



2024:DHC:10029



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

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Date of Decision: 23.12.2024+ **ARB.P. 1687/2024**

ADITYA BIRLA FINANCE LTD.

.....Petitioner

Through: Mr. Abhay Kakkar, Adv. (through
v/c)

versus

SHINE TEXTILE & ORS.

.....Respondents

Through:

CORAM:**HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

1. The present petition has been filed under section 11(5) of the Arbitration and Conciliation Act, 1996 (hereinafter referred as '*the A&C Act*') seeking appointment of a sole arbitrator to adjudicate the disputes between the parties.
2. The disputes between the parties have arisen in context of a Loan Agreement dated 31.08.2020 (hereinafter "*the Agreement*") entered into between the petitioner and the respondents, under which a Guaranteed Emergency Credit Line (GECL) for an amount of Rs.53,35,000/- was disbursed as loan to the respondent by the petitioner.
3. Disputes have arisen between the parties on account of alleged default on part of the respondents in paying the requisite instalments. The respondent failed to make the payment despite being granted opportunities to clear the outstanding dues.



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4. The arbitration clause in the Agreement between the parties, is in the following terms:-
5. Disputes having arisen between the parties, a loan recall notice dated 04.10.2023 was issued by the petitioner to the respondent followed by a notice as per clause 32.17 of the agreement for invocation of arbitration on 12.08.2024. However, the respondents failed to respond.
6. In the above circumstances, the petitioner has approached this Court, through the present petition, seeking the appointment of a sole arbitrator to adjudicate the dispute.
7. In the present proceedings, notice was issued by the Court on 22.10.2024. However, since none appeared on behalf of the respondents, a fresh notice vide order dated 28.11.2024 was issued the Court. An affidavit of service dated 21.12.2024 filed on behalf of the petitioner states that the petitioner has taken the requisite steps to serve the respondents at its known addresses. It has been brought out that the respondents have been duly served through courier and speed post.
8. It has also been brought out that the respondents have been duly served *via* email at admin@shinetextile.com.
9. In the circumstances, the present petition is taken up for hearing and disposal, despite no appearance on behalf of the respondents.
10. Since the existence of the arbitration clause is evident from a perusal of the Loan Agreement, there is no impediment to constituting an arbitral tribunal for adjudicating the disputes between the parties, as mandated in terms of the judgments of the Supreme Court in ***SBI General Insurance Co. Ltd. v. Krish Spinning***, 2024 INSC 532 and ***Interplay between Arbitration Agreements under the Arbitration & Conciliation Act, 1996 & the Indian***



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Stamp Act, 1899, In re, 2023 SCC OnLine SC 1666.

11. Further, in terms of the judgments of the Supreme Court in ***Perkins Eastman Architects DPC v. HSCC (India) Ltd*** (2020) 20 SCC 760, ***TRF Limited v. Energo Engineering Projects Ltd***, (2017) 8 SCC 377 and ***Bharat Broadband Network Limited v. United Telecoms Limited***, 2019 SCC OnLine SC 547, it is incumbent on this Court to appoint an independent sole arbitrator to adjudicate the disputes between the parties.

12. Accordingly, Mr. Abhinav Garg, Advocate (Mob.: 9810196968) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

13. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties requisite disclosures as required under Section 12 of the A&C Act.

14. The learned Sole Arbitrator shall be entitled to fee in accordance with IVth Schedule to the A&C Act; or as may otherwise be agreed to between the parties and the learned Sole Arbitrator.

15. The parties shall share the arbitrator's fee and arbitral costs, equally.

16. 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.

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

The present petition stands disposed of in the above terms

SACHIN DATTA, J

DECEMBER 23, 2024