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

+ **ARB.P. 1456/2025**

SHEFASTEQ (OPC) PVT LTD

.....Petitioner

Through: Mr. Saurabh Seth, Ms. Sonia Dube,
Ms. Neelampreet Kaur, Mr. Tanishq
Sharma, Mr. Abhiroop Rathore, Mr.
Kabir Dev & Mr. Sukhvir Singh,
Advs.

versus

BLU-SMART FLEET PVT LTD & ORS.

.....Respondents

Through: Mr. Naresh Kaushik Sr. Adv. with
Mr. Vardhman Kaushik & Mr.
Arindam Sarin, Advs.
Mr Naresh Kaushik, Senior Advocate
with Mr. Vardhman Kaushik, Mr
Arindam Sarin, Advocates for R-3

+ **O.M.P.(I) (COMM.) 164/2025**

SHEFASTEQ (OPC) PVT LTD

.....Petitioner

Through: Mr. Saurabh Seth, Ms. Sonia Dube,
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with Mr. Vardhman Kaushik, Mr
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CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER
18.12.2025

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ARB.P. 1456/2025 & I.A. 23839/2025 & I.A. 30331/2025 in O.M.P.(I)
(COMM.)-164/2025

1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 by the Petitioner seeking appointment of an Arbitrator to adjudicate upon the disputes which have arisen between the parties under the Vehicle Lease Agreement and Service Agreement dated 27.11.2024.
2. Material on record indicates that the Petitioner entered into a Vehicle Lease Agreement dated 27.11.2024 with the Respondent No.1 for leasing 10 Tata Tigor Electronic vehicles and Service Agreement dated 27.11.2024 with Respondent No.2 for facilitation, procurement and delivery of the said vehicles. It is the case of the Petitioner that both the agreements are integrated agreements. It is stated that the disputes arose between the disputes regarding non-payment by the Respondent No. 1 and non-delivery by the Respondent No. 2 as per the foregoing Agreements.
3. A petition under Section 9 of the Arbitration and Conciliation Act, 1996 has also been filed for interim protection with the following prayers:-

“a. direct Respondent No. 3 (Go Auto Pvt. Ltd.) to forthwith hand over the physical possession of the 10 Tata Tigor XM electric cars (EVs) to the Petitioner, and permit the Petitioner to take custody and charge of the said EVs, subject to further orders of this Hon'ble Court;



In the alternative to prayer (a), direct the Respondents (jointly or severally) to deposit a sum off 1.24 Crore with the Registrar of this Hon'ble Court, being the amount paid by the Petitioner towards procurement of the 10 Tata Tigor EV s under the Lease Agreement and Services Agreement both dated 27.11.2024, so as to secure the Petitioner's claim for restitution of the said amount;

b. pass appropriate directions to Respondent No. 1 to continue paying the monthly lease rentals in terms of the Vehicle Lease Agreement dated 27.11.2024 along with applicable GST to the Petitioner pending the arbitration proceedings;

c. restrain all the Respondents, by an order of prohibitory injunction, from in any manner selling, transferring, alienating, assigning, encumbering, or creating any third-party rights or interest in respect of the aforesaid 10 Tata Tigor XM electric cars which form the subject matter of „the Agreements dated 27.11.2024, or from transferring/disposing the funds earmarked for their purchase - so that the corpus of 10 EVs (or their value) is preserved intact for the Petitioner;

d. pass ex-parte ad-interim orders in terms of prayers (a), (b) and (c) above, to safeguard the Petitioner's rights without any further delay.

e. pass any other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, to secure the ends of justice, including but not limited to directions for police assistance or appointment of a local commissioner (if required) to take possession of the EVs, etc.”

4. A notice dated 21.07.2025 under Section 21 of the Arbitration and



Conciliation Act, 1996 was sent by the Petitioner to the Respondents invoking Arbitration and claiming a sum of Rs. 2,80,00,721/- which according to the Petitioner is due and payable by the Respondents. The same has been replied to by the Respondent No.3 on 16.08.2025. Clause 9.5 of the said Agreements indicates that the venue of arbitration shall be at Delhi.

5. Without adjudicating the issue raised in the petition under Section 9 of the Arbitration and Conciliation Act, 1996, this Court gave a suggestion to learned Counsels for the Parties as to whether an Arbitrator can be appointed to settle the disputes between the parties and the petition under Section 9 can be treated as one filed under Section 17 of the Arbitration and Conciliation Act, 1996. It is also stated that the proceedings under the CIRP have been initiated by the Respondent Nos.1 and 2 and a Resolution Professional has been appointed.

6. Mr. Naresh Kaushik, learned Senior Advocate enters appearance on behalf of the Respondent No.3.

7. Learned Counsel for the Respondent No.3 states that he is not a signatory party or have taken part in any negotiations.

8. The Apex Court in Adavya Projects (P) Ltd. v. Vishal Structurals (P) Ltd., (2025) 9 SCC 686, had referred all the parties to Arbitration and had left it on the parties to make their submission before the learned Arbitrator as to whether the non-signatories to the Agreement would be an integral part of the arbitration proceedings or not. In the present case, this Court directs the parties to make appropriate application before the learned Arbitrator to decide as to whether the non-signatories to the Arbitration or not.

