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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 1216/2024**

AXIS FINANCE LIMITEDPetitioner
Through: **Mr. Raveesh Thukral, Adv.**

versus

ADITYA ALOK DOKANIA AND ORSRespondents
Through: **None**

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
24.03.2025

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1. This is a petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator for adjudication of disputes pending between the parties.
2. Pursuant to the Facility Agreement dated 26.08.2020, the petitioner sanctioned a loan of Rs. 6,94,205 to the respondents.
3. Since the respondents failed to repay the loan amount, the petitioner invoked arbitration *vide* legal notice dated 07.02.2024. Hence the present petition.
4. The Facility Agreement contained arbitration clause being Clause 28 which reads as under:

“28. JURISDICTION & DISPUTE RESOLUTION

(a) The Terms of Facility shall be governed by the laws of India and shall be subject to the exclusive jurisdiction of courts and tribunals in Mumbai and / or Delhi, to settle any disputes, which may arise out of, or in connection with, this Indenture and that, accordingly, any



legal action, suit or proceedings arising out of, or in connection with, the Terms of Facility may be brought in those courts and tribunals and the Borrower irrevocably submits to and accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of those courts and tribunals.

(b)

(c) Notwithstanding sub-clause (a) above, the Lender may, at its option, choose to settle any disputes which may arise out of or in connection with this Agreement by referring the same to arbitration in accordance with the (Indian) Arbitration and Conciliation Act, 1996 as amended from time to time. The arbitral tribunal shall comprise of a sole arbitrator appointed by the Lender. The arbitration shall be held at Mumbai and / or Delhi, as may be determined by the Lender and the proceedings of such arbitration shall be conducted in English. The Parties hereby agree that the decision of the arbitrators shall be final and binding. The Parties hereby also agree that the cost of the arbitration proceeding shall be borne by the parties in accordance with the directions of the Arbitrator

(d) Without prejudice to the generality of the clause, the lender shall have the right to seek remedies under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, as applicable, and/or the Recovery of Debts and Bankruptcy Act, 1993 (DRT Act) in the event the legal status of the Lender changes or the law is amended or made to enable the Lender to proceed to recover dues from the Borrower under the DRT Act, in



relation to its rights under the Finance Documents. Provided, however, that neither any such change in legal status of Lender nor change in law referred to hereinabove, shall invalidate an existing award passed by the arbitral tribunal pursuant to sub-clause (b) above.”

5. Respondent No. 1 is the Managing Director and guarantor. On 19.02.2025, the respondent was permitted to serve through *dasti* process. As per the affidavit of service, respondent No. 1 has been served through *dasti* process and acknowledgment is on record. The photograph of service has also been filed.

6. Respondent No. 2 is also served through respondent No. 1. However, respondent Nos. 3 and 4 are not served.

7. Mr. Thukral, learned counsel for the petitioner states that he restricts referring of disputes between the petitioner and the respondent Nos. 1 and 2 to arbitration.

8. I am satisfied that the respondent Nos. 1 and 2 are served and despite service, there is nobody appearing on behalf of the respondent Nos. 1 and 2.

9. As there are disputes pending between the petitioner and the respondent Nos. 1 and 2, the petition is allowed and the following directions are issued:-

- i) Ms. Vrinda Kapoor, Adv. (Mob. No. 9899024387) 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 (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.
10. The present petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

MARCH 24, 2025/DM

Click here to check corrigendum, if any