Arbitration Agreement was emphasised as under:-

“4.2. *The doctrine of separability of the arbitration agreement connotes that the invalidity, ineffectiveness, or termination of the substantive commercial contract, would not affect the validity of the arbitration agreement, except if the arbitration agreement itself is directly impeached on the ground that the arbitration agreement is void ab initio.*

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4.10. *The doctrine of kompetenz-kompetenz is based on the premise that the arbitration agreement is separate and independent from the substantive underlying contract in which it is embedded. Equally, an arbitration agreement*

exists and can be acted upon irrespective of whether the main substantive contract is valid or not.”

18. From the reading of the above judgments, it would be apparent that the Arbitration Agreement is a separate agreement distinct from the main contract, even though it may appear as one of the Clauses of the main agreement. In judging whether the parties can be referred to arbitration or not, the Court shall carry out only a *prima facie* study to determine if the Arbitration Agreement itself, and as a distinct to the main agreement, has been shown to be void or voidable. It is only when the above is shown, that the Court can refuse to refer the parties to arbitration. Even for determining the same, the Court is not to carry out extensive study of facts. Scope of judicial review and jurisdiction of the Court under Section 11 of the Act is extremely restricted and limited. The Arbitral Tribunal is the preferred first authority to determine and decide all questions of non-arbitrability. The Court, while exercising powers under Section 11 of the Act, can refuse to refer the parties to arbitration only where “*it is manifestly and ex facie certain that the arbitration agreement is non-existent, invalid or the disputes are non-arbitrable, though the nature and facet of non-arbitrability would, to some extent, determine the level and nature of judicial scrutiny.*” The Court, by default, would refer the matter to arbitration when contentions relating to non-arbitrability are plainly arguable. The Court must act on the principle “*when in doubt, do refer.*”

19. Applying the above yardsticks and principles to the facts of the present case, though the title of the Term Sheet is “*Non-Binding Term Sheet*”, the Arbitration Agreement is specifically made binding on the

parties. Whether the petitioner would succeed in such arbitration proceedings or not for want of alleged non-enforceability of the other covenants of the Term Sheets, is not to be considered by this Court at this stage. This would be a matter to be considered by the Arbitral Tribunal. As far as this Court is concerned, the Term Sheet expressly states that notwithstanding its title, the Dispute Resolution Clause is binding on the parties.

20. Similarly, whether the other covenants of the Term Sheet are enforceable or illegal/void in terms of the Regulations, also does not at least *prima facie* affect the Arbitration Agreement, which, as observed hereinabove, is a severable contract between the parties. Such alleged illegality, at least *prima facie*, does not tag with the arbitration agreement. In any case, to reach a conclusion one way or the other, this Court would have to conduct a detailed examination of not only the Term Sheet, but also of the Regulations, the Trust Deed, the terms of the Scheme, etcetera. The Supreme Court in *Vidya Drolia* (supra) expressly warns the Courts not to fall in this trap.

21. On the locus of the petitioner to file the present petition, the petitioner is described in the Term Sheet as under:-

“WELSPUN ONE LOGISTICS PARKS FUND I, a private trust registered with the Securities and Exchange Board of India as a Category II Alternative Investment Fund under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, having its place of business at Welspun House, 3rd Floor, Kamla Mills Compound, Lower Parel Mumbai, Mumbai City, MH-400013 represented by authorised signatory, Mr. Anshul Singhal authorized vide resolution dated 21st July, 2020 (hereinafter referred to as the "Buyer", which

expression shall mean and include their respective successors and assigns). ”

22. Taking into account the above description, a Coordinate Bench of this Court, in its judgment dated 01.08.2022, passed in OMP (I) (COMM) 157/2022, a petition under Section 9 of the Act filed by the petitioner against the respondents herein, has held as under:-

“16. The signatory to the Term Sheet is one Mr. Anshul Singhal, who has signed the Term Sheet as 'authorized signatory' on behalf of Welspun One Logistics Parks Fund I. Although the text of the Term Sheet does refer to Welspun One Logistics Parks Fund I as a 'private registered trust', clearly that is not the case. But what is to be considered, at this stage, is the effect of such misdescription on the maintainability of the present petition, without delving any further into the merits of it.

