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

+ **ARB.P. 1978/2024**

Date of Decision: **08.05.2025**

**IN THE MATTER OF:**

CARS 24 FINANCIAL SERVICES PRIVATE LIMITED

.....Petitioner

Through: Mr. Rit Arora, Advocate.

versus

SHAIK RAHMAN PROPRIETOR OF M/S RAHMAN CARS &  
ANR.

.....Respondents

Through:

**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

**JUDGEMENT**

**PURUSHAINDRA KUMAR KAURAV, J. (ORAL)**

1. Affidavit of service reads as under:-

*"1. That I am the Advocate for the petitioner company in the present matter and am well conversant with the facts of the present case and competent to file this affidavit.*

*2. That I state that the deponent has served the copy of the notice along with the copy of the petition upon the Respondents through speed post on their last known and available addresses and the same has returned with remarks "item returned addressee left without instructions". That the same are deemed to be served. The proof of service by post has been annexed herewith.*

*3. That I state that the deponent has served the copy of the notice along with the copy of the petition upon the*



*Respondent no.1 and 2 at their Whatsapp +91 8143220410, and on the Email address of Respondents i.e. rahmanshaikcars@gmail.com . The proof of service has already been annexed herewith. The email has not bounced back.*

*4. That I state that the Respondents have been duly served.”*

2. It is submitted by the learned counsel that the email and whatsapp number on which notice was additionally sent are forming the part of the agreement. In view thereof, the Court proceeds to decide the matter.

3. The facts of the case indicate that the petitioner that it is a Private Limited Company and a registered Non-Banking Financial Company (NBFC) under the supervision of the Reserve Bank of India. The petitioner states that it is a wholly-owned subsidiary of *Cars24 Services Private Limited* and is engaged in offering various lending products to its customers, including credit facilities for the purchase of used/pre-owned vehicles. It is submitted that respondent No.1 is the sole proprietor of the firm *M/s Rahman Cars* and is engaged in the business of dealing in used/pre-owned cars. Respondent No.2 is stated to be a co-borrower under the relevant loan transaction and also a signatory to the Credit Facility Agreement dated 24.01.2020. The respondents, who are based in Hyderabad, are collectively referred to as "the Respondents" for the purpose of these proceedings.

4. The petitioner avers that respondent No.1, through its proprietor and jointly with Respondent No.2, approached the petitioner seeking a revolving credit facility under the UNNATI scheme for the purpose of purchasing used vehicles from *Cars24 Services Private Limited*. It is further submitted that both respondents undertook and assured the petitioner that they would abide



by the terms and conditions of the credit facility and maintain financial discipline. Relying on the representations, assurances, and financial credibility of the Respondents, the petitioner sanctioned the requested facility and a *Credit Facility Agreement* was duly executed on 24.01.2020. Pursuant to the execution of the said agreement, the petitioner disbursed funds from time to time, enabling the respondents to purchase vehicles. The credit facility was structured such that each disbursement was for a period of 60 days from the date of its respective tranche.

5. Moreover, the petitioner asserts that, at the time of execution of the agreement, the respondents had expressly assured that they would honor the terms of repayment and ensure timely settlement of all dues. However, the respondents allegedly failed to maintain the promised financial discipline, resulting in disputes between the parties regarding the default in payment obligations. Aggrieved by the default, the petitioner issued a notice dated 14.08.2024, invoking arbitration in accordance with the terms of the Credit Facility Agreement bearing no. 64855 and sought the appointment of a Sole Arbitrator. It is further stated that, as of 14.09.2024, a sum of Rs. 4,38,416/- (Rupees Four Lakhs Thirty-Eight Thousand Four Hundred and Sixteen only) remains due and payable by the respondents to the petitioner, constituting the outstanding principal and other payable amounts under the agreement. Subsequently, the instant petition was filed.

6. Clause 15.2 of the Credit Facility Agreement dated 24.01.2020 reads as under:-

***“Arbitration:*** Any dispute under this Agreement shall be settled by binding arbitration conducted in English with the



*seat of arbitration in New Delhi before a single arbitrator appointed by Lender as its sole discretion, as per the Arbitration and Conciliation Act, 1996.”*

7. The Court also considers that these two plea reference – is limited to the extent of examine as to whether there exists arbitration agreement. The review petition has been cited in the following cases.

8. 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 as well in the order dated 24.04.2025 in case of ARB.P. 145/2025 titled as ***Pradhaan Air Express Pvt Ltd v. Air Works India Engineering Pvt Ltd*** has extensively dealt with the scope of interference at the stage of Section 11. The Court held as under:-

*“9. 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. The Supreme Court in the case of **SBI General Insurance Co. Ltd. v. Krish Spinning**,<sup>1</sup> while considering all earlier pronouncements including the Constitutional Bench decision of seven judges in the case of **Interplay between Arbitration Agreements under the Arbitration & Conciliation Act, 1996 & the Indian Stamp Act, 1899, In re**<sup>2</sup> has held that scope of inquiry at the stage of appointment of an Arbitrator is limited to the extent of prima facie existence of the arbitration agreement and nothing else.*

*10. It has unequivocally been held in paragraph no.114 in the case of **SBI General Insurance Co. Ltd** that observations made in **Vidya Drolia v. Durga Trading Corpn.**,<sup>3</sup> and adopted in **NTPC Ltd. v. SPML Infra Ltd.**,<sup>4</sup> 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 not apply after the decision of **Re: Interplay**. The abovenoted paragraph no.114 in the*

<sup>1</sup> 2024 SCC OnLine SC 1754.

