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

\+   ARB.P. 200/2025

Date of Decision: **29.04.2025**

IN THE MATTER OF:

M/S EUPRAXIA ADVISORY PVT. LTD. .....Petitioner

Through: Mr. Hemant Chauhan, Adv.

versus

SONARTARI MULTISTATE AGRO COOPERATIVE SOCIETY LIMITED (SONACO) & ORS. .....Respondents

Through: Mr. Vinay Prakash Singh, Advs. for R-1 to 7
Mr. Deepak Thukral and Mr. Nikhil Goyal, Advs. for R-8

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (the Act), seeking appointment of an Arbitrator to adjudicate disputes between the parties arising from a General Agreement/Memorandum of Understanding (Agreement/MoU).

2. Learned counsel for the petitioner submits that the petitioner is a private limited company, incorporated under the Companies Act, 2013, with its registered office at C-54, Anupam Apartments, Vasundhra Enclave, Delhi-110096, and corporate office at B-107, 2nd Floor, Sector-6, Noida, Uttar Pradesh. The petitioner is engaged in providing advisory, ancillary, and auxiliary services across various sectors, including agriculture, forestry,

animal husbandry, rural development, and social and tribal welfare.

3. Learned counsel further submits that respondents No.1 to 7 entered into a duly notarized MoU dated 17.01.2023 with the petitioner, the original of which remains with respondents, and a copy retained by the petitioner. It is highlighted that respondent No.1 was selected by the Small Farmers Agribusiness Consortium Haryana (Respondent No.8 – "SFACH") for forming and promoting 100 Farmer Producer Organizations (FPOs) in Haryana, pursuant to the selection letter dated 23.12.2022. To execute the said project, respondents Nos.1 to 7 engaged the petitioner under the aforesaid MoU.

4. Learned counsel for the petitioner submits that pursuant to the agreement and a subsequent work order dated 31.01.2023, respondents No.1 to 7 allocated clusters in various districts of Haryana to the petitioner. The petitioner diligently carried out Stage-1 activities as specified, deploying significant manpower and resources, and upon completion, submitted requisite documentation and proofs for verification by respondents No.1 to 7. Thereafter, the petitioner advanced to Stage-2 activities, given the sequential nature of work.

5. Learned counsel states that despite raising valid invoices and duly submitting supporting documentation, respondents No.1 to 7 failed to clear the outstanding payments. Although repeated assurances of payment were given by the respondents, particularly respondents No.2 to 5 and other officials acting on behalf of respondent No.1, no payments were released. The petitioner, despite the delay, continued Stage-2 activities upon specific assurances from respondents No.1 to 7.

6. Due to continued non-payment, it is submitted the petitioner issued a

demand letter dated 08.06.2023 (Ref. No. EUP/06/23/127) requesting release of the outstanding amounts. However, respondents No.1 to 7 responded on 02.11.2023 (Ref. No. SONACO/SFACH/Epr/2023), attempting to evade liability by shifting responsibility to respondent No.8 (SFACH). Counsel submits that the petitioner clarified its position by reply dated 07.11.2023 (Ref. No. EUP/11/23/146), asserting that respondents No.1 to 7 were contractually bound to pay the petitioner irrespective of disputes, if any, with the tendering agency. Despite further correspondence, the respondents have failed to make the requisite payments.

7. Learned counsel submits that, due to non-payment and clear breach of contractual obligations, disputes have arisen which could not be resolved through conciliation. Consequently, the petitioner invoked arbitration as per Clause 11 of the Agreement, resulting in the filing of this petition.

8. On notice, learned counsel for respondent No.8 submits that it is a non-signatory to the Agreement and bears no liability thereunder. Learned counsel for respondents No.1 to 7 contends that the petitioner is not entitled to the claimed amount on grounds including *force majeure*, asserting therefore that no arbitrable dispute exists between the parties.

9. The Court takes note of the Arbitration Clause 11 of General Agreement/MoU dated 17.01.2023, which reads as under:-

> *"11. Arbitration:*
> *i. In the event of breach of any of the terms of this MoU by any of the party thereto or in the event of any differences/disputes/questions arising between the parties which may at any time herein after arise between the parties hereto or their respective representatives touching the present Mo U or the subject matter hereof or arising out of or in relation thereto respectively and whether as to breach or construction or with rights in respect of any of the transaction involved whether before or after its termination, pertaining to agreement or otherwise the same shall be referred to the arbitration of the sole arbitrator who*

shall be appointed by Sonartari Multi-State Agro Cooperative Society Limited (SONACO) as per the provisions of Indian Arbitration & Conciliation Act, 1996 or any statute thereon for the time being.

ii. The Arbitrator shall pass his award as per the terms of reference in writing under their hand within 6 months from the date of reference made and within such extended time not exceeding one month and the arbitrator should enlarge the time for making the award.

iii. The jurisdiction for this purpose shall be State of Delhi only. The language of the arbitration proceedings shall be English language"

10. 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 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

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[1] 2024 SCC OnLine SC 1754.
[2] 2023 SCC OnLine SC 1666.
[3] (2021) 2 SCC 1.
[4] (2023) 9 SCC 385.

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 : 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.*

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[5] (2025) 2 SCC 192.

> ***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].

11. 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.

12. Accordingly, Mr. Aveshya Rudy (Mobile: 9810001315; e-mail: avshreyarudy@outlook.com) is appointed as the sole Arbitrator.

13. 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

[6] (2025) 2 SCC 147.

Schedule of Fees maintained by the DIAC.

14. 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.

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

16. 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.

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

PURUSHAINDRA KUMAR KAURAV, J

APRIL 29, 2025/DPA/SP