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

+ **ARB.P. 201/2025**

MONEYWISE FINANCIAL SERVICES PRIVATE LIMITED

.....Petitioner

Through: Ms. Mehvish Khan, Advocate.

versus

**SHREE PUSHP TRADERS THROUGH ITS PROPRIETOR AND
ORS**

.....Respondents

Through:

**CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL**

**ORDER
28.02.2025**

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1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 ('**A&C Act**'), seeking appointment of the Sole Arbitrator for the adjudication of disputes between the parties arising out of the '*Loan Agreement*' dated 30th March 2023, executed between the parties.
2. It is stated that the Arbitration Clause is contained in *Clause 8.2* of the said agreement, with the seat of arbitration being '*Delhi*' and as per *Clause 7.1* the exclusive jurisdiction of the Courts in '*Delhi*'. The arbitration clauses are extracted as under:



8.2. **Arbitration:** Any disputes, differences, controversies and questions directly or indirectly arising at any time hereafter between the Parties or their respective representatives or assigns, arising out of or in connection with this Agreement (or the subject matter of this Agreement), including, without limitation, any question regarding its existence, validity, interpretation, construction, performance, enforcement, rights and liabilities of the Parties, or termination ("Dispute"), shall be referred to a sole arbitrator duly appointed by the Lender. The language of the arbitration shall be English. The seat of the arbitration shall be at New Delhi and the language of proceedings shall be English. The award rendered shall be in writing and shall set out the reasons for the arbitrator's decision. The costs and expenses of the arbitration shall be borne equally by each Party, with each Party paying for its own fees and costs including attorney fees, except as may be determined by the arbitration tribunal. Any award by the arbitration tribunal shall be final and binding.

7.1. This Agreement shall be governed by and construed and enforced in accordance with the laws of India, without regard to its principles of conflict of laws. The Parties agree to submit to the

exclusive jurisdiction of the courts in Delhi, alone.

3. Notice of invocation was sent on 19th October 2024, which has not been responded to.
4. Despite the respondents being served, no one appears on behalf of respondent. As per the service report received from the Registry, it noted that email sent by the Registry has been served on the respondents. The affidavit of service filed by petitioner also notes that service has been affected through email, WhatsApp, Speed Post and courier.
5. The Supreme Court in *Fugro Survey (India) (P) Ltd. v. Ramunia International Services Ltd.* (2012) 10 SCC 752 and *Suprema Inc. v. 4G Identity Solutions (P) Ltd.* (2015) 13 SCC 122, and this Court in, *Energy Efficient Services Ltd. v. Merry Gold Enterprises* 2023 SCC OnLine Del 2365 and *Aditya Birla Finance Ltd. v. Anjali Nag* 2024 SCC OnLine Del 2568, in similar situations, where the respondents did not appear before the Courts despite issuance of notice and service being affected upon them, proceeded *ex-parte* against such respondents and appointed the arbitrator.
6. Upon a conspectus of the averments contained in the petition and the submissions made, this Court is of the opinion that there is a valid and



subsisting arbitration agreement between the parties, within the territorial jurisdiction of this Court, the disputes stated to have arisen between the parties do not appear *ex facie* to be non-arbitrable.

7. Considering the aforesaid, the petition is allowed. The following directions are issued:

- i) *Ms. Gauhar Mirza*, Advocate (Mob. No. 9891826085) 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 ('**DIAC**'). The remuneration of the Arbitrator shall be as per DIAC schedule.
- iii) The Sole Arbitrator is requested to furnish a declaration in terms of Section 12 of the A&C Act prior to entering into the reference.
- iv) It is made clear that all the rights and contentions of the parties, including the arbitrability/maintainability of any of the claim, any other preliminary objection, as well as claims on merits of the dispute by either of the parties are left open for adjudication by the Sole Arbitrator.
- v) The parties shall approach the Sole Arbitrator within two weeks from today.

8. Accordingly, the petition is disposed of.

9. Order be uploaded on the website of this Court.

ANISH DAYAL, J

FEBRUARY 28, 2025/RK/tk