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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 328/2024**
TATA CAPITAL LIMITEDPetitioner
Through: **Mr. Vishwajeet Singh, Adv.**

Versus

AAYUSH MOTORS & ANR.Respondents
Through: **Mr. Vardhman Kaushik, Mr. Dhruv
Joshi, Mr. Mayank Sharma, Ms.
Sanjana Mehrotra, Adv.**

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

% **ORDER**
09.08.2024

1. This is a petition filed under section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of a Sole Arbitrator for adjudication of disputes between the parties.
2. The facts are that the petitioner is a non banking financial company.
3. Respondent No. 1 through its sole proprietor namely, Mrs. Neetu Tomar had approached the respondent that is Tata Capital Limited for seeking financial assistance *vide* loan application dated 01.07.2023 The petitioner sanctioned a loan of Rs. 2,67,00,000/- *vide* sanction letter dated 10.07.2023.
4. Subsequently, the parties also entered into an Agreement for term loan dated 13.07.2023 read with Master terms and conditions.



5. It is stated that respondent No. 2 stood as the guarantor under the Agreement for term loan read with guarantee clause that is Clause 8 in the Master terms and conditions. Hence, respondent Nos. 1 and 2 were jointly liable for payment of the loan.

6. Since certain disputes arose between the parties, the petitioner issued Legal Notice for recall of Loan and Invocation of Arbitration on 01.02.2024.

7. The Agreement for term loan contains an Arbitration clause that is clause 13 which reads as under:

“13. Arbitration

If any dispute, difference or claim arises between any of the Obligors and the Lender in connection with the Facility or as to the interpretation, validity, implementation or effect of the Facility Documents or as to ii the rights and liabilities of the parties under these T&Cs 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 by a sole arbitration to be appointed as per the procedure below and to be held at such place as agreed by the Parties in Serial No. 18 of Annexure 1 hereto of the Agreement. The Party invoking the arbitration ("Claimant") shall address a notice to the other Party ("Respondent") suggesting the names of not more than three arbitrators, all of whom shall be either retired judges of the District Court, High Court or the Supreme Court or a lawyer having minimum 10 years' relevant experience. The Respondent shall either:

(i) Confirm in writing acceptance of one amongst the proposed names as the sole arbitrator to the Claimant within a period of ten (10) days from the date of notice ("Notice Period"); or

(ii) Convey objection, if any, in writing to the Claimant, against the proposed names of the sole arbitrator within the said Notice Period. However, if the Claimant does not receive any response from the Respondent within the said Notice Period, the Claimant



shall be entitled to nominate any one person from amongst the proposed three names as the sole arbitrator and such arbitrator shall be deemed to be appointed by both the Parties. In the event, the Respondent conveys its objection as per (ii) above then the sole arbitrator will be appointed by a Court having jurisdiction. The arbitration shall be conducted under the provisions of the Arbitration and Conciliation Act, 1996 together with its amendments, any statutory modifications or re-enactment thereof for the time being in force. The arbitration proceeding shall be conducted in English language. The award of the arbitrator shall be final and binding on all parties concerned. The cost of arbitration shall be borne by the Obligor.”

8. Mr. Sharma, learned counsel appears on behalf of the respondents and has no objection to the petition being allowed.

9. For the said reasons, the petition is allowed with the following directions:

- i) Mr. Anant Vijay Palli (Sr. Adv.) (Mob. No. 9810199102) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
- ii) The remuneration of the learned Arbitrator shall be in terms of the Fourth Schedule of the Arbitration & Conciliation Act, 1996.
- iii) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- iv) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.



- v) The parties shall approach the learned Arbitrator within two weeks from today.

JASMEET SINGH, J

AUGUST 9, 2024/DM

Click here to check corrigendum, if any