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

+ **ARB.P. 1777/2024**

TATA CAPITAL LIMITED

.....Petitioner

Through: Mr. Nachiketa Suri and Mr. Raj
Kumar, Advocates.

versus

JAISHREE SALES AND SERVICES & ORS.

.....Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

09.07.2025

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1. This petition is 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.

2. As per the office note and the affidavit of service filed by the Petitioner, Respondents have been duly served. None appeared on the first call and none appears even on second call. It appears that Respondents are not interested in contesting the present petition.

3. It is the case of the Petitioner that Petitioner sanctioned a business loan in the sum of Rs. 15 lacs vide sanction letter dated 30.01.2019 in favour of the Respondents, which was to be repaid in 36 instalments, each of Rs. 55,174/-, payable by the second of every calendar month. In the meantime, at the request of the Respondents and as also approved by the Petitioner, the said loan was restructured and the numbers of installments were increased



from 36 to 57 and the amount of EMI was also reduced. Respondents, however, failed to adhere to the payments schedule and stopped paying the EMIs from 02.04.2022. Demand notice was sent by the Petitioner on 17.08.2024 to pay the outstanding dues, but there was no response and as on 17.08.2024, when the demand notice was sent, the outstanding amount was Rs. 16,86,168/-. The Loan Agreement contains an arbitration clause and Petitioner invoked the same vide notice dated 13.09.2024, however, despite service of the notice, Respondents neither repaid the outstanding amount nor agreed to the appointment of the Arbitrator.

4. Loan Agreement between the parties contains Clause 19, whereby parties agreed to refer disputes, differences or claims arising in connection with the Loan Agreement to arbitration to be held in Mumbai/Delhi/Kolkata/Chennai, as may be decided by the lender. Clause 19 is extracted hereunder, for ease of reference:-

“19. DISPUTE RESOLUTION, GOVERNING LAW AND JURISDICTION

19.1 If any dispute, difference or claim arises between the Obligors and the Lender in connection with the Facility or the security or as to the interpretation, validity, implementation or effect of the Facility Documents or as to the rights and liabilities of the parties under the Facility Documents or alleged breach of the Facility Documents or anything done or omitted to be done pursuant to the Facility Documents, the same shall be settled by arbitration to be held in Mumbai/Delhi/Kolkata/Chennai as may be decided by the Lender in accordance with the Arbitration and Conciliation Act, 1996, or any statutory amendments thereto and shall be referred to a sole arbitrator to be appointed by the Lender. The award of the arbitrator shall be final and binding on all parties concerned.”

5. Respondents have consciously chosen not to contest the petition and the arbitration clause is undisputed. In light of the judgment of the Supreme Court in ***SBI General Insurance Co. Ltd. v. Krish Spinning, 2024 SCC***



OnLine SC 1754, the Referral Court is only required to examine the existence of the arbitration agreement between the parties as also whether the petition is barred by limitation. Therefore, there is no impediment in appointment of the Arbitrator as envisaged in Clause 19 incorporated in the Loan Agreement.

6. Accordingly, learned Coordinator, Delhi International Arbitration Centre ('DIAC') is requested to take steps towards appointment of a Sole Arbitrator to adjudicate the disputes between the parties. Arbitral proceedings will be held under the aegis of DIAC and as per its Rules. Fee of the Arbitrator shall be as per fee schedule of DIAC (Administrative Cost & Arbitrators' Fees) Rules 2018.

7. Learned Arbitrator shall give disclosure under Section 12 of the 1996 Act before entering upon reference.

8. 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.

9. Petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

JULY 09, 2025/YA