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

+ **ARB.P. 324/2024**

TATA CAPITAL LIMITED

..... Petitioner

Through: Mr. Nachiketa Suri, Mr. Raj Kumar
and Mr. Gajendra Pal Singh, Advs.
(M:9999748620)

versus

M/S PRIME BIZWORLD PRIVATE LIMITED

& ORS.

..... Respondent

Through: Mr. Kushank Garg, Adv.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **13.05.2024**

1. This hearing has been done through hybrid mode.
2. This is a petition filed by the Petitioner-Tata Capital Limited under Section 11(6) of the Arbitration and Conciliation Act, 1996, seeking appointment of an Arbitrator in terms of clause 19 of the Loan Agreement dated 18th October, 2018 (hereinafter, '*the Agreement*').
3. The case of the Petitioner is that a loan of Rs.30,30,000/- was given to Respondent No. I-M/s. Prime Bizworld Private Ltd. vide letter dated 18th October, 2018. The said loan was to be repaid in 36 EMIs each of Rs.1,09,922/- by the Respondent. However, the same was not paid. It is further stated that the total amount outstanding till 20th September, 2023, inclusive of principal outstanding, interest outstanding is Rs. 59,17,988/-.
4. Vide order dated 5th March, 2024, the Court had directed the



Petitioner to serve the Respondents. Mr. Kushank Garg, Id. Counsel appeared for the Respondents. On the last date, 22nd April, 2024 it was directed as under:

“6. Only issue in this case is in respect of the seat and venue. A perusal of the arbitration clause i.e. clause 19 in the Agreement, would show that there is no specific seat or venue, which is agreed upon, and the same has been left quite vague and ambiguous by using the term “Delhi/Mumbai/Calcutta/Chennai at the exercise of the lender”.

7. Since the option is of the lender and the fact that the Respondents have availed of loan facility in Delhi, and they are also residing in Delhi, this Court is inclined to appoint a Sole Arbitrator.

8. Let the Respondents seek instructions on the next date of hearing. ”

5. Today, Mr. Garg, Id. Counsel appears and submits that considering this clause, the Respondents have no objection if the appointment of the Arbitrator is made by this Court. Accordingly, considering the fact that the agreement was itself signed in Delhi, the Respondents are also located in Delhi, this Court has jurisdiction to appoint the Arbitrator in terms of clause 19 of the Agreement. The relevant clause 19.1, 19.2 and 19.3 is extracted below:

“19. DISPUTE RESOLUTION, GOVERNING LAW AND JURISDICTION

19.1. If any dispute, difference or claim arises between the Obligors and the Lender in connection with the Facility or the security or as to the interpretation, validity, implementation or effect of the Facility Documents or as to the rights and liabilities of the parties under the Facility Documents or alleged breach of the Facility Documents or anything done or



*omitted to be done pursuant to the Facility Documents, the same shall be settled by arbitration to be held in **Mumbai/ Delhi/Kolkata/Chennai** as may be decided by the Lender in accordance with the Arbitration and Conciliation Act, 1996, or any statutory amendments thereto and shall be referred to a sole arbitrator to be appointed by the Lender. The award of the arbitrator shall be final and binding on all parties concerned.*

19.2. The Facility Documents shall be governed by the laws of India.

19.3. The Borrower agrees that subject to the provisions of Clause 19.1 above, the courts of Mumbai or the courts at the venue of arbitration decided by the Lender in accordance with Clause 19.1 above alone shall have the exclusive jurisdiction to entertain and try all matters arising from and out of the Facility Documents”

6. Bearing in mind the above clause, the matter is referred to arbitration by the Sole Arbitrator-**Mr. Dhruv Bhagat , Adv. (M:9910599996)** who is present in Court. The Arbitration proceedings shall take place under the aegis of the Delhi International Arbitration Centre (hereinafter, ‘DIAC’). The arbitration proceedings shall be conducted under the Rules of DIAC. The fee of the Id. Sole Arbitrator shall be as per the Fourth Schedule of the Arbitration and Conciliation Act, 1996, as amended by the DIAC Rules.

7. List before the DIAC on 28th May, 2024 at 3:00 p.m.. Let a copy of the present order be emailed to Secretary, DIAC on the email id-delhiarbitrationcentre@gmail.com. All contentions of the parties are left open.

8. Petition is disposed of with all pending applications, if any.

PRATHIBA M. SINGH, J.

MAY 13, 2024_{dj/ks}