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

+ **ARB.P. 1265/2025**

Date of Decision: **12.09.2025**

IN THE MATTER OF:

91 SPRINGBOARD BUSINESS HUB PRIVATE LIMITED
REGISTERED OFFICE AT: E-3, RANI JHANSI ROAD,
JHANDEWALAN ESTATE,
NEW DELHI-110055

.....PETITIONER

Through: Mr. Sagar Shivam Jaiswal and Mr.
Adnan Hussain, Advocates.

Versus

RCPL LOGISTICS PRIVATE LIMITED
REGD. ADDRESS AT:
B-151 OKHLA INDUSTRIAL AREA,
OKHLA PHASE 1, DELHI - 110020

..... RESPONDENT

Through: Mr. Gaurav Puri, Advocate.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (*the 1996 Act*) by the petitioner, seeking appointment of an Arbitrator, to adjudicate upon the disputes that have arisen between the parties under the Membership Agreement dated



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18.09.2020 with addendum dated 12.10.2021 (*the agreement*).

2. The facts of the case would indicate that the respondent had availed the services of co-working space of petitioner with the intent to utilize petitioner's co-working space based at "*Godrej & Boyce, Gate 2, Plant 6, LBS Marg, Opp. Vikhroli Bus Depot, Vikhroli West, Godrej & Boyce Industry Estate, Mumbai*", in pursuance of which, the agreement was executed by the parties. Under the agreement there existed a mandatory lock-in period clause for 12 months from the date of its commencement. the said lock in period was extended for a further period of 12 months during which period, the respondent was obligated to make monthly payments to the petitioner. However, the respondent is said to have breached these obligations, culminating in the present petition.

3. A legal notice under Section 21 of the 1996 Act was issued by the petitioner to the respondent on 01.07.2025 invoking arbitration under clause 17 of the agreement.

4. Learned counsel for the respondent has filed formal objections and has raised various pleas, however, during the course of arguments, he submits that leaving all questions open the Arbitrator can be appointed.

5. Heard learned counsel appearing on behalf of the parties.

6. The Court takes note of clause 17 of the agreement, which is extracted below, for reference:-

"17. MISCELLANEOUS

a. Changes in terms and conditions: 91 Springboard reserves the right to update the terms and conditions as provided in this Terms and Conditions at any time and the same shall be informed to the Member Entity via email.

b. Invalidity: In the event that any provision or portion of this Terms and



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Conditions is determined to be invalid, illegal, or unenforceable for any reason, in whole or in part, the remaining provisions shall be unaffected and shall remain in full force and effect to the fullest extent permitted by the law.

c. Notice: Any notice intended to be given by any Party hereto to the other Party shall be deemed to be properly and validly given only if it is delivered or sent by email provided by such other Party. If the email is sent before 5:00 pm on a working day, the date of such day would be considered as the date of delivery of the notice. However, if such notice is sent after 5:00 pm, it would be deemed to be delivered on the next working day. Any Party may deliver any notice through any means of delivery or by Registered Post, with acknowledgement, or Speed Post, with acknowledgement, at the addresses given in the preamble, as far as it is coupled with an email as mentioned above.

d. Entire Arrangement: This Terms of Offer constitutes the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes all previous communications, negotiations, commitments, either oral or written between 91 Springboard and Member Entity.

e. Governing Law & Jurisdiction: The governing law of this Terms of Offer shall be the law of India. Subject to the dispute resolution clause below, the courts of New Delhi, India shall have jurisdiction over any dispute arising hereunder.

f. Dispute Resolution: Any dispute arising out of or in connection with this Terms of Offer which is not resolved within 21 (Twenty-One) days after the service of a notice by a Party on the other, including any question regarding its existence, validity or termination shall be referred to and finally resolved through arbitration by a sole arbitrator nominated mutually by both parties under the Arbitration and Conciliation Act, 1996 and other applicable provisions thereof. In the event the parties are not able to mutually appoint one arbitrator within 5 days from the commencement of discussion to this effect, each party would appoint one arbitrator who will in-turn appoint a third arbitrator who would be the chairperson of the tribunal thus constituted. The arbitration proceedings shall be in the English language and shall be held in New Delhi. The arbitration award shall be final and binding on the Parties.

g. Costs: Each party shall bear its own legal costs relating to the preparation, negotiation and execution of this Terms of Offer.

h. Counterparts: This Terms of Offer may be executed by the parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

i. Further assurances: The Member Entity shall, at its own expense, from



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time to time execute all such documents and do all such acts and things as 91 Springboard may reasonably require for the purpose of carrying out the purpose and intention of this Terms of Offer.

j. Publicity: The Member Entity shall not issue any media release or post on social media in respect of this Terms of Offer, its contents or 91 Springboard without the prior written consent of 91 Springboard. 91 Springboard shall be provided a draft of the media release or social media post by the Member Entity for review and approval prior to release.

k. Third Parties: Other than as permitted under this Terms of Offer, a person or entity who is not a party has no rights to enforce any term of this Terms of Offer.

l. No waiver: No failure or delay by 91 Springboard to exercise any right, power or remedy shall operate as a waiver of it nor shall any partial exercise preclude any further exercise of any right, power or remedy, or of some other right, power or remedy.”

