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

\+ ARB.P. 1205/2025

M/S MAXEMO CAPITAL SERVICES PRIVATE LIMITED .....Petitioner

Through: Mr. Rohit Goel and Mr. Mithlesh Jha, Advocates.

versus

M/S GULSHAN EXIM PRIVATE LIMITED .....Respondent

Through: None.

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\+ ARB.P. 1210/2025

M/S MAXEMO CAPITAL SERVICES PRIVATE LIMITED .....Petitioner

Through: Mr. Rohit Goel and Mr. Mithlesh Jha, Advocates.

versus

SH. VINIT MANGLA, PROPRIETOR OF M/S V.N.EXPORTS .....Respondent

Through: None.

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\+ ARB.P. 1211/2025

M/S MAXEMO CAPITAL SERVICES PRIVATE LIMITED .....Petitioner

Through: Mr. Rohit Goel and Mr. Mithlesh Jha, Advocates.

versus

SH. RAJESH KUMAR AGGARWAL @ RAJESH AGGARWAL

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.....Respondent

Through: None.

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\+ ARB.P. 1213/2025

M/S MAXEMO CAPITAL SERVICES PRIVATE LIMITED

.....Petitioner

Through: Mr. Rohit Goel and Mr. Mithlesh Jha, Advocates.

versus

SH. DINESH KUAMR BABBER .....Respondent

Through: None.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

<u>O R D E R</u>

% **09.09.2025**

1. These petitions are filed on behalf of the Petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996 ('1996 Act') seeking appointment of an Arbitrator to adjudicate the disputes between the parties.

<u>ARB.P. 1205/2025</u>

2. As per the Petitioner, which is a Non-Banking Finance Company, on 24.03.2025, Respondent through its Directors approached the Petitioner and sought a loan facility of Rs. 45 lakhs, which was sanctioned and a formal Loan Agreement was executed between the parties. Subsequently, Petitioner advanced a business loan of Rs. 45 lakhs to the Respondent for a period of 12 months. At the time of disbursement of business loan, Directors of the Respondent, namely, Mr. Ravinder Kumar, Mr. Ashok Kumar and Mr. Gulshan Kumar stood Guarantors and also entered into an Agreement dated

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24.03.2025 with the Petitioner agreeing to all terms and conditions of loan. Petitioner avers that Respondent eventually started making defaults in repayment of loan amount and despite repeated requests of the Petitioner, Respondent failed to repay the loan amount. As per the Petitioner, as on 21.06.2025, outstanding amount towards the Petitioner is Rs. 49,50,720/-. Since the Loan Agreement contained Article 16, which is an arbitration agreement, Petitioner sent invocation notice on 24.06.2025 calling upon the Respondent to concur with appointment of the Sole Arbitrator, however, again there was no response by the Respondent and hence, the present petition has been filed.

<u>ARB.P. 1210/2025</u>

3. As per the Petitioner, on 22.12.2023, Respondent approached the Petitioner and sought a loan facility of Rs. 20 lakhs against Raw Material Finance (RMF), which was sanctioned and a formal Loan Agreement was executed between the parties. Subsequently, Petitioner advanced a loan of Rs. 20 lakhs to the Respondent for a period of 12 months. At the time of disbursement of loan, Smt. Pooja Mangla, wife of the Respondent stood Guarantor and also entered into an Agreement dated 23.12.2023 with the Petitioner agreeing to all terms and conditions of loan. Petitioner avers that Respondent eventually started making defaults in repayment of loan amount and despite repeated requests of the Petitioner, Respondent failed to repay the loan amount. As per the Petitioner, as on 24.06.2025, outstanding amount towards the Petitioner is Rs. 20 lakhs excluding interest. Since the Loan Agreement contained Article 16, which is an arbitration agreement, Petitioner sent invocation notice on 24.06.2025 calling upon the Respondent to concur with appointment of the Sole Arbitrator, however, again there was

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no response by the Respondent and hence, the present petition has been filed.

ARB.P. 1211/2025

4. As per the Petitioner, on 02.09.2023, Respondent approached the Petitioner and sought a loan facility of Rs. 20 lakhs against Raw Material Finance (RMF), which was sanctioned and a formal Loan Agreement was executed between the parties. Subsequently, Petitioner advanced a loan of Rs. 20 lakhs to the Respondent for a period of 12 months. At the time of disbursement of loan, Respondent entered into an Agreement dated 02.09.2023 with the Petitioner agreeing to all terms and conditions of loan. Petitioner avers that Respondent eventually started making defaults in repayment of loan amount and despite repeated requests of the Petitioner, Respondent failed to repay the loan amount. As per the Petitioner, as on 27.02.2025, outstanding amount towards the Petitioner is Rs. 14,67,050/- excluding interest. Since the Loan Agreement contained Article 16, which is an arbitration agreement, Petitioner sent invocation notice on 24.06.2025 calling upon the Respondent to concur with appointment of the Sole Arbitrator, however, again there was no response by the Respondent and hence, the present petition has been filed.

