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

+ ARB.P. 1981/2025

CATALYST TRUSTEESHIP LIMITEDPetitioner

Through: Mr. Jayant Mehta, Senior Advocate with Mr. Prashant Kumar, Ms. Nikita Menon and Mr. Om Shelat, Advocates.

versus

SANJAY SAHNIRespondent

Through: Mr. Akhil Shankhwar, Mr. Raunak Sathpathy and Mr. Vardan Mittal, Advocates.

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+ ARB.P. 2011/2025

CATALYST TRUSTEESHIP LIMITEDPetitioner

Through: Mr. Jayant Mehta, Senior Advocate with Mr. Prashant Kumar, Ms. Nikita Menon and Mr. Om Shelat, Advocates.

versus

LALIT SANDUJARespondent

Through: Mr. Akhil Shankhwar, Mr. Raunak Sathpathy and Mr. Vardan Mittal, Advocates.

6

+ ARB.P. 2017/2025

CATALYST TRUSTEESHIP LIMITEDPetitioner

Through: Mr. Jayant Mehta, Senior Advocate with Mr. Prashant Kumar, Ms. Nikita Menon and Mr. Om Shelat, Advocates.

versus



PANKAJ MEHTA

.....Respondent

Through: Mr. Akhil Shankhwar, Mr.
Raunak Sathpathy and Mr.
Vardan Mittal, Advocates.

14

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O.M.P.(I) (COMM.) 315/2025

CATALYST TRUSTEESHIP LIMITED

.....Petitioner

Through: Mr. Jayant Mehta, Senior
Advocate with Mr. Prashant
Kumar, Ms. Nikita Menon and
Mr. Om Shelat, Advocates.

versus

MR. LALIT SANDUJA

.....Respondent

Through: Mr. Akhil Shankhwar, Mr.
Raunak Sathpathy and Mr.
Vardan Mittal, Advocates.

15

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O.M.P.(I) (COMM.) 316/2025

CATALYST TRUSTEESHIP LIMITED

.....Petitioner

Through: Mr. Jayant Mehta, Senior
Advocate with Mr. Prashant
Kumar, Ms. Nikita Menon and
Mr. Om Shelat, Advocates.

versus

MR. PANKAJ MEHTA

.....Respondent

Through: Mr. Akhil Shankhwar, Mr.
Raunak Sathpathy and Mr.
Vardan Mittal, Advocates.

16

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O.M.P.(I) (COMM.) 317/2025

CATALYST TRUSTEESHIP LIMITED

.....Petitioner

Through: Mr. Jayant Mehta, Senior
Advocate with Mr. Prashant
Kumar, Ms. Nikita Menon and
Mr. Om Shelat, Advocates.



versus

MR SANJAY SAHNI

.....Respondent

Through: Mr. Akhil Shankhwar, Mr.
Raunak Sathpathy and Mr.
Vardan Mittal, Advocates.

CORAM:

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

ORDER

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06.01.2026

ARB.P. 1981/2025, ARB.P. 2011/2025, ARB.P. 2017/2025

1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, [***the Act***] seeking an order to constitute an Arbitral Tribunal comprising of an Arbitrator to adjudicate the disputes between the parties.
2. The facts are that the Petitioner is registered as a debenture trustee under the SEBI (Debenture Trustee) Regulations, 1993 and was appointed as the debenture trustee by Swastik Homebuild Private Limited ("Principal Borrower") under the Debenture Trustee Agreement dated 11.01.2021.
3. The debenture trustee had advanced loans by subscribing to the debentures of Swastik Homebuild Private Limited. To secure the investment, a Debenture Trust Deed and a Deed of Guarantee were entered into between the Principal Borrower and its Personal Guarantors (Respondents).
4. Since the Respondents failed to honour their commitments to comply with their obligations in repayment schedules, there were some CIRP proceedings initiated by the Petitioner.
5. Subsequently, the Petitioner invoked arbitration in terms of



clause 7.8 of the Deed of Personal Guarantee, which reads as under:

“7.8 Arbitration

7.8.1 Any dispute, controversy, claim or disagreement of any kind whatsoever between or among the Parties in connection with or arising out of this Deed or the breach, termination or invalidity thereof (hereinafter referred to as a "Dispute") shall be referred to and finally resolved by arbitration irrespective of the amount in Dispute or whether such Dispute would otherwise be considered justifiable or ripe for resolution by any court.

7.8.2 Seat and Venue of Arbitration: The venue of the arbitration shall be Delhi. The seat of the arbitration shall be Delhi and the arbitration proceedings shall be carried out in accordance with the (Indian) Arbitration and Conciliation Act, 1996 or any statutory modification or alteration thereof for the time being in force ("Act"), which shall be deemed to have been incorporated to this Clause.

7.8.3 Number of Arbitration: The number of arbitrators shall be 3 (three) and shall be appointed by in accordance with the Act upon one party serving a notice with respect to the Dispute.

7.8.4 Language of Arbitration: The proceedings of the arbitration shall be conducted in English language.

7.8.5 Time: The arbitral tribunal shall render its final award within 6 (six months from the date of appointment of the complete arbitral tribunal, unless the Parties agree that such limit be extended.

