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

+ **ARB.P. 1465/2024**

ADITYA BIRLA FINANCE LTD.

.....Petitioner

Through: Mr. Abhay Kakkar, Ms. Sandhya
Chawla, Advs.

versus

R M POWER SYSTEM & ANR.

.....Respondent

Through: Mr. Akshay Kumar, Mr. Mukesh
Kumar Sah, Advs.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **23.09.2024**

I.A. 40103/2024-EX.

1. Exemption is granted subject to all just exceptions.
2. The applicant(s) shall file legible and clearer copies of exempted documents, compliant with practice rules before the next date of hearing.
3. The application is disposed of.

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4. This is a petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996, seeking appointment of the Sole Arbitrator arising out of Facility Agreement dated 06.11.2023.
5. The facts are that the respondents applied for a Chanel Facility of Rs. 60 lakhs. The petitioner sanctioned the same on 02.11.2023 and on 06.11.2023, the Loan Facility Agreement was executed.
6. The Arbitration clause is Clause 11.8 of the Loan Facility Agreement



which reads as under:

"11.8 All claims or disputes arising out of or in relation to this Agreement shall be settled by arbitration. The arbitration tribunal shall consist of a sole arbitrator to be appointed by the Lender. All parties to this Agreement hereby expressly consent to the Lender being the sole appointing authority. Any vacancy created in the arbitration tribunal, for any reason whatsoever, shall also be filled only by the Lender acting as the sole appointing authority. The place of arbitration shall be Delhi. Parties agree that the courts in Delhi shall have the exclusive Jurisdiction to exercise all powers under the Arbitration and Conciliation Act, 1996. "

7. Since the respondents defaulted, the petitioner issued notice dated 30.07.2024 being a Loan Recall Notice and thereafter on 12.08.2024, issued notice invoking arbitration.

8. As there were disputes subsisting, the present petition has been filed.

9. Mr. Kumar, learned counsel appears for the respondents and states that he has no objection to appointment of the Sole Arbitrator. He further states that he shall file a Vakalatnama during the course of the day.

10. For the said reasons, petition being allowed and the following directions are issued:-

- i) Mr. Pradeep Bhardwaj, Advocate (Mob. No. 9810243924) 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').



- iii) The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.
- iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- v) 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/counter-claims and merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
- vi) The parties shall approach the learned Arbitrator within two weeks from today.

JASMEET SINGH, J

SEPTEMBER 23, 2024/NG/sp