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

+ **ARB.P. 2047/2024**

ADITYA BIRLA FINANCE LIMITED

.....Petitioner

Through: **Mr. Ashwani Kumar Advocate**

versus

TIRUPATI REFRIGERATION AND ORS.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

13.02.2025

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1. This Petition has been filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator to adjudicate upon the disputes which have arisen between the parties under the Loan Agreement dated 25.10.2022 entered into between the parties.

2. Material on record indicates that the Respondents had applied for Channel Loan Facility of Rs.3,00,00,000/-. It is stated that on 19.10.2022, the Petitioner had sanctioned the said Loan Facility to the Respondents and the Agreement dated 25.10.2022 has been entered into between the parties. It is stated that on April 2023, the Respondents had applied for ad hoc limit of Rs.90,00,000/- and the same was also sanctioned on 30.04.2023. It is stated that since there is default in the manner of payment, the said loan facilities were recalled on 19.06.2024.

3. Since the disputes have arisen between the parties under the Loan Agreement dated 25.10.2022, the notice under Section 21 of the Arbitration



and Conciliation Act was issued on 27.08.2024 invoking arbitration. Since there is no response on behalf of the Respondents, the Petitioner has approached this Court by filing the instant petition for appointment of an Arbitrator.

4. Notice in the petition was issued on 17.12.2024. Service has been duly affected on the Respondents. Today there is no appearance on behalf of the Respondents.

5. Clause 11.8 of the Loan Agreement dated 25.10.2022 contains an Arbitration Clause, which reads as under:-

“All claims or disputes arising out of or in relation to this Agreement shall be settled by arbitration. The arbitration tribunal shall consist of a sole arbitrator to be appointed by the Lender. All parties to this Agreement hereby expressly consent to the Lender being the sole appointing authority. Any vacancy created in the arbitration tribunal, for any reason whatsoever, shall also be filled only by the Lender acting as the sole appointing authority. The place of arbitration shall be Delhi. Parties agree that the courts in Delhi shall have the exclusive Jurisdiction to exercise all powers under the Arbitration and Conciliation Act, 1996.”

6. Clause 11.8 of the Loan Agreement dated 25.10.2022 stipulates that the parties have decided to settle their disputes through arbitration and the seat of the arbitration shall be at Delhi and therefore, this Court has the jurisdiction to entertain the instant petition.

7. In view of the fact that the disputes have arisen between the parties under the Loan Agreement dated 25.10.2022 and said Agreement contains an Arbitration Clause, this Court is inclined to appoint Dr. Justice Bharat



Bhushan Parsoon, Former Judge of the Punjab & Haryana High Court, (Mob No. 9999688558) as the Sole Arbitrator to adjudicate upon the disputes between the parties.

8. 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.

9. The learned Arbitrator is also requested to file the requisite disclosure under Section 12(2) of the Arbitration & Conciliation Act within two weeks of entering on reference.

10. 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.

11. 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.

12. The present petition stands disposed of in the above terms along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

FEBRUARY 13, 2025

RJ