7.8.6 Award and Apportionment of Costs: The award rendered shall be in writing and shall set out the reasons for the arbitral tribunal's decision. The costs and expenses of the arbitration, including, without limitation, the fees of the arbitration and the arbitration tribunal, shall be borne equally by each Party to the dispute or claim and each Party shall pay its own fees, disbursements and other charges of its counsel, except as may be determined by the Related Agreement, to be decided by the First Tribunal in a single arbitral proceeding together with the Existing Arbitration. In deciding whether to consolidate arbitrations, the First Tribunal shall have regard to, inter alia, whether:

(i) there are issues of fact or law common to the arbitrations so that a consolidated proceeding would be more efficient than separate proceedings;

ii) the rights to relief claimed are in respect of or arise out of the



same transaction or series of transactions; and

(iii) either Party would be materially prejudiced as a result of consolidation, through undue delay or otherwise.

arbitration tribunal. The arbitration tribunal would have the power to award interest on any sum awarded pursuant to the arbitration proceedings and such sum would carry interest, if awarded, until the actual payment of such amounts.

7.8.7 Award final and binding: The Parties agree that the arbitration award shall be final and binding on the Parties.

Judgment upon the arbitration award may be rendered in any court of competent jurisdiction or application may be made to such Court for a judicial acceptance of the award and an

order of enforcement, as the case may be.

7.8.8 Confidentiality: The Parties to the Dispute shall not, directly or indirectly, disclose the existence, content or results of the Dispute or any arbitration conducted under this Deed in relation to that Dispute and save as required in order to enforce the arbitration and/ or any award made pursuant to this Deed.

7.8.9 The existence or subsistence of a Dispute, or the commencement or continuation of arbitration proceedings, shall not, in any manner, prevent or postpone the performance of those obligations of Parties under this Deed which are not in dispute, the arbitrators shall give due consideration to such performance, if any, in making a final award.

7.8.10 Consolidation of proceedings: In order to facilitate the comprehensive resolution of related disputes, the arbitral tribunal first convened ("First Tribunal") in an existing arbitral proceeding ("Existing Arbitration") instituted under this Deed or any Transaction Document ("Related Agreement") may direct, upon request, the consolidation of any other arbitration proceeding involving Parties to the Dispute or either Party to this Deed or a Related Agreement, to be decided by the First Tribunal in a single arbitral proceeding together with the Existing Arbitration. In deciding whether to consolidate arbitrations, the First Tribunal shall have regard to, inter alia, whether:

(i) there are issues of fact or law common to the arbitrations so that a consolidated proceeding would be more efficient than separate proceedings;

ii) the rights to relief claimed are in respect of or arise out of the



same transaction or series of transactions; and

(iii) either Party would be materially prejudiced as a result of consolidation, through undue delay or otherwise.

7.8.11 The Parties agree that every party to arbitrations sought to be consolidated shall be invited to make submissions to the First Tribunal in respect of each request for consolidation. The Parties undertake to adhere to and to cause the adherence to the First Tribunal's decision on consolidation of arbitral proceedings.

7.8.12 Provided that the Debenture Trustee shall not be required to expend or risk its own funds or otherwise incur any personal financial liability in initiation of Arbitration Proceedings.”

6. 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**¹, 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**² 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.**³, and adopted in **NTPC Ltd. v. SPML Infra Ltd.**,⁴ that the jurisdiction of the referral court

¹ 2024 SCC OnLine SC 1754

² 2023 SCC OnLine SC 1666.

³ (2021) 2 SCC 1.

⁴ (2023) 9 SCC 385.



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 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.**⁵, 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* :

⁵ (2025) 2 SCC 192



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 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**”⁶.*

7. Both parties are *ad idem* that the stipulation for 3 arbitrators be dispensed with, and a single Arbitrator may be appointed. Both parties are also desirous that the Arbitration be carried out under the aegis of the DIAC.

8. 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.

9. Accordingly, Hon’ble Mr. Justice Najmi Waziri (Retired). (e-mail id: najmiwaziri.arb@gmail.com), who is empanelled with the DIAC, is appointed as the sole Arbitrator.

10. 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.

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

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

13. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned

⁶ (2025) 2 SCC 147.



Arbitrator on their merits, in accordance with law.

14. Needless to say, nothing in this order shall be construed as an expression of opinion of this Court on the merits of the controversy between the parties. Let a copy of the said order be sent to the Arbitrator through the electronic mode as well.

15. Accordingly, the instant petition stands disposed of.

**O.M.P.(I) (COMM.) 315/2025, O.M.P.(I) (COMM.) 316/2025,
O.M.P.(I) (COMM.)317/2025**

16. These are petitions filed under Section 9 of the Arbitration and Conciliation Act, 1996, seeking interim orders.

17. Since the learned Arbitrator has been appointed in this matter, the parties are *ad idem* that it would be appropriate that the learned Arbitrator consider these issues during the course of arbitration.

18. Accordingly, the petitions filed under Section 9 of the Act will be treated as applications under Section 17 of the Act, and the learned Arbitrator shall consider and decide the same after entering reference.

19. Learned counsel for the Respondent fairly states that he is not averse to the interim order dated 08.08.2025 continuing till such time as the learned Arbitrator takes up the applications and disposes of the same.

20. The present petitions under Section 9 of the Act are disposed of accordingly.

21. A photocopy of the Order passed today be kept in the connected matters.

HARISH VAIDYANATHAN SHANKAR, J.
JANUARY 6, 2026/Sh/her