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

+ **ARB.P. 903/2023**

CONTYPARK FINANCE CORPORATION LTD.Petitioner

Through: **Mr. Mohit Chaudhary, Mr. Kunal Sachdeva and Ms. Vaishali Shukla, Advocates.**

versus

JAILENDRA KUMARRespondent

Through: **Mr. Naveen Kumar Chaudhary and Mr. Yash Tewatia, Advocates.**

+ **O.M.P.(I) (COMM.) 255/2023**

CONTYPARK FINANCE CORPORATION LTD.Petitioner

Through: **Mr. Mohit Chaudhary, Mr. Kunal Sachdeva and Ms. Vaishali Shukla, Advocates.**

versus

JAILENDRA KUMARRespondent

Through: **Mr. Naveen Kumar Chaudhary and Mr. Yash Tewatia, Advocates.**

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

16.12.2024

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1. ARB.P. 903/2023 has been filed by the Petitioner under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator to adjudicate on the disputes which have arisen between the parties under the Revenue Share Agreement dated 26.06.2018 entered into between the Petitioner and the Respondent. In terms of the said Agreement,

ARB.P. 903/2023 etc.

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the petitioner extended finance/credit facilities based on the 'guarantee' of the respondent. It is submitted that substantial amounts are owed by the Respondent to the Petitioner under the aforesaid Agreement.

2. O.M.P.(I) (COMM.) 255/2023 has been filed by the Petitioner under Section 9 of the Arbitration Act praying for certain interim reliefs.

3. This Court *vide* Order dated 18.08.2023 restrained the Respondent from selling/disposing of/creating third party rights in the property admeasuring 1330 sq. ft. area, situated at Walke Bhauja, Alamgirpur Mahalla, Murhilit, Ward No. 11, Survey Ward No.2, Khata No.855, Plot No. 02142, Tel Bigha Road, Dom Toli Market, Gaya, Bihar 823001, during the pendency of the Petition under Section 9 of the Arbitration Act.

4. It is stated by the learned Counsels for the parties that the parties have entered into a settlement. The Settlement Agreement dated 06.02.2024 is on record and the same reads as under:

“ *MEMORANDUM OF SETTLEMENT*

This MEMORANDUM OF SETTLEMENT hereinafter referred to as "MOS" is executed at New Delhi on this 6th day of February, 2024-12-16

BETWEEN

CONTPARK FINANCE CORPORATION LTD (1ST PARTY). HAVING ITS REGISTERED OFFICE AT. D. 4, SAIDULAJAB EXTENSION, WESTERN MARG NEAR GARDEN OF FIVE SENSE, NEW DELHI-110068, (A REGISTERED NBFC WITH RBI) THROUGH ITS MANAGING DIRECTOR MR. YUVRAJ SINGH, S/O SHRI RAGHBIR SINGH (MOBILE NO. 9810502129), WHO HAS BEEN



AUTHORIZED TO ENTER/SIGN AND EXECUTE THIS MOS ON ITS BEHALF IN TERMS OF BOARD RESOLUTION OF THE COMPANY PASSED AT THE MEETING OF THE BOARD OF DIRECTORS ON JUNE 15, 2023 HELD AT THEIR REGISTERED OFFICE, HEREIN AFTER REFERRED TO AS "FIRST PART (EXTRACT OF THE MEETING OF THE FIRST PART DATED JUNE 15, 2023 AUTHORIZING MR. YUVRAJ SINGH IS ATTACHED HEREIN BEING AN INTEGRAL PART OF THIS MOS), MR. YUVRAJ SINGH HAD ASSURED AND CONFIRMED THAT HE HAS BEEN AUTHORIZED TO ENTER AND EXECUTE THIS MOS ON BEHALF OF THE COMPANY AND SHALL ABIDE BY THE TERMS AND CONDITIONS OF THIS MOS