ARB.P. 1213/2025

5. As per the Petitioner, Respondent approached the Petitioner and sought a loan facility of Rs. 25 lakhs, which was sanctioned and a formal Loan Agreement was executed between the parties on 04.10.2024. The loan was repayable within 24 months commencing from 05.11.2024. Petitioner avers that Respondent eventually started making defaults in repayment of loan amount and despite repeated requests of the Petitioner, Respondent

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failed to repay the loan amount. As on 24.06.2025, outstanding amount towards the Petitioner is Rs. 20,50,155/- excluding interest. Since the Loan Agreement contained Article 16, which is an arbitration agreement, Petitioner sent invocation notice on 24.06.2025 calling upon the Respondent to concur with appointment of the Sole Arbitrator, however, again there was no response by the Respondent and hence, the present petition has been filed.

6. Notices were issued to the Respondents on 12.08.2025 and 13.08.2025 in ARB.P. 1205/2025 and ARB.P. 1210/2025, ARB.P. 1211/2025 and ARB.P. 1213/2025 respectively, through all permissible modes, returnable on 09.09.2025. Affidavits of service have been filed by the Petitioner, as per which, Respondents are served through electronic mode on e-mail IDs taken from loan documents. None appears for the Respondents on the second call. None appeared on the first call. It appears that Respondents are not interested in contesting the petitions and are accordingly set *ex parte.*

7. Loan Agreements between the parties contain arbitration clause being Article 16, whereby parties agreed that disputes arising out of or in connection with the Loan Agreements shall be referred for adjudication by Sole Arbitrator appointed by the Lender. Notices invoking arbitration have been sent to the Respondents, which have been duly served. Article 16 in Loan Agreements, which is an arbitration agreement, is extracted hereunder, for ease of reference:-

> *"**ARTICLE 16: ARBITRATION***
>
> *This Loan Documents is/shall be governed by Indian laws and the Courts at New Delhi shall have exclusive jurisdiction relating to any matter/issue under or pursuant to the Loan Documents. Notwithstanding anything to*

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the contrary, if any dispute/disagreement/differences ("Dispute") arise between the Parties (including any Borrower(s)) during the subsistence of the Loan Documents and/or thereafter, in connection with, inter alia, the validity, interpretation, implementation and/or alleged breach of any provision of the Loan Documents, jurisdiction or existence/appointment of the arbitrator or of any nature whatsoever, then, the Dispute shall be referred to a sole arbitrator, who shall be appointed by M/S. Maxemo Capital Services Private Limited only. In any circumstance, the appointment of the sole arbitrator by M/S. Maxemo Capital Services Private Limited shall be and shall always deemed to be the sole means for securing the appointment/nomination of the sole arbitrator, without recourse to any other alternative mode of appointment of the sole arbitrator. The place of the arbitration shall be New Delhi or such other place as may be notified by M/S. Maxemo Capital Services Private Limited and the arbitration proceedings shall be governed by the Arbitration & Conciliation Act, 1996 (or any statutory re-enactment thereof, for the time being in force) and shall be in the English language. The award shall be binding on the Parties subject to the applicable laws in force and the award shall be enforceable in any competent court of law."

8. Learned counsel for the Petitioner fairly concedes that in light of the judgments of the Supreme Court in ***Perkins Eastman Architects DPC and Another v. HSCC (India) Limited, (2020) 20 SCC 760*** and ***Central Organisation for Railway Electrification v. ECI SPIC SMO MCML (JV) A Joint Venture Company, (2025) 4 SCC 641,*** the Petitioner as a lender cannot unilaterally appoint an Arbitrator and therefore, this Court may appoint an Arbitrator in these petitions.

9. In light of the judgment of the Supreme Court in ***SBI General Insurance Co. Ltd. v. Krish Spinning, 2024 SCC OnLine SC 1754***, these petitions are allowed, appointing Mr. Sakal Bhushan, Advocate (Mobile No. 9871066557) as the Sole Arbitrator to adjudicate the disputes between the parties. The references in these petitions will be treated as separate references. Fee of the Arbitrator shall be fixed as per Fourth Schedule of 1996 Act.

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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.

12. Petitions are disposed of in the aforesaid terms.

JYOTI SINGH, J

SEPTEMBER 9, 2025
S.Sharma

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