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

+ **ARB.P. 1078/2024**

AXIS FINANCE LIMITED

.....Petitioner

Through: *Appearance not given.*

versus

AMIT VIRENDRA KUMAR TYAGI

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

10.12.2024

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1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 by the Petitioner seeking appointment of an Arbitrator to adjudicate upon the disputes which have arisen between the parties under the Loan Agreement dated 11.01.2022 executed between the parties.

2. It is stated that the Respondent failed to adhere to the terms and conditions of the Loan Agreement dated 11.01.2022, more particularly, the repayment and obligations under the said Loan Agreement and thus, committed a default. It is stated that the said Loan Agreement has been recalled.

3. Since the disputes have arisen between the parties under the Loan Agreement dated 11.01.2022, the Petitioner invoked the Arbitration and issued a notice dated 05.02.2024 under Section 21 of the Arbitration and Conciliation Act.



4. This Court *vide* Order dated 24.07.2024 had issued a notice to the Respondent in the instant petition. The order-sheet dated 24.10.2024 passed by this Court reveals that the learned Counsel for the Respondent had sought time to file a reply. In the said order-sheet, it was also specifically stated that if no reply was filed on behalf of the Respondent then this Court would proceed ahead.

5. Despite service, there is no appearance on behalf of the Respondent today.

6. Clause 14 of the Loan Agreement dated 11.01.2022 contains an Arbitration Clause, which reads as under:-

“ 14. Arbitration:

(i) All disputes, differences and/or claim or questions arising out of these presents or in any way touching or concerning the same or as to constructions, meaning or effect thereof or as to the right, obligations and liabilities of the parties hereunder shall be referred to and settled by arbitration, to be held in accordance with the provisions of the Arbitration and Conciliation Act, 1996 or any statutory amendments thereof,' of a sole arbitrator to be nominated by the Lender, and in the event of death, unwillingness, refusal, neglect, inability or incapability of a person so appointed to act as an arbitrator, the Lender may appoint a new arbitrator to be a sole arbitrator. The arbitrator shall not be required to give any reasons for the award and the award of the arbitrator shall be final and binding on all parties concerned. The arbitration proceedings shall be held Mumbai/Delhi.

(ii) Notwithstanding anything to the contrary contained herein, any dispute, controversy or claim arising out of or relating to this contract, including its construction,



meaning, scope or validity thereof,' shall be resolved and settled by arbitration under the Arbitration and Conciliation Act, 1996 (as amended) which may be administered electronically under Online Dispute Resolution (ODR), in accordance with its Dispute Resolution Rules ("Rules").

(iv) The parties agree that the aforesaid proceedings shall be carried out by a sole arbitrator appointed under the Rules. The juridical seat of arbitration shall be Delhi/Mumbai, India and the aforesaid proceedings shall be subject to the exclusive jurisdiction of the competent courts in Delhi/Mumbai, India. The language of arbitration shall be English. The law governing the arbitration proceedings shall be Indian law. The decision of the arbitrator shall be final and binding on the parties."

7. In view of the fact that the Loan Agreement dated 11.01.2022 has been entered into between the parties in Delhi and the Arbitration Clause thus states that the Courts at Delhi and Mumbai will have the jurisdiction to entertain the instant petition, this Court is inclined to appoint an Arbitrator to adjudicate upon the disputes between the parties.

8. Accordingly, Mr. Madan Lal Kalkal, Advocate, (Mob. No.9868041507) is appointed as an Arbitrator to adjudicate upon the disputes between the Parties.

9. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC) and would abide by its rules and regulations. The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.

10. The learned Arbitrator is also requested to file the requisite disclosure



under Section 12(2) of the 1996 Act within a week of entering on reference.

11. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.

12. Needless to say, nothing in this order shall be construed as an expression of this Court on the merits of the contentions of the parties.

13. The present petition stands disposed of in the above terms along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

DECEMBER 10, 2024

RJ