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

+ **ARB.P. 1243/2024**

TATA CAPITAL LTD

.....Petitioner

Through: Mr. Rajat Katyal, Mr. Harsh Sinha,
Ms. Ruchika and Mr. Sparsh Agarwal, Advocates.

versus

**UNITECH ENGINEERS THROUGH ITS PARTNER RATISH
CHANDRA AND ORS.**

.....Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

20.05.2025

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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') seeking appointment of a Sole Arbitrator to adjudicate the disputes between the parties.

2. Notice was issued to the Respondents by the Court on 12.08.2024, returnable on 26.09.2024. Fresh notice was issued on 26.09.2024 for 28.11.2024, on which date the Court recorded that as per Office Report, Respondents were served through Speed Post, though service report *qua* other modes was awaited. Thereafter, fresh notice was again issued on 06.02.2025 through all permissible modes, including *dasti*, returnable on 30.04.2025. On the adjourned date, the Court found that as per office noting, Respondents No. 1 to 3 had refused to accept service, which is deemed



service in law. Nonetheless, adverse orders were deferred against the Respondents despite their non-appearance, making it clear that if Respondents chose to remain absent on 20.05.2025, Court will proceed in their absence. None appears for the Respondents even on the second call and they are accordingly set *ex parte*.

3. As averred in the petition, Respondents approached the Petitioner for a Loan Facility for financing a business loan, which was sanctioned by the Petitioner and in furtherance thereof, Respondents executed a Loan-cum-Hypothecation Agreement with the Petitioner and a Loan Facility of Rs. 35,00,000/- was extended to the Respondents vide Loan Agreement dated 09.05.2023. Respondents, however, defaulted in making payment of the dues and Petitioner was constrained to recall the loan vide notice dated 12.04.2024 and to call upon them for paying the outstanding amounts. However, the loan was not repaid and Petitioner invoked the Arbitration Clause vide notice dated 04.05.2024 proposing three names of the Arbitrators, out of which one could be appointed as a Sole Arbitrator with the consent of the parties but there was no response from the Respondents.

4. Heard learned counsel for the Petitioner.

5. The Loan Agreement incorporates an Arbitration Clause for adjudication of disputes, differences or claims arising between the parties pertaining to Loan Facility. Respondents have chosen to remain absent in the present proceedings and/or respond to invocation notice sent by the Petitioner on 04.05.2024, proof of delivery of which is appended to the petition. Since there is existence of Arbitration Clause, this Court finds no impediment in appointing the Sole Arbitrator.



6. Accordingly, Coordinator, Delhi International Arbitration Centre ('DIAC') is requested to appoint a Sole Arbitrator to adjudicate the disputes between the parties. Arbitral proceedings will be held under the aegis of DIAC and as per its Rules. Fee of the Arbitrator shall be as per fee schedule of DIAC (Administrative Cost & Arbitrators' Fees) Rules 2018.
7. Learned Arbitrator shall give disclosure under Section 12 of the 1996 Act before entering upon reference.
8. 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.
9. Petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

MAY 20, 2025/RW