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

+ **ARB.P. 1355/2023**

M/S SS TOUR INDIA & ORS. Petitioners
Through: **Mr. Rinku S. Yadav, Advocate.**

versus

**M/S CHOLAMANDALAM INVESTMENT
AND FINANCE COMPANY LTD** Respondent
Through: **Mr. Puneet Raj, Advocate.**
[M:-9654121121]

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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29.01.2024

1. The present petition under Section 11 of the Arbitration and Conciliation Act, 1996 [“the Act”] has been filed for appointment of an arbitrator to adjudicate disputes between the parties, under two loan agreements dated 12.10.2018 being loan account Nos. XVFPDLI00002602258 and XVFPDL100002602259.
2. Clause 29 of the loan agreements incorporates an arbitration clause, which contemplates resolution of disputes by a sole arbitrator.
3. Disputes having arisen between the parties, arbitration proceedings were held under both agreements, and awards were rendered by the sole arbitrator on 10.06.2022. These awards were set aside at the instance of the petitioners, by an order of the learned Commercial Court dated 12.05.2023, on the ground of unilateral appointment of the arbitrator.
4. The petitioner has, therefore, approached this Court for



appointment of a new arbitrator.

5. Mr. Puneet Raj, learned counsel, enters appearance on behalf of the respondent and submits that the respondent has no objection to the appointment of an arbitrator, subject to the request that the respondent's counterclaims also be placed for adjudication. Mr. Rinku S. Yadav, learned counsel for the petitioner, has no objection to this request.

6. In view of the above, and with the consent of learned counsel for the parties, the petition is disposed of with the following directions:-

- a. The disputes between the parties under the loan agreements dated 12.10.2018 are referred to adjudication under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi ["DIAC"]. DIAC is requested to nominate an arbitrator from its panel.
- b. The arbitration proceedings will be governed by the Rules of DIAC, including as to remuneration of the learned arbitrator.
- c. The learned arbitrator is requested to furnish a declaration in terms of Section 12 of the Act, prior to entering upon the reference.
- d. The arbitration proceedings under each agreement will be treated as separate arbitration proceedings, although before the same arbitrator. The learned arbitrator may take a decision as to whether the proceedings have to be conducted jointly or separately.

7. Mr. Yadav points out that in prayer '3' of the present petition, the petitioner has sought direction upon the respondent to repossess vehicles which are the subject matter of the loan agreements. Such a prayer is entirely outside the scope of a petition under Section 11 of the Act. However, it is open to learned counsel for the petitioner to take



appropriate steps before the learned arbitrator in this regard.

8. It is made clear that all claims and counterclaims of the parties may be placed before the learned arbitrator, and this Court has not adjudicated upon the maintainability or merits of any such claim.

PRATEEK JALAN, J

JANUARY 29, 2024

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