<sup>2</sup> 2023 SCC OnLine SC 1666.

<sup>3</sup> (2021) 2 SCC 1.

<sup>4</sup> (2023) 9 SCC 385.



case of **SBI General Insurance Co. Ltd** reads 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 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).”*

11. Ex-facie frivolity and dishonesty are the issues, which have been held to be within the scope of the Arbitral Tribunal which is equally capable of deciding upon the appreciation of evidence adduced by the parties. While considering the aforesaid pronouncements of the Supreme Court, the Supreme Court in the case of **Goqii Technologies (P) Ltd. v. Sokrati Technologies (P) Ltd.**,<sup>5</sup> however, has held that the referral Courts under Section 11 must not be misused by one party in order to force other parties to the arbitration agreement to participate in a time-consuming and costly arbitration process. Few instances have been delineated such as, the adjudication of a non-existent and malafide claim through arbitration. The Court, however, in order to balance the limited scope of judicial interference of the referral Court with the interest of the parties who might be constrained to participate in the arbitration proceedings, has held that the Arbitral Tribunal eventually may direct that the costs of the arbitration shall be borne by the party which the Arbitral Tribunal finds to have abused the process of law and caused unnecessary harassment to the other parties to the arbitration.

12. It is thus seen that the Supreme Court has deferred the adjudication of aspects relating to frivolous, non-existent and malafide claims from the referral stage till the arbitration proceedings eventually come to an end. The relevant extracts of **Goqii Technologies (P) Ltd.** reads as under:-

*“20. As observed in Krish Spg. [SBI General Insurance Co. Ltd. v. Krish Spg., (2024) 12 SCC 1 : 2024 SCC OnLine SC 1754 : 2024 INSC 532] , frivolity in litigation too is an aspect which the referral court should not decide at the stage of*

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<sup>5</sup> (2025) 2 SCC 192.



*Section 11 as the arbitrator is equally, if not more, competent to adjudicate the same.*

*21. Before we conclude, we must clarify that the limited jurisdiction of the referral courts under Section 11 must not be misused by parties in order to force other parties to the arbitration agreement to participate in a time consuming and costly arbitration process. This is possible in instances, including but not limited to, where the claimant canvasses the adjudication of non-existent and mala fide claims through arbitration.*

*22. With a view to balance the limited scope of judicial interference of the referral courts with the interests of the parties who might be constrained to participate in the arbitration proceedings, the Arbitral Tribunal may direct that the costs of the arbitration shall be borne by the party which the Tribunal ultimately finds to have abused the process of law and caused unnecessary harassment to the other party to the arbitration. Having said that, it is clarified that the aforesaid is not to be construed as a determination of the merits of the matter before us, which the Arbitral Tribunal will rightfully be equipped to determine.”*

*13. In view of the aforesaid, the scope at the stage of Section 11 proceedings is akin to the eye of the needle test and is limited to the extent of finding a prima facie existence of the arbitration agreement and nothing beyond it. The jurisdictional contours of the referral Court, as meticulously delineated under the 1996 Act and further crystallised through a consistent line of authoritative pronouncements by the Supreme Court, are unequivocally confined to a prima facie examination of the existence of an arbitration agreement. These boundaries are not merely procedural safeguards but fundamental to upholding the autonomy of the arbitral process. Any transgression beyond this limited judicial threshold would not only contravene the legislative intent enshrined in Section 8 and Section 11 of the 1996 Act but also risk undermining the sanctity and efficiency of arbitration as a preferred mode of dispute resolution. The referral Court must, therefore, exercise restraint and refrain from venturing into the merits of the dispute or adjudicating issues that fall squarely within the jurisdictional domain of the arbitral tribunal. It is thus seen that the scope of enquiry at the referral stage is conservative in nature. A similar view has also been expressed by the Supreme Court in the case of **Ajay Madhusudan Patel***



**v. Jyotrindra S. Patel<sup>6</sup>”.**

9. In view of the fact that disputes have arisen between the parties and there is an arbitration clause in the contract, this Court is inclined to appoint an Arbitrator to adjudicate upon the disputes between the parties.

10. Accordingly, Ms Ritika Meena , Advocate (mobile: 9414196072; e-mail: [Ritikam212@gmail.com](mailto:Ritikam212@gmail.com) ) is appointed as the sole Arbitrator.

11. 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.

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

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

14. 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.

15. The petition stands disposed of in the aforesaid terms.

**MAY 08, 2025**

ssc /sph

**PURUSHAINDR KUMAR KAURAV, J**

*Click here to check corrigendum, if any*

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<sup>6</sup> (2025) 2 SCC 147.