“37. As briefly stated above, the determination of who is a party to the arbitration agreement falls within the



domain of the Arbitral Tribunal as per Section 16 ACA. Section 16 embodies the doctrine of kompetenz-kompetenz i.e. that the Arbitral Tribunal can determine its own jurisdiction. The provision is inclusive and covers all jurisdictional questions, including the existence and validity of the arbitration agreement, who is a party to the arbitration agreement, and the scope of disputes referable to arbitration under the agreement. [Uttarakhand Purv Sainik Kalyan Nigam Ltd. v. Northern Coal Field Ltd., (2020) 2 SCC 455, para 7.11 : (2020) 1 SCC (Civ) 570; Cox & Kings Ltd. v. SAP (India) (P) Ltd., (2024) 4 SCC 1, para 163 : (2024) 2 SCC (Civ) 1 : (2024) 251 Comp Cas 680 (Chandrachud, J.); Ajay Madhusudan Patel v. Jyotrindra S. Patel, (2025) 2 SCC 147, para 75 : (2025) 1 SCC (Civ) 154.] Considering that the Arbitral Tribunal's power to make an award that binds the parties is derived from the arbitration agreement, these jurisdictional issues must necessarily be decided through an interpretation of the arbitration agreement itself. Therefore, the Arbitral Tribunal's jurisdiction must be determined against the touchstone of the arbitration agreement.

56. Finally, in light of the requirement under Section 7 ACA that the arbitration agreement must be in writing, the mutual intention of non-signatories to be bound by the arbitration agreement must be evidenced in writing. The non-signatory's conduct in the formation, performance, and termination of the contract, and surrounding circumstances like direct relationship with signatory parties, commonality of subject-matter, and composite nature of transaction must be ascertained from the record of the agreement, as held in Cox & Kings [Cox & Kings Ltd. v. SAP (India) (P) Ltd., (2024) 4 SCC 1 : (2024) 2 SCC (Civ) 1 : (2024) 251 Comp Cas 680] : (SCC pp. 113-14, paras 229-30)



“229. Since the fundamental issue before the Court or tribunal under Section 7(4)(b) and the Group of Companies doctrine is the same, the doctrine can be subsumed within Section 7(4)(b). Consequently, the record of agreement that evidences conduct of the non-signatory in the formation, performance, and termination of the contract and surrounding circumstances such as its direct relationship with the signatory parties, commonality of subject-matter, and composite nature of transaction, must be comprehensively used to ascertain the existence of the arbitration agreement with the non-signatory. In this inquiry, the fact of a non-signatory being a part of the same group of companies will strengthen its conclusion. In this light, there is no difficulty in applying the Group of Companies doctrine as it would be statutorily anchored in Section 7 of the Act.

230.1. An agreement to refer disputes to arbitration must be in a written form, as against an oral agreement, but need not be signed by the parties. Under Section 7(4)(b), a court or Arbitral Tribunal will determine whether a non-signatory is a party to an arbitration agreement by interpreting the express language employed by the parties in the record of agreement, coupled with surrounding circumstances of the formation, performance, and discharge of the contract. While interpreting and constructing the contract, courts or tribunals may adopt well-established principles, which aid and assist proper adjudication and determination. The Group of Companies doctrine is one such principle.”



(emphasis in original)

60.3. The relevant consideration to determine whether a person can be made a party before the Arbitral Tribunal is if such a person is a party to the arbitration agreement. The Arbitral Tribunal must determine this jurisdictional issue in an application under Section 16 by examining whether a non-signatory is a party to the arbitration agreement as per Section 7 ACA.”

9. Keeping in line with the decision of Adavya Projects (supra) and without going into the question as to whether the Respondent No.3 is a necessary party or not, this Court is inclined to appoint an Arbitrator to take a decision as to whether the Respondent No. 3 is a non-signatory to the arbitration and would he be a necessary party or not and whether the arbitration can proceed further as Respondent Nos. 1 and 2 are undergoing the CIRP proceedings under the IBC.

10. In view of the fact that disputes have arisen between the parties and the stand taken by both the parties, this Court is inclined to appoint an Arbitrator to adjudicate upon the disputes between the parties.

11. Accordingly, Mr. Navin Kumar (Mob. No: 9958893564) is appointed as the Sole Arbitrator to adjudicate upon the disputes between the parties.

12. 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.

13. The learned Arbitrator is also requested to file the requisite disclosure under Section 12(2) of the 1996 Act within two weeks of entering on



reference.

14. The Arbitrator is requested to consider the present petition filed under Section 9 of the Arbitration and Conciliation Act, 1996 as one filed under Section 17 of the Arbitration and Conciliation Act, 1996 and decide the same in accordance with law, preferably within two weeks from entering the reference and also for the Arbitrator to first take a decision as to whether the Respondent No.3 will be a party available for arbitration proceedings or not.

15. 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.

16. Without making any observation on the merits of the case and nature of the claims of the parties and the fact as to whether the Respondent No.3 is a necessary party or not, both the petitions are disposed of.

17. The petitions stands disposed of in the above terms, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

DECEMBER 18, 2025

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