



\$~31

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

+ **ARB.P. 630/2023**

MONEYWISE FINANCIAL SERVICES PVT LTD..... Petitioner

Through: Ms. Mehvish Khan and Ms. Jyoti,
Advs.

versus

COLOCUBE TECHNOLOGIES PRIVATE LTMITED AND ORS

..... Respondents

Through:

**CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH**

ORDER

19.02.2024

%

1. This is a petition under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator.
2. The arbitration clause is contained in Clause 8.2 of the Master Loan Agreement dated 26.02.2021 and reads as under:

*“8.2. **Arbitration:** Any disputes, differences, controversies and questions directly or indirectly arising at any time hereafter between the Parties or their respective representatives or assigns, arising out of or in connection with this Agreement (or the subject matter of this Agreement), including, without limitation, any question regarding its existence, validity, interpretation, construction, performance, enforcement, rights and liabilities of the Parties, or termination ("Dispute"), shall be referred to a sole arbitrator duly appointed by the Lender.*

The language of the arbitration shall be English. The seat of the arbitration shall be at New Delhi and the language of proceedings



shall be English. The award rendered shall be in writing and shall set out the reasons for the arbitrator's decision. The costs and expenses of the arbitration shall be borne equally by each Party, with each Party paying for its own fees and costs including attorney fees, except as may be determined by the arbitration tribunal. Any award by the arbitration tribunal shall be final and binding.”

3. Since the respondents defaulted in payment of their obligations under the loan agreement, the petitioner invoked the arbitration clause on 20.04.2023. The disputes have not been settled.
4. Respondent No. 1 is the company which availed the loan and respondent Nos. 2, 3 and 4 are the co-borrowers. Respondent No. 3 has already been proceeded *ex-parte* vide order dated 14.12.2023.
5. On 03.07.2023, notice was issued in the petition by this Court. The counsel for respondent Nos. 1, 2 and 4 appeared for the respondents on 14.12.2023, sought and was granted 3 weeks to file a reply. Thereafter, on 12.02.2024, as last and final opportunity, 2 days were granted to the respondents to file a reply. No reply is on record, neither there is anybody appearing on behalf of respondent Nos. 1, 2 and 4.
6. For the said reasons, the petition is allowed and disposed of with the following directions:
 - i) Mr. Dhruv Tamta, Adv. (Mob. No. 9899989917) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
 - ii) 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 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

FEBRUARY 19, 2024/DM

Click here to check corrigendum, if any