



\$~17

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

+ **ARB.P. 512/2025**

RED FORT CAPITAL FINANCE COMPANY PVT. LTD.

.....Petitioner

Through: Mr. Asav Rajan, Mr. Akash Saxena,
Ms. Kashish Chadha, Mr. Devang
Shrotriya, Advs.

versus

IND AGIV COMMERCE LIMITED & ORS.

.....Respondents

Through: Mr. Jatin Sapra, Mr. S.M. Arif, Advs.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **19.05.2025**

1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an arbitrator to adjudicate the disputes between the parties, arising out of a Facility Agreement dated 28.11.2022.
2. Pursuant to the said Agreement, the petitioner granted a term loan facility of Rs.3,30,00,000/- for working capital to Respondent No. 1.
3. The loan was to be repaid in monthly installments of Rs.8,55,131/- over a period of 60 months, with an interest rate of 18.95% per annum.
4. Respondent No. 1 is the principal borrower and respondent Nos. 2, 3 and 4 are personal guarantors and respondent No. 5 is the corporate guarantor. All the said respondents have signed the said Agreement in their above-mentioned respective capacities.
5. The said Agreement contains an arbitration clause, being Clause No. 26, which reads as under:



“26. ARBITRATION

Any dispute or difference or claims that arises between the Parties or any of them concerning the Loan/Facility Documents or any condition herein contained or as to the rights, duties or liabilities of Parties hereto or any of them either during the continuance of the Loan/Transaction Documents or after termination or purported termination hereof shall be referred to the sole arbitrator to be appointed by the Lender. In the event the Sole Arbitrator by any reason doesn't attend the dispute, the matter shall be referred to the panel of 3 arbitrators to be appointed in accordance with the Arbitration and Conciliation Act, 1996. The venue of the arbitration shall be at Delhi at the sole discretion of the Lender and the arbitration proceedings shall be conducted in English language. The parties agree and confirm that the arbitration proceedings shall be conducted in accordance with the Arbitration and Conciliation Act, 1996, as amended from time to time. It is agreed between the Parties, hereto that nothing contained in Section 17 of Arbitration & Conciliation Act, 1996, shall in any way, affect the right of any of Lender or preclude the Parties Lender to/ from seek / seeking such interim relief /s in any Court of competent jurisdiction, including interim relief under section 9 of the Arbitration & Conciliation Act, 1996, and the rules framed thereunder. The award of the Arbitrator shall be a written award and shall be final, conclusive & binding on all the Parties whether on question of law or of fact. Notwithstanding anything contained hereinabove, in the event of any law being made or amended so as to bring Lender under the SARFESI Act or the ORT Act, or any other special legislation to enable Lender to enforce the security under the SARF AESI Act or proceed to recover dues from the Borrower and/or Obligors under the ORT Act, Lender shall be entitled at its sole discretion to initiate such additional / parallel actions as it deems fit.



When any Dispute occurs and is under arbitration, except for the matters under dispute, the Parties shall continue to exercise their remaining respective rights, and fulfil their remaining respective duties and obligations, under this Agreement.”

6. Since there were disputes between the parties, the petitioner invoked arbitration *vide* legal notice dated 28.01.2025 and thereafter, filed the present petition.
7. Mr. Sapra, learned counsel appears on behalf of respondent Nos. 1, 3 and 5 and has not filed a reply.
8. Respondent Nos. 2 and 4 have been served at the physical address given in the mortgage deed and respondent No. 4 has also been served on the WhatsApp number given on his Aadhar Card.
9. Since there is no dispute regarding the arbitration agreement, this Court is of the view that the disputes between the parties have to be adjudicated through the arbitral mechanism.
10. For the said reasons, the petition is allowed and the following directions are issued:-
 - i. Mr. Justice G.S. Sistani (Retired Judge Delhi High Court) (Mob. No. 9871300034) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
 - ii. The arbitration will be held under the aegis and rules 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.
11. The present petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

MAY 19, 2025/sp

[Click here to check corrigendum, if any](#)