17. What is notable is that the memorandum of parties/cause-title of the present petition reads:

"Welspun One Logistics Parks Fund I Through its Investment Manager Welspun One Logistics Parks Pvt. Limited Having office at:

Whereby, it is seen that Welspun One Logistics Parks Private Limited, acting as the Investment Manager of Welspun One Logistics Park Fund I is named as the petitioner, even though the reference to the Welspun One Logistics Parks Fund I appears earlier in the description. Just because the name of the scheme, i.e. Welspun One Logistics Park Fund I comes earlier in the memo of parties/cause title, it cannot be said that Welspun One Logistics Parks Private Limited, which is the Investment Manager of the Welspun One Logistics Parks Fund I, is not the entity that has filed the present petition.

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19. In the opinion of this court, limited to the aspect of maintainability of the present petition at

the instance of the petitioner, as described in the memo of parties, the answer to the question posed is embedded in Recital 'G' read with clauses 2.3, 4.2.22 and 4.2.24 of the Investment Management Agreement.

20. To clear the confusion as to the connection between Welspun One Logistics Parks Pvt. Limited with the Term Sheet, it is observed that though there is clearly some ambiguity in the description of the contracting entity on the first page of the Term Sheet, the term "Buyer" has been defined more clearly in clause 2 of the Term Sheet in the following words :

"Welspun One Logistics Parks Fund I ("**Fund**") is the first scheme of Welspun One Warehousing Opportunities Fund, which is a category II alternate investment fund registered with SEBI under the provisions of SEBI (Alternate Investment Funds) Regulations 2012. **The Buyer herein is the investment manager of the Fund and is accordingly and duly authorised to enter into this Term Sheet on behalf of the Fund.**"

(emphasis supplied)

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22. On a combined reading of the foregoing provisions of the Trust Deed and the Investment Management Agreement, and the description of the petitioner in the Memo of Parties, the following inferences arise:

- i) The petitioner before this court is Welspun One Logistics Parks Private Limited, which is the Investment Manager of the Welspun One Warehousing Opportunities Fund, of which Welspun One Logistics Parks Fund I is one of the 'schemes'. The petitioner Welspun One Logistics Parks Pvt. Limited is acting through its authorised representative Mr Amresh Passi;
- ii) Clause 4.2.24 of the Investment Management Agreement authorizes Welspun One Logistics Parks Private

Limited, as Investment Manager of Welspun One Warehousing Opportunities Fund and of any schemes floated by the fund, to institute and conduct legal proceedings for or on behalf of, or in the name of, the fund, and its schemes-, and to perform other consequential and ancillary acts such as compromising, compounding or abandoning such proceedings; and

iii) The Term Sheet has been signed by an authorised signatory of the Investment Manager of Welspun One Warehousing Opportunities Fund, which is the fund set-up by the Trust and recognised under the AIF Regulations.

23. What strikes this court as peculiar, is that the respondents - all 11 of them - have taken the stand that they have signed the Term Sheet containing covenants with financial implications and obligations running into several crores, with 'a non-entity' or a 'phantom entity', which the respondents neither acknowledge nor recognize today. In doing so, the respondents completely ignore the Investment Management Agreement and the Investment Manager, which (latter) is the entity that the respondents have dealt-with.

24. While there is no qualm that there is some element of misdescription of parties to an extent, but in law, it cannot be said that the respondents did not undertake any transaction at all with the petitioner. To hold that the petitioner is a 'non-entity' would imply that the signatory to Term Sheet dated 26.11.2021 would have no recourse to any legal remedy whatsoever. This court is not willing to countenance such position.

25. In the above view of the matter, it is not necessary, at least at this stage, to decide whether a scheme is a 'legal entity' or not.

26. As a sequitur to the above discussion, the answer to the preliminary objection as to whether the petitioner in the present petition is an 'entity'

that can maintain the present proceedings, is in the affirmative.”

