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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **O.M.P.(I) (COMM.) 292/2024, I.A. 48784/2024, I.A. 3703/2025**

ADITYA BIRLA FINANCE LIMITED

.....Petitioner

Through: Mr. Ravi Gupta, Sr. Advocate with
Mr. Mahip Datta, Mr. Aman
Vashisht, Ms. Muskan Mehta and Ms.
Shrey Sharma, Advocates.

versus

GREEN TECH STAR & ORS.

.....Respondents

Through: Mr. Sarvesh Singh, Advocate for
respondent Nos. 1, 2 and 3.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

04.03.2025

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1. By way of present petition filed under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the 'A&C Act'), the petitioner seeks interim directions.
2. Vide sanction letter dated 02.08.2023, the petitioner sanctioned an amount of Rs.3,00,00,000/- in favour of respondent No.1 wherein respondent No. 3 stood as a guarantor. In pursuance of the same, the petitioner and respondent No.1 entered into a Facility Agreement dated 14.08.2023, alongwith other loan documents. Clause 11.8 of the Agreement provides for resolution of disputes by reference to Arbitral Tribunal comprising of a Sole Arbitrator. It also stipulates Delhi as the place of arbitration.

Moreover, petitioner and respondent No.1 executed a Deed of



Guarantee dated 16.08.2023, Clause 25 whereof provides for reference of disputes to arbitration.

3. Disputes having arisen between the parties, the petitioner invoked the arbitration vide notice dated 26.06.2024 against all the respondents in terms of Clause 11.8 of the aforesaid Loan Facility Agreement and Clause 25 of the aforesaid Deed of Guarantee.

4. Notably, present petition came up for consideration on 02.09.2024, when noting the facts therein, the respondent was directed to maintain balance of at least Rs. 3,03,01,108.57/- cumulatively in the two mentioned bank accounts of respondent No. 3. Later, on 12.02.2025, learned counsel for the respondents submitted that respondent No.2 had paid a sum of Rs.33,43,660/- towards outstanding payments.

5. Learned counsels for the parties, on instructions, submits that the petitioner and answering respondents have no objection if the present petition is treated as one under Section 17 of the A&C Act and further prays that the arbitration having been invoked, the Court may appoint an independent neutral Arbitrator.

6. At this stage, Mr. Gupta, learned Senior Counsel for the petitioner submits that the respondents have also preferred an application under Order XXXIX Rule 4 CPC, whereby in paragraph 12, respondent No.2 has stated that certain insurance claims are pending and undertakes to inform the Court as and when any claim is received.

7. Considering that the petitioner has already invoked arbitration and the no objection given on behalf of respondent Nos. 1, 2 and 3, present petition is disposed of with the following directions:-

i) The disputes between the parties under the said agreement are referred



to the Arbitral Tribunal.

ii) Mr. Justice A. K. Chawla, former Judge at High Court of Delhi (Mob: 9910384636) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

iii) 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'). The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018 or as the parties may agree.

iv) The learned Arbitrators shall 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 on the existence and validity of the Arbitration agreement, arbitrability of any of the claim/counter claim, any other preliminary objection, need and legality of interim relief, as well as contentions on merits of the dispute by either of the parties, are left open for adjudication by the learned arbitrator.

vi) Present petition filed under Section 9 of the A&C Act is treated as an application under Section 17 of the Act which shall be considered by the Arbitral Tribunal so constituted.

vii) The parties shall approach the learned Arbitrators within two weeks from today.

MANOJ KUMAR OHRI, J

MARCH 4, 2025

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