

ORDER

OCD-9

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION

ORIGINAL SIDE

AP-COM/149/2025

BENITA INDUSTRIES LIMITED & ANR.
VERSUS
SREI EQUIPMENT FINANCE LIMITED

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 27th February, 2025.

Appearance:

Mr. SirsanyaBandopadhyay, Advocate
Mr. Soham Kr. Roy, Advocate
Mr. Rahul Kr.Singh, Advocate
Mr. Subhajit Das, Advocate
... for the petitioners.

Mr. Swatarup Banerjee, Advocate
Mr. AvishekGuha, Advocate
Sk. SarifulHaque, Advocate
Mr. A. Majumdar, Advocate
Mr. Adipta Kr. Pandit, Advocate
. . . for the respondent.

- 1.This is an application for appointment of a learned Arbitrator, to arbitrate upon the disputes between the borrowers and the lender.
- 2.The petitioner company availed of a financial assistance of Rs.4,90,00,000/- from the respondent. An agreement was executed on March 5, 2020. The petitioner company also pledged assets worth

Rs.5.782 crores to secure the said loan. The petitioner no.2 is the guarantor.

3. According to the petitioner, disputes arose when the respondent issued a notice to the petitioner no.1 on October 7, 2022 intimating the petitioner that an amount of Rs.3,68,76,338/- was due and payable by the petitioner no.1 under the said agreement. By a notice dated 18th December, 2024 the respondent also intimated to the petitioner no.2 that an amount of Rs.17.26 crores was due and payable by the petitioners under the agreement, including other charges.
4. Thus, the petitioner being apprehensive that coercive measures may be taken by the respondent, approached this Court by filing the instant application.
5. On being, prima facie, satisfied that the respondent had a claim although the quantification of the claim was not gone into by the Court, this Court directed that some payment should be made towards the dues.
6. The petitioner has invoked arbitration by issuing a notice dated December 26, 2024. The existence of the arbitration clause is not in dispute. The fact that the dispute is alive is also available from the records. The merits of the claim of the respondent are not to be gone into by this Court, in this proceeding. The contentions of the petitioner that, the amount claimed by the respondent was incorrect, erroneous and the result of miscalculation, are also not to be decided by this Court.
7. All issues are left open to be decided by the learned Arbitrator.

8. The application is disposed of by appointing Hon'ble Justice Debasish Kar Gupta, former Chief Justice of this Court as learned Arbitrator, to arbitrate upon the disputes between the parties. This order is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996.
9. The learned Arbitrator shall fix his remuneration in terms of the Schedule of the Act.
10. AP-COM/149/2025 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)