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

\+ ARB. A. (COMM.) 69/2025

LIVFIN INDIA PRIVATE LIMITED .....Petitioner

Through: Mr. Amulya Dhingra and Mr. Aashutosh Jagtap, Advs.

versus

UGRO CAPITAL LIMITED .....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% 10.12.2025

I.A. 30824/2025 (delay)

1. For the reasons stated in the application, the same stands allowed and the delay of 5 days in filing the petition stands condoned.

2. Application stands disposed of.

ARB. A. (COMM.) 69/2025

1. Heard learned counsel appearing for the appellant.

2. The appellant has assailed the impugned interim orders dated 23.08.2025 and 19.09.2025, whereby the learned Sole Arbitrator, while considering the respondent-claimant's application for interim measures, permitted conditional encashment of the fixed deposits furnished by the appellant.

3. The learned Sole Arbitrator has examined the rival submissions and material on record in the backdrop of the contractual arrangement between the parties and has recorded a *prima facie* finding that the appellant has not

been able to establish a case warranting complete restraint on encashment. Learned Sole Arbitrator has taken note of the Co-Lending Agreement dated 06.11.2022, which expressly records a First Loss Default Guarantee of 15%, and has held that the question as to whether the RBI Circular dated 08.06.2023, limiting FLDG to 5%, overrides the contractual stipulation is a mixed question of fact and law requiring detailed examination at the stage of final adjudication.

4. Learned Sole Arbitrator has further observed that once the parties have consciously agreed to a particular commercial arrangement, the issue as to the extent and manner in which subsequent regulatory guidelines would govern or supersede the agreed contractual terms cannot be conclusively determined at the interlocutory stage. In that context, the learned Sole Arbitrator has found that the balance of convenience tilts in favour of the respondent, particularly in view of the respondent having already disbursed substantial amounts and seeking only to secure its exposure pending final adjudication.

3. Accordingly, by way of interim directions, learned Sole Arbitrator has permitted encashment of the fixed deposit receipts furnished by the appellant, while at the same time protecting the appellant's interests by restricting adjustment to 15% of the defaulted amount in the account of M/s Gupta Power Infrastructure Ltd. and directing the respondent-claimant to furnish a bank guarantee for the balance amount, initially for six months and renewable till conclusion of the arbitral proceedings.

4. Furthermore, learned Sole Arbitrator has expressly clarified that these directions are subject to the final determination of the claims and counter-claims of the parties. In paragraph No.9 of the impugned order, the learned

Sole Arbitrator has issued the following directions:

> *"a. The Respondent is permitted to encash the FDRs furnished by the Claimant.*
> *b. Out of the encashed amount, the Respondent shall be entitled to adjust only 15% of the defaulted amount in the account of M/s Gupta Power Infrastructure Ltd., which works out to approximately Rs.38.50 Lacs;*
> *c. For the balance amount, the Respondent shall, within two weeks, furnish a Bank Guarantee in favour of the Claimant, initially for 6 months and further renewable till disposal of the arbitral proceedings, so that the Claimant's interests remain safeguarded.*
> *d. The above directions are subject to final adjudication of the respective claims and counter-claims in the arbitral proceedings."*

5. It is seen that the learned Sole Arbitrator has exercised discretion in a judicious and balanced manner, keeping in view the contractual terms, the regulatory framework, and the competing equities of the parties. The present appeal, in substance, seeks a re-assessment of the merits, which is impermissible within the limited contours of Section 37 of the Arbitration and Conciliation Act, 1996.

6. Accordingly, at this interlocutory stage, no case is made out for appellate interference.

7. However, it is clarified that all contentions raised by the parties in the present appeal, including the applicability and overriding effect of the RBI Circular dated 08.06.2023 vis-à-vis the contractual terms of the Co-Lending Agreement, shall remain open for consideration and adjudication at the stage of final award on the basis of evidence and material to be brought on record.

5. Needless to state that the aforesaid are the *prima facie* findings, and the final adjudication shall take place without being influenced by the same.

PURUSHAINDRA KUMAR KAURAV, J

DECEMBER 10, 2025/P/MJ