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

+ **ARB.P. 595/2023 & I.A. 6930/2024**

M/S INTEC CAPITAL LTD.

.....Petitioner

Through: Mr. Pranav Goyal, Ms. Pooja
Chaudhary, Advocates

versus

M/S HG RETAIL SOLUTION PVT LTD & ORSRespondents

Through: Mr. Sharan Mehta, Ms. Rishika Jain,
Advocates

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

03.03.2025

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1. This is a petition under Section 11(6) of the Arbitration & Conciliation Act for appointment of an Arbitrator to adjudicate upon the disputes which have arisen between the parties under the loan agreement dated 29.06.2012.
2. Material on record discloses that the Petitioner disbursed loan to Respondent No.1. It is stated that since the Respondents defaulted in repayment, a demand notice for recovery of Rs.81,63,577/- was issued by the Petitioner on 28.05.2015 and an Arbitrator was appointed by the Petitioner on 07.01.2016 to adjudicate upon the disputes between the parties.
3. An Award was passed on 01.06.2016. The Award is challenged by the Respondent by filing a petition under Section 34 of the Arbitration & Conciliation Act before the competent court and the Award was set aside on



29.04.2019. A review was filed by the Petitioner which was dismissed on 22.02.2022.

4. A fresh notice under Section 21 of the Arbitration & Conciliation Act was issued by the Petitioner on 05.04.2023. The issue as to whether 29.04.2019 is to be taken as *terminus quo* for calculating limitation or whether limitation should be taken from 22.02.2022, whether the petition was filed within limitation or not and whether the time taken in review should be excluded or not are all issues to be decided by the Arbitrator.

5. In the opinion of this Court, the present case would not come within the four corners of 'dead claim' at this stage while referring a dispute to arbitration as laid down by the Apex Court in SBI General Insurance Co. Ltd v. Krish Spinning, (2024) SCC OnLine SC 1754. Since the *mantra* is 'when in doubt, refer' (refer to :- Vidya Drolia v. Durga Trading Corpn., (2021) 2 SCC 1), this Court is inclined to appoint an Arbitrator to adjudicate upon the disputes between the parties.

6. It is pertinent to mention that the Award has been primarily set aside on the ground that proper service was not effected on the Respondents and therefore the issues have not been decided, the arbitration has to start *de novo*.

7. Accordingly, Justice Talwant Singh, Former Judge of this Court (Mob: 9910384653) is appointed as the Sole Arbitrator to adjudicate upon the disputes between the parties.

8. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC) and would abide by its rules and regulations. The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.



9. The learned Arbitrator is also requested to file the requisite disclosure under Section 12(2) of the Arbitration & Conciliation Act within a week of entering on reference.
10. 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.
11. This Court is not making any observation either on the limitation or the arbitrability of the disputes between the parties to the arbitration.
12. Needless to say, nothing in this order shall be construed as an expression of this Court on the merits of the contentions of the parties.
13. The present petition stands disposed of in the above terms along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

MARCH 03, 2025

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