AND

MR. JAILENDRA KUMAR S/O RAMCHANDRA PRASAD (SECOND PARTY) SOLE PROPRIETOR OF M/S SAHIL AUTOMOBILES, HAVING ITS REGISTERED OFFICE AT:- TEL BIGHA ROAD, DOM TOLI MARKET, GAYA, BIHAR- 823001 HEREIN AFTER REFERRED TO AS "SECOND PART

The expression FIRST PART and SECOND PART shall, unless excluded by or repugnant to the context or the meaning thereof be deemed to include their respective successors-in-interest, administrators, assignees, legal and authorized representatives

WHEREAS:-

1. First Part had informed the Second Part about filing of Court cases against the Second Part which are pending adjudication before the Courts at Delhi, Details of which are as under: -



A. Commercial Petition under Section 9 of the Arbitration and Conciliation Act 1996 bearing ARB P. 903 of 2023 titled as "Contypark Finance Corporation Ltd. Versus Mr. Jailendra Kumar pending adjudication before Hon'ble Delhi High Court

B. Commercial Petition under Section 11 of the Arbitration and Conciliation Act 1998 bearing OMP (I) (COMM) 255 of 2023 titled as "Contypark Finance Corporation Ltd. Versus Mr. Jailendra Kumar pending adjudication before Hon'ble Delhi High Court,

C. Complaint under Section 138 of the Negotiable instrument Act bearing CC. No. 11788 of 2023 titled as "Contypark Finance Corporation Ltd Versus Mr. Jailendra Kumar pending adjudication before Metropolitan Magistrate (N Act) -01/RACC/New Delhi

2. AND WHEREAS both the parties hereto have mutually settled all their claims, disputes, differences including those which are subject matter of the abovementioned court cases and or otherwise. The terms and conditions which have been agreed to by and between the Parties are as follows-

I. Second Part shall pay a sum of Rs. 33,00,000/- (Rupees Thirty-Three Lacs Only) to the First Part towards full and final satisfaction of all its claims. The First Part had agreed to accept the same towards all its claim including interest, cost etc. against the Second Part in respect of the aforesaid proceedings/ Court cases initiated by it.

II. Second Part will make the payment of Rs. 33,00,000/- (Rupees Thirty-Three Lacs Only) to



the First Part in the following manner: -

<i>No.</i>	<i>Date</i>	<i>Amount in (Rs.)</i>
<i>1.</i>	<i>At the time of execution and signing of this settlement</i>	<i>6,00,000/-</i>
<i>2.</i>	<i>March 15, 2024</i>	<i>3,00,000/-</i>
<i>3.</i>	<i>April 15, 2024</i>	<i>3,00,000/-</i>
<i>4.</i>	<i>May 15, 2024</i>	<i>3,00,000/-</i>
<i>5.</i>	<i>June 15, 2024</i>	<i>3,00,000/-</i>
<i>6.</i>	<i>July 15, 2024</i>	<i>3,00,000/-</i>
<i>7.</i>	<i>August 15, 2024</i>	<i>3,00,000/-</i>
<i>8.</i>	<i>September 15, 2024</i>	<i>3,00,000/-</i>
<i>9.</i>	<i>October 15, 2024</i>	<i>3,00,000/-</i>
<i>10.</i>	<i>November 15, 2024</i>	<i>3,00,000/-</i>
	<i>Total</i>	<i>33,00,000/-</i>

(RUPEES THIRTY-THREE LACS ONLY)

III. Upon receipt of Rs. 6,00,000/ (Rupees Six Lacs Only). First Part shall take all steps including signing of documents, sending letters/ ccrrespondences to the concerned Bank/Authority for removal of the name of the Second Part as defaulter in the Cibil Authonty or any other Authority

IV. First Part upon the receipt of the entire amount in terms of this MOS from the Second Part shall give issue No Objection Certificate and make all efforts including taking Corp steps to get remove its Hypothecation on the RegistrationIII. Upon the receipt of Rs. 6,00,000-/ (Rupees Six Lacs Only) First Party shall take all steps including signing of documents, sending letters correspondences to the concerned Bank / Authority for removal of the name of the Second



Part as defaulter in the Cibil Authority or any other Authority. First Part shall ensure that the Cibil Score of the Second Part is restored to its original position and shall also ensure that there is no obstacle / hurdle in taking of financial assistance by the Second Part in the form of loan or otherwise from the financial institution/ bank.

