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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 923/2024

MONEYWISE FINANCIAL SERVICES PVT LTDPetitioner

Through: Ms. Mehvish Khan, Advocate.

versus

ABDUL WAHID STEEL AND IRON INDIA PVT LTD

THROUGH ITS DIRECTORS AND ORS.

.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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09.09.2024

1. The petitioner has filed this petition under Section 11 of the Arbitration and Conciliation Act, 1996 [“the Act”], for appointment of an arbitrator to adjudicate disputes between the parties under an agreement dated 16.11.2018 entitled “*Loan Agreement*” [“the Agreement”].
2. The Agreement contains an arbitration clause [clause 10.1], which provides for resolution of disputes by arbitration of a sole arbitrator appointed by the petitioner. New Delhi has been designated as the seat of arbitration. Courts in Delhi have also been vested with exclusive jurisdiction over the agreement [Clause 9].
3. Disputes having arisen between the parties, the petitioner invoked arbitration by a notice dated 06.06.2024 to the respondents. As the invocation notice failed to elicit a response, the petitioner has approached this Court under Section 11 of the Act.



4. Notice was issued in this petition on 05.07.2024. Ms. Mehvish Khan, learned counsel for the petitioner, has filed an affidavit of service dated 04.09.2024, in which it is stated that she has served a copy of the petition upon all the respondents by email at the email addresses - abdulwahid536@yahoo.com and shabnam.ahmed@gmail.com on 06.08.2024, and the emails have not bounced back. These email addresses are same as the ones that appear in the schedule-I of the Agreement under “Details of borrower(s) & guarantor(s)”. The Registry also reports that the respondents have been served by e-mail. As the respondents have not entered appearance despite service as aforesaid, the petition is taken up for hearing.

5. At the stage of proceedings under Section 11 of the Act, the Court is only required to satisfy itself, *prima facie*, as to the existence of an arbitration agreement. Having regard to the material on record, including clause 10.1 of the Agreement, I am of the view that the petitioner has made out a case for appointment of an arbitrator, leaving all questions on maintainability and merits open for adjudication by the learned arbitrator.

6. In view of the above, the petition is allowed and the disputes between the parties under the Loan Agreement dated 16.11.2018 are referred to arbitration under the aegis of Delhi International Arbitration Centre [“DIAC”]. The arbitration proceedings will be governed by the Rules of DIAC, including as to remuneration of the learned arbitrator.

7. DIAC is requested to nominate an arbitrator from its panel. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.

8. As the respondents have not entered appearance in these



proceedings, it is made clear that respondents are to be served afresh, in accordance with DIAC Rules, in the arbitration proceedings.

9. Needless to say, all rights and contentions of the parties are left open for adjudication by the learned Arbitrator.

10. The petition stands disposed of in these terms.

PRATEEK JALAN, J

SEPTEMBER 9, 2024
SS/