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

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Date of decision: 06.02.2023

+ **FAO (COMM) 40/2022**

SHRIRAM TRANSPORT FINANCE COMPANY LTD.

..... Appellant

Through: Mr Manish Verma, Adv.

versus

SANJAY AGGARWAL & ANR.

..... Respondents

Through: Mr Aayushmaan Vatsyayana &

Mr Siddharth Tewari, Adv. for R-1.

Mr Manas Tripathi, Adv. for R-2.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MS JUSTICE TARA VITASTA GANJU

[Physical Hearing/Hybrid Hearing (as per request)]

TARA VITASTA GANJU, J.: (ORAL)

**CM Appl.12278/2022 [Application filed on behalf of the Appellant/
Applicant seeking condonation of delay of 28 days in re-filing the Appeal]**

1. The present application has been filed by the Appellant seeking condonation of delay of 28 days in filing the present Appeal.
2. Learned counsel for the Respondents submits that they have no objection if the delay is condoned by the Court.
- 2.1 Accordingly, the delay in filing the Appeal condoned. The application is disposed off.

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3. The present Appeal has been filed against the Order dated 15.09.2021 passed by the learned District Judge, Commercial, Tis Hazari Courts, Delhi [hereinafter called, "the Impugned Order"].

- 3.1 By the Impugned Order, the learned District Judge set aside the Arbitral Award dated 13.08.2018 [hereinafter called, “Arbitral Award”] on an application filed by the Respondent No.1 under the provisions of Section 34 of the Arbitration & Conciliation Act, 1996 [hereinafter called, “the Act”].
- 3.2 The Arbitral Award was passed pursuant to the disputes that had arisen under the Loan Cum Hypothecation Agreement dated 01.04.2013 between the Appellant as the Lender and the Respondent No. 2 as the Borrower and Respondent No. 1 as the guarantor [hereinafter called, “the Loan Agreement”].
4. A coordinate bench of this Court had issued notice in the matter on 11.03.2022 when *inter-alia* it recorded that the Appellant is agreeable to the disputes between the parties to be referred to an independent arbitrator for conducting a *de novo* arbitration between the parties.
5. Mr Manish Verma, who appears on behalf of the Respondent, submits on instructions, that the Respondent is agreeable to the suggestion of an independent arbitrator being appointed by this Court.
6. Therefore, with the consent of the parties, we hereby appoint Mr. Sunil Kumar Agarwal, Advocate, Mobile No. 9871300622, having Office at 4th Floor, 15 Link Road, Jangpura Extension, New Delhi-110014, as the sole arbitrator [hereinafter called, “the Arbitrator”] to adjudicate all disputes, differences and/or claims arising out of the Loan Agreement between the parties.
- 6.1 The parties are directed to appear before the Arbitrator as and when notified.
- 6.2. The Arbitrator shall ensure compliance of Section 12 of the Act prior

to commencing the Arbitration.

- 6.3 The fees of the Arbitrator shall be governed by the Fourth Schedule of the Act.
- 6.4 It is clarified that the Court has not examined any claim of the parties and all rights and contentions on merit are left open. Both parties shall be free to raise their claims and counter claims before the Arbitrator in accordance with the law.
7. The Appeal is disposed off in the above terms. Parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

RAJIV SHAKDHER, J

FEBRUARY 6, 2023 / r