The First Part is aware of the fact that the Second part will make further payment to it in terms of this MOU in the manner indicated above by taking loan from the financial institution/ bank! In the event, First Part failed to take steps for restoring the Cibil Score of the Second Part, then the Second Part will not be liable to make the payment till such date, the Second Part is able to get the loan from the financial institution/bank

First Part upon the receipt of the entire amount in terms of this MOU from the Second Part, shall give/ issue No Objection Certificate and make all efforts including taking steps to get remove its Hypothecation on the Registration Certificate in respect of the vehicles sold through RSP Mode to Second Part to various consumers. (List Annexed)

First Part upon the receipt of the entire amount in terms of this MOU from the Second Party shall return all cheque Books of the Second Part which were taken by it at the initial stage First Part shall also return all documents in original including the Revenue Sharing Agreement dated June 26, 2018 and document signed by the Second Part in Certificate in respect of all the vehicles sold through Second Part to various consumers. (As Annexed)

V. First Part, shall return all cheques of the



Second Part which were taken by it at the initial stage and shall also return all documents in original including the Revenue Sharing Agreement dated June 26, 2018 and document signed by the Second Part in the year 2019, and thereafter which are in possession and custody of the First Part, upon the receipt of the entire amount in terms of this MOS from the Second Part

VI. Upon the receipt of the entire amount in terms of this MOS by the First Part from the Second Part. the First Part shall withdraw all the cases mentioned above and or any other cases which are not in the knowledge of the Second Part by filing an appropriate Application before the concerned Court. The First Part will be left with no further claim, monies etc. of any nature whatsoever towards the Second Part.

VII. The First Part and Second Part also assure each other apart from litigation aforesaid they have not filed any other case, FIR, suit, criminal complaint, Petition etc. against each other in any Court, authority, police station, Tribunal, arbitrator or any other forum and in future if it found otherwise the same shall deemed to be settled by virtue of the present deed.

VIII. Both the parties herein have also ensured each other that in future they will not file / institute their claim against each other of any nature whatsoever.

3. The aforesaid settlement is and shall be in full and final settlement of all the claims and liabilities between the Parties herein and the Parties shall hence forth have no claim whatsoever, of any nature against each



other, and/ or their family members in future of 4.

4. Parties have arrived at this settlement without any force, coercion fraud, threat or undue influence nor the settlement has been arrived in collusion with each other

5. That the FIRST PART and SECOND PART hereby declare and confirm that both the Parties shall abide by the terms and conditions of this MOS.

6. That except as otherwise agreed between the Parties, this Mos constitutes the entire Mos between the Parties as to its subject matter and supersedes any previous understanding or agreement (if any) on such subject matter between the Parties.

7. Two copies of this Memorandum of Understanding have been prepared and signed, which shall be retained by the FIRST PART and the SECOND PART.

IN WITNESS WHEREOF the Parties have set their hands to this Memorandum of Settlement at New Delhi on the day of the year first above written in the presence of the following witnesses: -”

5. A perusal of the Settlement Agreement discloses that the Respondent has to pay a sum of Rs.33 lakhs to the Petitioner in accordance to the schedule mentioned in the Agreement. It is stated that out of Rs.33 lakhs, Rs.27 lakhs has already been paid by the Respondent and only Rs.6 lakhs is due and payable.

6. The parties are bound by the terms of the Settlement Agreement. It is made clear that violation of the terms of the Settlement Agreement would amount to violation of the Orders of this Court.



7. In terms of the Settlement Agreement entered into between the parties, the present Petitions have become infructuous.
8. Accordingly, the Petitions are disposed of in terms of the Settlement Agreement.
9. Needless to state that the interim Orders will continue till the full amount is paid in terms of the Settlement Agreement.

SUBRAMONIUM PRASAD, J

DECEMBER 16, 2024

Rahul