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

+ **ARB.P. 11/2024**

AKASA FINANCE LIMITED

..... Petitioner

Through: Mr. Arvind Jadon, Mrs. Pallavi Raghav, Ms Taru Saxena and Mrs. Jyoti Ravi Sachdeva, Advocates (M: 8209231750).

versus

T TAKA ENTERPRISES

..... Respondent

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **08.04.2024**

1. This hearing has been done through hybrid mode.
2. The present is a petition under Section 11 of the Arbitration and Conciliation Act, 1996, (*hereinafter 'the Act'*) filed by the Petitioner- Akasa Finance Ltd. (previously known as Pooja Finelease Limited) seeking appointment of Sole Arbitrator. The Arbitration is sought in respect of a loan given by the Petitioner to the Respondent/Borrower- T Taka Enterprises, arising out of the loan agreement bearing no. TL00060, dated 10th September, 2020.
3. The Petitioner, is a company incorporated under the Companies Act, 1956 and holds a license to carry on business as a Non-Banking Financial Company (NBFC) registered with the Reserve Bank of India (RBI). The Petitioner is in the business of rendering Loan facilities and it is stated that



the Petitioner sanctioned a loan of Rs.2,00,00,000/- to the Respondent for business purposes. The said loan was sanctioned against loan agreement bearing no. TL00060, dated 10th September, 2020. It is averred that the Respondent had to pay the Loan amount with rate of interest @12 % p.a. within 12 months and in case the same was not paid within the said tenure the loan shall be paid with ROI @18% p.a., retrospectively.

4. The case of the Petitioner is that the Respondent is not repaying the outstanding loan amount due *i.e.* Rs.2,70,98,142/- despite repeated reminders. A Composite Legal Notice dated 31st August, 2023 was also sent by the Petitioner to appoint the Sole Arbitrator mutually in view of the terms and conditions of the loan agreement. As per paragraph 9 of the present Petition, the composite legal notice was served on 1st September, 2023 on the official address of the Respondent. However, the Respondent failed to propose the name of the Sole Arbitrator.

5. The loan agreement was executed in Delhi and the arbitration clause 11 also mentions that the place of Arbitration shall be Delhi. Clause 11 of the said Loan Agreement reads as under:

“It is agreed between the BORROWER and LENDER that if any, dispute arises between the parties, it shall be amicably settled in the first instance. Unresolved disputes or differences shall be referred to the Sole Arbitrator to be appointed by the LENDER for arbitration. The Arbitration shall be governed by the Arbitration and Conciliation 1996 or any statutory modification or re-enactment thereof and the Rules made thereunder and for the time being enforce. The Award of the Arbitration shall be final, conclusive and binding on the parties. The place of Arbitration shall be at New Delhi and shall be conducted in English language.”



6. Notice was issued in this petition on 4th January, 2024 and there was no appearance on behalf of the Defendant, when the matter was listed thereafter on 5th February, 2024. Consequently, vide order dated 5th February, 2024 the Registry was directed to make fresh service on email as also WhatsApp and the Petitioner was directed to file affidavit of service. As per the Registry's report, the service through email, WhatsApp of the order as also notice through WhatsApp has been served.

7. Ld. Counsel for the Petitioner submits that his colleague also received a telephonic call from the Counsel representing the Respondent. Ld. Counsel for the Petitioner also submits that one Mr. Shivansh Aggarwal had logged in virtually in the morning in this matter. However, there is no appearance when the matter is called.

8. The Respondent is accordingly deemed to be served.

9. In view of the fact that there is no appearance on behalf of the Respondent and in terms of the Arbitration Clause, this Court deems it appropriate to appoint a Sole Arbitrator.

10. **Justice G.P. Mittal, (Retd.) (M:9910384619)** is appointed as the Id. Sole Arbitrator. The Arbitration proceedings shall take place under the aegis of the Delhi International Arbitration Centre (hereinafter, 'DIAC'). The arbitration proceedings shall be conducted under the Rules of DIAC. The fee of the Id. Sole Arbitrator shall be as per the Fourth Schedule of the Act, as amended by the DIAC Rules.

11. List before the DIAC on 29th April, 2024. Let a copy of the present order be emailed to Secretary, DIAC on the email id-delhiarbitrationcentre@gmail.com.



12. Copy of this order be communicated by the Registry to the Respondent through email. Parties to appear before the DIAC which shall also issue notice to the Id. Counsel for the Respondent once again.

13. Petition is disposed of with all pending applications, if any.

PRATHIBA M. SINGH, J

APRIL 8, 2024

Mr/am