7. The law with respect to the scope and standard of judicial scrutiny under Section 11(6) of the 1996 Act has been fairly well settled. This Court in ***Pradhaan Air Express Pvt Ltd v. Air Works India Engineering Pvt Ltd***¹, as well, has extensively dealt with the scope of interference at the stage of adjudication under Section 11 of the 1996 Act. Furthermore, this Court, recently, in ***Axis Finance Limited Vs. Mr. Agam Ishwar Trimbak***² has held that the scope of inquiry under Section 11 of the 1996 Act has been limited to a *prima facie* examination of the *existence* of an arbitration agreement. Further, it was also reiterated that the Objections relating to the arbitrability of disputes are not to be entertained by a referral Court acting under Section 8 or 11 of the 1996 Act. The relevant extract of the aforesaid decision reads as under: -

19. In In Re: Interplay , the Supreme Court confined the analysis under Section 11 of the Act to the existence of an arbitration agreement and under Section 8 of the Act to the existence and validity of an arbitration

¹ 2025 SCC OnLine Del 3022

² 2025:DHC:7477



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agreement. Under both the provisions, examination was to be made at the touchstone of Section 7 of the Act. Further, issues pertaining to the arbitrability of the dispute fell outside the scope of both Section 11(6A) and Section 8 of the Act. The material part of the judgement of the Supreme Court in *In Re: Interplay* reads as under:

164. The 2015 Amendment Act has laid down different parameters for judicial review under Section 8 and Section 11. Where Section 8 requires the referral Court to look into the *prima facie* existence of a valid arbitration agreement. Section 11 confines the Court's jurisdiction to the examination of the existence of an arbitration agreement. Although the object and purpose behind both Sections 8 and 11 is to compel parties to abide by their contractual understanding, the scope of power of the referral Courts under the said provisions is intended to be different. The same is also evident from the fact that Section 37 of the Arbitration Act allows an appeal from the order of an arbitral tribunal refusing to refer the parties to arbitration under Section 8, but not from Section 11. Thus, the 2015 Amendment Act has legislatively overruled the dictum of *Patel Engineering* (*supra*) where it was held that Section 8 and Section 11 are complementary in nature. Accordingly, the two provisions cannot be read as laying down a similar standard. 165. The legislature confined the scope of reference under Section 11(6A) to the examination of the existence of an arbitration agreement. The use of the term "examination" in itself connotes that the scope of the power is limited to a *prima facie* determination. Since the Arbitration Act is a self-contained code, the requirement of "existence" of an arbitration agreement draws effect from Section 7 of the Arbitration Act. In *Duro Felguera* (*supra*), this Court held that the referral Courts only need to consider one aspect to determine the existence of an arbitration agreement – whether the underlying contract contains an arbitration agreement which provides for arbitration pertaining to the disputes which have arisen between the parties to the agreement. Therefore, the scope of examination under Section 11(6A) should be confined to the existence of an arbitration agreement on the basis of Section 7. Similarly, the validity of an arbitration agreement, in view of Section 7, should be restricted to the requirement of formal validity such as the requirement that the agreement be in writing. This interpretation also gives true effect to the doctrine of competence-competence by leaving the issue of substantive existence and validity of an arbitration agreement to be decided by arbitral tribunal under Section 16. We accordingly clarify the position of law laid down in *Vidya Drolia* (*supra*) in



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the context of Section 8 and Section 11 of the Arbitration Act. 166. The burden of proving the existence of arbitration agreement generally lies on the party seeking to rely on such agreement. In jurisdictions such as India, which accept the doctrine of competencecompetence, only prima facie proof of the existence of an arbitration agreement must be adduced before the referral Court. The referral Court is not the appropriate forum to conduct a minitrial by allowing the parties to adduce the evidence in regard to the existence or validity of an arbitration agreement. The determination of the existence and validity of an arbitration agreement on the basis of evidence ought to be left to the arbitral tribunal. This position of law can also be gauged from the plain language of the statute. 167. Section 11(6A) uses the expression “examination of the existence of an arbitration agreement.” The purport of using the word “examination” connotes that the legislature intends that the referral Court has to inspect or scrutinize the dealings between the parties for the existence of an arbitration agreement. Moreover, the expression “examination” does not connote or imply a laborious or contested inquiry. On the other hand, Section 16 provides that the arbitral tribunal can “rule” on its jurisdiction, including the existence and validity of an arbitration agreement. A “ruling” connotes adjudication of disputes after admitting evidence from the parties. Therefore, it is evident that the referral Court is only required to examine the existence of arbitration agreements, whereas the arbitral tribunal ought to rule on its jurisdiction, including the issues pertaining to the existence and validity of an arbitration agreement. A similar view was adopted by this Court in *Shin-Etsu Chemical Co. Ltd. v. Aksh Optifibre Ltd.*” [Emphasis supplied]

