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

+ **ARB.P. 1113/2023**

TATA CAPITAL FINANCIAL SERVICES LIMITED..... Petitioner

Through: **Ms. Ekta Bhasin, Mr. Sanidhya
Sonthalia, Ms. Aastha Trivedi, Advs.**

Versus

HINDUSTAN ENGG CO BHILWARA & ORS. Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

11.01.2024

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1. This is a petition seeking appointment of a Arbitrator for the disputes arising out of Loan cum Guarantee Agreement dated 23.06.2022. Since disputes had arisen, the petitioner invoked the arbitration and issued a Loan Recall Notice on 05.10.2023. Despite the same, the loan has not been repaid.
2. On 20.10.2023, this Court was pleased to issue notice to the respondents.
3. Even though the service report is awaited, Ms. Bhasin, learned counsel for the petitioner has drawn my attention to the affidavit of service wherein the respondent Nos. 2, 3 and 4 have refused the courier service, respondent No. 1 has been served through his official e-mail namely Ceo_lohia@rediffmail.com which is the official email address as per the Loan cum Guarantee Agreement.
4. The tracking report shows that respondent No. 2 and 3 refused service on 21.11.2023 and respondent No. 4 on 22.11.2023.
5. As the respondent No. 2, 3 and 4 have refused the courier and speed post service, it is deemed that they have been served. There is no appearance and no reply is filed on their behalf.



6. For the said reasons, I am inclined to allow the present petition with the following directions:-

- i) Ms. Rashmi Chopra (Mob. No. 9810311218) 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.

7. The petition is allowed and disposed of in the aforesaid terms.

JANUARY 11, 2024/ NG

JASMEET SINGH, J

[Click here to check corrigendum, if any](#)