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

+ **ARB.P. 493/2024**

CLIX CAPITAL SERVICES PVT. LTD. Petitioner

Through: **Mr.Puneet Raj, Adv.**

versus

M/S. LAXMI FOUNDATION & ORS. Respondents

Through: **Mr.Vipin Kumar Raghav, Adv.**

**CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA**

ORDER
% **30.04.2024**

I.A. 8380/2024 (exemption)

Exemption is allowed subject to all just exceptions.

Application stands disposed of.

ARB.P. 493/2024

The present petition has been filed under Section **11** of the Arbitration and Conciliation Act, 1996 seeking the appointment of an Arbitral Tribunal comprising a Sole Arbitrator to adjudicate the disputes *inter se* the parties.

The facts in brief are that the respondents approached the petitioner company to provide financial assistance for the purchase of machines/medical equipment. The petitioner company sanctioned medical equipment term loan amount to Rs.1,40,34,660/-. The respondent executed Facility-Cum-Hypothecation Agreement dated 30.11.2022 with a Deed of Guarantee Loan in favor of Petitioner Company. The loan was disbursed for



the purchase of equipment. The loan was to be paid in 62 equated monthly installments of Rs.3,74,632/-. However, the respondent defaulted in making the payment.

The petitioner terminated the loan facility and served a legal notice 14.08.2023. However, the respondent did not come forward to pay the payment. In the meanwhile, a petitioner under Section 9 of the Arbitration and Conciliation Act was filed before the learned District Judge, Commercial Court -03, New Delhi District, Patiala House Court. The petitioner also filed the present petition under Section 11 of the Arbitration and Conciliation Act which was withdrawn. The notice under Section 21 was served on 07.03.2024.

Issue notice. Mr.Vipin Kumar Raghav, learned counsel accepts notice for the respondents. Learned counsel submits that he has no objection if the learned arbitrator. However, all his contentions may remain open.

Considering that both the parties have consented to the reference to the arbitral tribunal, the present petition is disposed of with the following directions:

- i) The disputes between the parties under the said agreement are referred to the arbitral tribunal.
- ii) Mr. R. K. Gauba, Former Judge, High Court of Delhi (Mob. No.9650411919) is appointed as an Arbitrator to adjudicate the disputes between the parties.
- iii) The arbitration will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi hereinafter, referred to as the 'DIAC'). The remuneration of the learned Arbitrator shall be in terms of fee rules of the DIAC schedule or as the



parties may agree.

iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.

v) 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.

vi) The parties shall approach the learned arbitrator within two weeks from today.

The petition is disposed of in the above terms.

DINESH KUMAR SHARMA, J

APRIL 30, 2024

rb/ht