20. The effect of *In Re: Interplay* was further explained by a Three Judge Bench of the Supreme Court in *SBI General Insurance Co. Ltd. v. Krish Spinning*³ wherein the Court declared *Vidya Drolia* and *NTPC Ltd.*’s findings qua scope of inquiry under Section 8 and Section 11 of the Act to no longer be compatible with modern principles of arbitration. The material portions of the judgement read as under:

“114. In view of the observations made by this Court in *In Re : Interplay* (supra), it is clear that the scope of enquiry at the stage of appointment of arbitrator is limited to the scrutiny of prima facie existence of the arbitration agreement, and nothing else. For this reason, we find it difficult to hold that the observations

³ 2024 SCC OnLine SC 1754



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made in *Vidya Drolia* (supra) and adopted in *NTPC v. SPML* (supra) that the jurisdiction of the referral Court when dealing with the issue of “accord and satisfaction” under Section 11 extends to weeding out ex-facie non-arbitrable and frivolous disputes would continue to apply despite the subsequent decision in *In Re : Interplay* (supra). ... 118. Tests like the “eye of the needle” and “ex-facie meritless”, although try to minimise the extent of judicial interference, yet they require the referral Court to examine contested facts and appreciate prima facie evidence (however limited the scope of enquiry may be) and thus are not in conformity with the principles of modern arbitration which place arbitral autonomy and judicial non-interference on the highest pedestal.” [Emphasis supplied]

21. Similarly, in *BGM and M-RPL-JMCT (JV) v. Eastern Coalfields Ltd*⁴ the Supreme Court succinctly explained the effect of *In Re: Interplay* on a Referral Court’s powers under Section 11 of the Act. The relevant part of the judgement is as under:

15. ...

(a) Section 11 confines the Court’s jurisdiction to the examination regarding the existence of an arbitration agreement.

(b) The use of the term “examination” in itself connotes that the scope of the power is limited to a prima facie determination.

(c) Referral Courts only need to consider one aspect to determine the existence of an arbitration agreement — whether the underlying contract contains an arbitration agreement which provides for arbitration pertaining to the disputes which have arisen between the parties to the agreement. Therefore, the scope of examination under Section 11(6-A) should be confined to the existence of an arbitration agreement on the basis of Section 7. Such a legal approach will help the Referral Court in weeding out prima facie non-existent arbitration agreements.

(d) The purport of using the word “examination” connotes that the legislature intends that the Referral Court has to inspect or scrutinise the dealings between the parties for the existence of an arbitration agreement. However, the expression “examination” does not connote or imply a laborious or contested inquiry.

(e) The burden of proving the existence of arbitration agreement generally lies on the party seeking to rely on such agreement. Only prima facie proof of the existence of an arbitration

⁴ 2025 SCC OnLine SC 1471



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agreement must be adduced before the Referral Court. The Referral Court is not the appropriate forum to conduct a mini-trial by allowing the parties to adduce the evidence in regard to the existence or validity of an arbitration agreement. The determination of the existence and validity of an arbitration agreement on the basis of evidence ought to be left to the Arbitral Tribunal.

(f) Section 16 provides that the Arbitral Tribunal can “rule” on its jurisdiction, including the existence and validity of an arbitration agreement. A “ruling” connotes adjudication of disputes after admitting evidence from the parties. Therefore, when the Referral Court renders a prima facie opinion, neither the Arbitral Tribunal, nor the Court enforcing the arbitral award is bound by such a prima facie view. If a prima facie view as to the existence of an arbitration agreement is taken by the Referral Court, it still allows the Arbitral Tribunal to examine the issue in depth.

[Emphasis supplied]

22. Thus from the above-mentioned authorities it is clear that a Court’s scope of inquiry under Section 11 of the Act has been limited to a prima facie examination of the existence of an arbitration agreement while the adjudication under Section 8 is to be made for both existence and validity. Further, the examination so undertaken under both the said provisions must be within the confines of Section 7 of the Act. Objections relating to arbitrability of disputes are not to be entertained by a referral Court acting under Section 8 or 11 of the Act.”

8. In view of the fact that disputes have arisen between the parties and there is an arbitration clause in the contract, this Court directs the matter to be sent to matter be sent to DIAC for nomination/appointment of the Arbitrator.

9. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC) and would abide by its rules and regulations. The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.

10. The learned arbitrator is also requested to file the requisite disclosure



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under Section 12 (2) of the 1996 Act within a week of entering on reference.

11. The registry is directed to send a receipt of this order to the learned arbitrator through all permissible modes, including through e-mail.

12. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.

13. Needless to say, nothing in this order shall be construed as an expression of opinion of this Court on the merits of the controversy between the parties. Let the copy of the said order be sent to the Arbitrator through the electronic mode as well.

14. Accordingly, the instant petition stands disposed of.

PURUSHAINdra KUMAR KAURAV, J

SEPTEMBER 12, 2025

Nc/amg