23. The above-said order was challenged by the respondents by way of a Special Leave Petition, being SLP(C) No. 14199/2022. The same has been dismissed by the Supreme Court by its order dated 24.08.2022, observing as under:-

“1. Having heard learned Senior Advocates appearing for the parties and on carefully perusing the material placed on record, we see no reason to interfere with the impugned order(s) passed by the High Court.

2. The Special Leave Petition are, accordingly, dismissed.

3. However, the petitioners are at liberty to raise all the pleas available to them on facts and law before the High Court.

4. Consequent upon dismissal of the Special Leave Petition, the pending interlocutory application(s) also stand disposed of.”

24. I see no reason to revisit the findings given by the Coordinate Bench of this Court in the above referred judgment dated 01.08.2022. The liberty granted by the Supreme Court is not to reopen the issue that already stands concluded.

25. On the question of novation of the agreement, the relevant quotation from the notice dated 04.04.2022 of the petitioner is as under:-

“10. Pursuant thereto, when it was again found by our Client that no progress was being made by you, our Client addressed email dated 24 February 2022 to you, reminding you of your obligations under the Term Sheet, and vide the said email, also conveyed its willingness to meet at Mumbai on 28 February 2022. Accordingly, the Parties held meetings on 28 February 2022 and on 10 March 2022, wherein the Parties- including you the Sellers- once again reiterated the commitment

to adhere to the terms of the Term Sheet and emphasized that the sale of Lands A1 and A2 shall be done at the earliest, and in any case within four (4) weeks. It was agreed by all parties that the consideration for the Lands-A 1 shall be Rs. 1.42 Crores/ Acre of land, and there shall be no deviation from the Term Sheet in this respect. Importantly, despite the fact that the Term Sheet provided that you, the Addressees would be responsible for procurement of Lands-A2 and Lands-B, you requested us to take over the responsibility of buying Lands-A2 and Lands-B as well, expressing your inability and failure to be able to do the same till date, which contradicted the fail-safe position agreed in the Term Sheet. Regardless, our Client having no other option, was constrained to agree to take on the said responsibility of procurement of Lands A2 and Lands B in the interest of expediency, for no additional consideration, and only based on your assurance and undertaking that you would cooperate and transfer Lands A-1 and Lands A2 simultaneously to us within a period of four (4) weeks. It was further agreed by the Parties that the negotiations between our Client and the owners of Lands A2 shall not be interfered by you, the Addressees, in any manner. It is important to point out that despite the fact that the obligations to procure Lands A2 and Lands B was entirely within the scope of your obligations and should have been conducted at your risk and cost, our Client agreed to do this at no extra compensation, only in the interest of expediency and to fructify the Term Sheet. That alarmingly, despite the said understanding, you continued to make demands from our Client as regards additional compensation and various other issues which was done vide your email of 12 March 2022. Again, our Client feeling constrained and having no other option, responded vide email dated 19 March 2022, agreeing to your various demand(s)/Condition(s) in the interest of expediency. Thus, our Client was hopeful that

in view of the renewed understanding reached vide the various meetings and as reflected in the email correspondence, you would finally comply with your obligations under the Term Sheet.”

26. At least, *prima facie*, the submission of the Term Sheet having been novated and the Arbitration Agreement having been done away with, cannot be sustained on the reading of the above assertion of the petitioner in its notice dated 04.04.2022. In any case, this would be a matter to be considered by the Arbitral Tribunal.

27. In view of the above, I see no impediment in appointing a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the above-mentioned Term Sheet.

28. Accordingly, I appoint Hon'ble Mr. Justice Dipak Misra (Former Chief Justice of India) (Address: 97, Ground Floor, Sukhdev Vihar, New Delhi-110025, Mobile No: 9560333111) as a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the Term Sheet. The Sole Arbitrator shall give a disclosure in terms of Section 12 of the Act before proceeding with the reference. The fee of the Arbitrator shall be governed by Schedule IV of the Act.

29. Needless to state that all objections of the respondents shall be considered on merit by the learned Sole Arbitrator, without being, in any manner, influenced by any observations made in the present order.

NAVIN CHAWLA, J.

DECEMBER 19, 2022/Ais/s