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

+ **ARB.P. 1570/2025**

POWER2SME PRIVATE LIMITED AND ORSPetitioners

Through: Mr. Pankaj Bhagat and Mr. Devesh
Khandelwal, Advs.

versus

IMMACULATE AGRO SPICES PVT LTD AND ORS

.....Respondents

Through: Mr. Aljo K Joseph and Mr. Ankita
Kutthi, Advs. for R-1 and 2

+ **ARB.P. 1572/2025**

POWER2SME PRIVATE LIMITED AND ANR.Petitioners

Through: Mr. Pankaj Bhagat and Mr. Devesh
Khandelwal, Advs.

versus

GENUINE SPICES AND ORS

.....Respondents

Through: Mr. Aljo K Joseph and Mr. Ankita
Kutthi, Advs. for R-1, 2 and 3

+ **ARB.P. 1573/2025**

POWER2SME PRIVATE LIMITED AND ANRPetitioners

Through: Mr. Pankaj Bhagat and Mr. Devesh
Khandelwal, Advs.

versus

M/S KANJIRAVELIL TRADERS AND ORS

.....Respondents

Through: Mr. Aljo K Joseph and Mr. Ankita
Kutthi, Advs. for R-1 and 2



CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER
04.11.2025

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1. The present petitions have been filed under Section 11(5) read with 11(6) of the Arbitration and Conciliation Act, 1996 by the Petitioners seeking appointment of an Arbitrator to adjudicate upon the disputes which have arisen between the Parties under a Credit Facility Agreement dated 05.03.2025 and Material Supply Agreement dated 29.07.2021.
2. Since disputes arose between the parties, the Petitioners invoked arbitration by issuing notice under Section 21 of the Arbitration and Conciliation Act, 1996 to the Respondents on 13.03.2025 calling upon the Respondents for repayment of the dues and had suggested three names for the appointment of an Arbitrator to adjudicate upon the disputes.
3. Clause 16 of the Credit Facility Agreement and Clause 29 of the Material Supply Agreement, which contain an arbitration clause, reads as under:

Clause 16 of the Credit Facility Agreement

“16. GOVERNING RESOLUTION LAW AND DISPUTE

16.1 This Agreement shall be governed in accordance with the applicable laws of India, for the time being in force.

16.2 All disputes, differences and/or claims, arising out of this Agreement, whether during its subsistence or thereafter, shall be settled by arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 or any other statutory modification or re-



enactment for the time being in force and shall be conducted by a sole arbitrator to be appointed by Auriolus. In the event of incapacity or resignation or death of the sole arbitrator so appointed, Auriolus shall be entitled to appoint another arbitrator in place of the earlier arbitrator, and the proceedings shall continue from the stage at which the predecessor had left.

16.3 The award given by the arbitrator shall be final and binding on the Parties to this Agreement. The cost of the Arbitration shall be borne with by the Parties, in accordance with the award passed by the Arbitrator.

16.4 The venue of arbitration shall be New Delhi and the proceedings shall be conducted in English language.”

Clause 29 of the Material Supply Agreement

29. Governing Law and Dispute Resolution:

i. This Agreement shall be governed in accordance with the applicable laws of India, for the time being in force.

ii. All disputes, differences and/or claims, arising out of this Agreement, whether during its subsistence or thereafter, shall be settled by arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 or any other statutory modification or re-enactment for the time being in force and shall be conducted by a sole arbitrator to be appointed jointly by the Parties. In the event of incapacity or resignation or death of the sole arbitrator so appointed, Parties shall appoint another arbitrator in place of the earlier arbitrator, and the proceedings shall continue from the



stage at which the predecessor had left.

iii. The award given by the arbitrator shall be final and binding on Parties to this Agreement. The cost of the Arbitration shall be borne with by the Parties, in accordance with the award passed by the Arbitrator.

iv. The venue of arbitration shall be New Delhi and the proceedings shall be conducted in English language.”

4. The foregoing arbitration clause indicates that the venue of the arbitration shall be New Delhi.

5. Learned Counsel for the Petitioner states that in the Notice dated 13.03.2025, the Petitioners had suggested three names to the Respondents for appointment of an Arbitrator and since no response was received from the Respondents, the present petition has been filed seeking appointment of an Arbitrator.

6. Material on record indicates that a Suit has been filed by the Respondents against the Petitioners under the Commercial Courts Act, 2015 at Ernakulam, Kerala. In the said Suit, the Petitioners have moved an application under Section 8 of the Arbitration and Conciliation Act, 1996, which is pending.

7. Be that as it may, since the Parties have entered into Agreements which contain arbitration clause, the fact that a Suit is pending and in that Suit an application under Section 8 is pending, is not an impediment for this Court to refer the present disputes between the Parties to arbitration.

8. In view of the fact that disputes have arisen between the Parties and all the petitions deal with the same transaction, and the Agreements contain an arbitration clause, this Court is inclined to appoint an Arbitrator to



adjudicate upon the disputes between the parties.

9. Accordingly, Ms. Tamali Wad, Senior Advocate, (Mob. No. 9810025306) is appointed as the Arbitrator to adjudicate upon the disputes between the Parties.

10. 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.

11. The learned Arbitrator is also requested to file the requisite disclosure under Section 12(2) of the Arbitration Act within a week of entering on reference.

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 this Court on the merits of the contentions of the parties.

14. The present petitions stand disposed of in the above terms along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

NOVEMBER 4, 2025

S. Zakir