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

Date of decision: 04.05.2026

+ O.M.P.(I) (COMM.) 139/2025, I.A. 10115/2025 (Ex. From filing lengthy synopsis and list of dates) & I.A. 10855/2025 (Proposing to secure and amicably settle the dispute with the petitioner and its creditor)

ADITYA BIRLA CAPITAL LIMITEDPetitioner
Through: Mr. Rajshekhar Rao, Senior Advocate along with Ms. Amrita Narayan, Mr. Ishaan Duggal, Ms. Ruchi Goyal and Mr. Siddhant Singh, Advocates.

versus

AGS TRANSACT TECHNOLOGIES LIMITED & ORS.
.....Respondents
Through: Ms. Vasundhara Bakhru, Ms. Pallavi Pratap and Ms. Yashvi Aswani, Advocates for Respondent Nos. 2 and 3.

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

% **JUDGEMENT (ORAL)**

HARISH VAIDYANATHAN SHANKAR, J.

1. The present Petition has been instituted under Section 9 of the **Arbitration and Conciliation Act, 1996¹**, seeking the following reliefs:

¹ Act



“a. Pass an order directing the Respondent Nos. 1 to 3 to jointly and severally deposit an amount of Rs. 24,23,83,931.98/- (Rupees Twenty-Four Crores Twenty Three Lakh Eighty Three Thousand Nine Hundred and Thirty One and Ninety Eight Paise Only) with this Hon'ble Court to secure the claims and interest of the Petitioner as on the date of filing of this Petition;

b. Alternatively, direct the Respondent Nos. 1 to 3 to jointly and severally, furnish a bank guarantee from a scheduled commercial bank for an amount equivalent to the amount mentioned in prayer (a), to secure the claims and interests of the Petitioner;

amount equivalent to the amount mentioned in prayer (a), to secure the claims and interests of the Petitioner;

c. In the meantime, pending deposit of the said amount of Rs. 24,23,83,931.98 (Rupees Twenty-Four Crores Twenty Three Lakh Eighty Three Thousand Nine Hundred and Thirty One and Ninety Eight Paise Only) and/or furnishing of Bank Guarantees, as the case may be:

may be:

i. Direct the Respondent No.1 to forthwith redeposit the surplus amounts wrongly withdrawn from the Trust and Retention Account in the amount of Rs. 5.04 Crores;

ii. Restrain Respondent Nos. 1 to 3 from operating any of their bank accounts;

iii. Restrain Respondent Nos. 1 to 3, their agents and representatives from alienating, encumbering, transferring, selling, disposing off, parting with possession of or creating any third party right, title or interest of any nature whatsoever in respect of their respective immovable and movable assets, investments, entitlements, properties of any nature, in favour of any third party, including those as stated in the Net Worth Certificate dated 07.11.2022;

iv. Pass an order directing the Respondent Nos. 1 to 3 to disclose on oath all properties and investments / assets / receivables / entitlements (both movables and immovable and, in case of encumbered properties and assets, the extent of encumbrance) as at the date of execution of the Facility Agreement i.e. 28.08.2023 and as on the date of filing this Petition;

v. Pass an order directing the Respondent Nos. 1 to 3 to file bank statements from the date of the Facility

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Signing Date: 05.05.2026
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Agreement i.e. 28.08.2023 up to the date of this Petition;
and

vi. Pass ad-interim ex-parte protective orders in favour of
the Petitioner in terms of the prayers.

d. Pass such other order(s), direction(s) as deemed fit and proper in
favour of the Petitioner in the facts of the case and in the interest of
justice and equity.”

2. Material on record indicates that the Facility Agreement contemplated arbitration, and a separate Arbitration Agreement was entered into on 30.08.2023 between the Petitioner and the Respondent No. 1 to 3, containing an arbitration clause being clause 2, which reads as under:

“2. DISPUTE RESOLUTION

2.1. Any dispute/s, difference/s and/or claim/s arising out of or in connection with the Facilities or any of the Financing Documents (including any dispute(s), difference(s) and/ or claim(s) as to the construction, meaning or effect thereof or any question regarding its execution, existence, validity, enforcement, breach, performance, interpretation, implementation, termination, expiration, or the consequences of its nullity) or as to the rights and liabilities of any of the Parties in connection with the Facilities ("**Dispute**") shall be settled/ resolved by arbitration in accordance with the Arbitration and Conciliation Act, 1996, or any statutory amendments thereof and the Rules of Delhi International Arbitration Centre ("**Rules**") and by referring such dispute to the Delhi International Arbitration Centre ("**DIAC**").

