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

+ **ARB.P. 949/2025**

LENSWAP TECHNOLOGY PRIVATE LIMITEDPetitioner

Through: Mr. Raghav Sethi and Mr. Nitin Chaturvedi, Advocates.

versus

SAFETY TRADERS PRIVATE LIMITEDRespondent

Through: Mr. Shreyan Das and Mr. Vaibhav Luthra, Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

02.09.2025

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1. This petition is filed on behalf of the Petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996 ('1996 Act') for appointment of Arbitrator.
2. Disputes between the parties emanate from a Memorandum of Understanding (MoU) executed between them on 27.05.2024 for complete acquisition of the Respondent, including equity and Net Owned Funds worth approximately Rs.5.34 crores. On 29.07.2024, Millworks FZCO, on behalf of the Petitioner company, executed a Master Service Agreement with a firm by the name of Manish Kumar Mishra & Associates for facilitating payments to Respondent's shareholders as part of token consideration under the MoU.
3. It is averred that Petitioner undertook substantial compliance measures to align the Respondent with regulatory platforms such as CIBIL,



NESL, CKYC, CERSAI and FIU-IND between June, 2024 to January, 2025 and huge expenditure was incurred on legal, financial and technical consultations during this period. Petitioner informed the Respondent on 24.01.2025 about an infusion of Rs.2.6 crores by its majority shareholder Millworks FZCO so as to meet the net worth criteria under RBI norms for NBFC operations. Petitioner avers that Respondent illegally and abruptly claimed expiry of MoU's exclusivity period and conveyed withdrawal from the transaction on 27.01.2025. Disputes having arisen, Petitioner sent notice invoking arbitration under Section 21 of the 1996 Act on 24.04.2025, nominating a senior counsel as its Arbitrator. Notice was delivered to the Respondent and in its reply dated 01.05.2025, Respondent denied that any arbitrable disputes arose between the parties.

4. Learned counsel for the Respondent opposes the petition on the ground that this Court lacks territorial jurisdiction to entertain the petition inasmuch as the agreement in question was executed at Kanpur, U.P. and notarized in Gurugram, Haryana. The second objection is that the MoU containing the arbitration agreement is unstamped.

5. Learned counsel for the Petitioner, on the other hand, submits that this Court has the territorial jurisdiction to entertain this petition since the arbitration clause provides that the arbitral proceedings will be held at New Delhi to the exclusion of all jurisdictions. Insofar as the objection that MoU is unstamped is concerned, it is urged that this is an issue which is in the domain of the Arbitrator and may not be decided by this Court under Section 11 of the 1996 Act.

6. Heard counsels for the parties.

7. Insofar as the objection of territorial jurisdiction is concerned, in my



view, the same lacks merit. Perusal of the arbitration clause 8 in the MoU shows that parties agreed that arbitration proceedings shall be held in New Delhi only, to the exclusion of all other jurisdictions. Therefore, the venue of arbitration was Delhi and there is no contrary *indicia* in the arbitration agreement. In **BGS SGS SOMA JV v. NHPC Limited, (2020) 4 SCC 234**, the Supreme Court held that where there is designation of venue, the same will be treated as juridical seat, in the absence of any contrary *indicia* in the arbitration clause. The fact that parties intended Delhi to be the seat of arbitration is strengthened from the words '*New Delhi only to the exclusion of all jurisdictions*' in the arbitration clause. Therefore, this Court has territorial jurisdiction to entertain this petition.

8. Coming to the second objection that MoU is unstamped, as rightly flagged by counsel for the Respondent, this issue will be determined by the Arbitrator. The Supreme Court in **Interplay Between Arbitration Agreements under Arbitration and Conciliation Act, 1996 and Stamp Act, 1899, In Re, (2024) 6 SCC 1**, held that: (a) agreements which are not stamped or inadequately stamped are inadmissible in evidence under Section 35 of the Stamp Act, 1899 but are not rendered void or void ab initio or unenforceable; (b) non-stamping or inadequate stamping is a curable defect; (c) an objection as to stamping does not fall for determination under Sections 8 or 11 of the 1996 Act as the concerned Court must examine whether arbitration agreement *prima facie* exists; and (d) any objection in relation to stamping of agreement falls within the ambit of the Arbitral Tribunal. In paragraph 185 of the judgment, the Supreme Court has observed that the nature of objections to the jurisdiction of an Arbitral Tribunal on the basis that stamp duty has not been paid or is inadequate is



such that it cannot be decided on *prima facie* basis. Objections of this kind will require a detailed consideration of evidence and submissions and a finding as to the law as well as facts. Obligating the Court to decide issues of stamping at the stage of Section 8 or Section 11 of the 1996 Act will defeat the legislative intent underlying the Arbitration Act. Further, in ***SBI General Insurance Co. Ltd. v. Krish Spinning, 2024 SCC OnLine SC 1754***, the Supreme Court has held that the jurisdiction of a referral Court at the stage of appointment of Arbitrator, in light of the judgment in ***Re: Interplay (supra)***, is limited to scrutiny of existence of arbitration agreement and nothing else. All other aspects such as *ex facie* time barred claims, accord and satisfaction etc. have to be left for adjudication by the Arbitral Tribunal. While so observing, the Supreme Court also took note of the judgment in ***Vidya Drolia and Others v. Durga Trading Corporation, (2021) 2 SCC 1*** and clarified that in light of the judgment of the seven-Judge Bench in ***Re: Interplay (supra)***, the scope of referral Court was limited and the scope of inquiry was to see the existence of arbitration agreement and whether the petition under Section 11(6) was barred by limitation. Consequently, the second objection is also bereft of merit and untenable in law.

9. For all the aforesaid reasons, the objections raised by the Respondent are rejected and this petition is allowed appointing Mr. Justice P.K. Bhasin, former Judge of this Court, (Mobile No.9871300032) as Sole Arbitrator to adjudicate the disputes between the parties. Arbitral proceedings will be held under the aegis of Delhi International Arbitration Centre ('DIAC'). Fee of the Arbitrator shall be fixed as per fee schedule under DIAC (Administrative Cost & Arbitrators' Fees) Rules 2018.



10. Learned Arbitrator shall give disclosure under Section 12 of the 1996 Act before entering upon reference.
11. It is made clear that this Court has not expressed any opinion on the merits of the case and all rights and contentions of the respective parties are left open. It is left open to the Respondent to raise the issue of the MoU being unstamped before the learned Arbitrator.
12. Petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

SEPTEMBER 2, 2025
Ch/shivam