2.2. The Dispute shall be referred to a sole arbitrator appointed in accordance with the with the Rules, and the sole arbitrator appointed by the DIAC must be a retired judge of the Supreme Court of India or a retired judge of a High Court. The arbitration proceedings shall be conducted in English in accordance with the DIAC Rules.

2.3. The seat and the venue of the arbitration shall be New Delhi. In the event of death, refusal, neglect, inability, or incapability of the person so appointed to act as an arbitrator, the Lenders shall appoint a new arbitrator in place of the said



arbitrator in accordance with the Rules. The award of the arbitrator shall be final and binding on all parties concerned.

2.4. Notwithstanding anything contained hereinabove, in the event the legal status of the Lenders changes or in the event of the law being made or amended so as to bring the Lenders under the Recovery of Debts and Bankruptcy Act, 1993 (the "**DRT Act**"), to enable the Lenders to proceed to recover dues from the Borrower under the DRT Act, the arbitration provisions hereinbefore contained shall, at the option of such Lenders, cease to have any effect and if arbitration proceedings are commenced but no award is made, then at the option of such Lenders such proceedings shall stand terminated from the date when such Lenders exercises such option as aforesaid. Provided that neither a change in the legal status of a Lender nor a change in law as referred to in this sub paragraph, will result in invalidating an existing award passed by an arbitral tribunal constituted pursuant to the provisions of this Agreement."

3. Learned counsel appearing on behalf of the parties are ad idem that instead of adjudication of the present Petition on merit, the disputes inter se the parties can be referred to arbitration by a Sole Arbitrator.

4. Further, the parties are also ad idem that since the Respondent No. 1 is currently undergoing CIRP proceedings, the arbitral proceedings be confined solely to the remaining parties, namely, Petitioner and Respondent Nos. 2 and 3. As respects Respondent No. 4, the same came to be deleted from the array of parties vide Order dated 23.04.2025.

5. Since the parties have mutually consented to the adjudication of their disputes by way of Arbitration and to the appointment of a Sole Arbitrator, this Court is of the view that the commencement of arbitral proceedings should not be unduly delayed.

6. Further, in the peculiar facts of the present Petition, the requirement of issuance of a notice under Section 21 and initiation of



separate proceedings under Section 11 of the Act is dispensed with, with the consent of the parties.

7. In view thereof, this Court is of the view that the matter may be referred to arbitration by a Sole Arbitrator for the purpose of the resolution of disputes between the parties.

8. Learned counsel appearing on behalf of the Petitioner submits that the value of the underlying disputes is approximately Rs. 25 crores.

9. Accordingly, this Court hereby requests **Hon'ble Mr. Justice K.R. Shriram, Former Chief Justice of Rajasthan High Court (e-mail : [REDACTED] and Contact No. [REDACTED])**, to enter upon the reference and adjudicate the disputes *inter se* the parties.

10. The learned Sole Arbitrator may proceed with the arbitration proceedings, subject to furnishing to the parties the requisite disclosures as required under Section 12(2) of the Act within a week of entering the reference.

11. The learned Arbitrator shall be entitled to a fee as may be agreed to between the parties and the learned Arbitrator.

12. All rights and contentions of the parties are kept open, to be decided by the learned Sole Arbitrator on their merits, in accordance with law.

13. Needless to state, nothing in this order shall be construed as an expression of opinion of this Court on the merits of the controversy.

14. The parties are at liberty to raise all objections, including with respect to the jurisdiction of the learned Arbitrator, before the learned Arbitral Tribunal.



15. Interim Order dated 23.04.2025 read with Order dated 30.04.2025 to continue till the learned Arbitrator passes any directions in respect of the same.

16. The Registry is directed to send a copy of this Order to the learned Arbitrator through all permissible modes, including through e-mail within a period of three days from today.

17. The present Petition, along with pending Application(s), if any, stands disposed of in the aforesaid terms.

HARISH VAIDYANATHAN SHANKAR, J.
MAY 04, 2026/nd/va/kv

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