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

Date of Decision : 04.05.2026

+ O.M.P.(I) (COMM.) 187/2026 & I.A. 12149/2026 (EX.)

SUNSURE ENERGY PRIVATE LIMITEDPetitioner

Through: Mr. Rajshekhar Rao, Senior Advocate along with Mr. Dinesh Pardasani, Ms. Ekta Tyagi, Mr. Siddarth Mehra, Mr. Parag Kabra, Mr. Amrit Singh and Mr. Vasav Anantharaman, Advocates.

versus

VIKRAM SOLAR LIMITED & ANR.Respondents

Through: Mr. Dayan Krishnan and Mr. Anurag Ahluwalia, Senior Advocates along with Mr. Rahul Narayan, Mr. Mehul Parti, Mr. Ashwani Malhotra, Ms. Zoya Junaid, Mr. Gyanendra Singh, Mr. Ishaan K. Sharma and Ms. Radhika, Advocates for Respondent No. 1.

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

% **JUDGEMENT (ORAL)**

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

“(a) Pass an interim order restraining Respondent No. 2 from

¹ Act



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honouring, negotiating, or making any payment or reimbursement pursuant to Letter of Credit No. INLCU0100250674, including any payment to any negotiating, presenting, or confirming bank or any person claiming through or under Respondent No. 1, pending the hearing and disposal of the present petition, and to continue to operate pending the constitution of the Arbitral Tribunal and final disposal of the arbitral proceedings between the parties;

(b) In the alternative, direct that any amount that may be debited, realised, or utilised under the aforesaid Letter of Credit No. INLCU0100250674, shall be deposited by the Respondent No.1 before this Hon'ble Court, to be kept in an interest-bearing account, subject to further orders and the outcome of the arbitral proceedings;

(c) Award costs of the present petition in favour of the Petitioner; and

(d) Pass such further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

2. The present disputes are stated to have arisen out of a Domestic **Module Supply Agreement dated 14.10.2025²**, which contains a dispute resolution mechanism under Clause 18 thereof. The relevant clause of the said Agreement reads as under:

“18. DISPUTE RESOLUTION AND GOVERNING LAW

18.1 Dispute Resolution

18.1.1 Any dispute, controversy, or claim arising out of or relating to this Agreement, including this Clause 18.1, and whether based on contract, tort, statute or other legal or equitable theory (a “**Dispute**”) that cannot be resolved through mutual discussions among the Parties shall be resolved in accordance with the procedures specified in this Clause 18.1, which shall constitute the sole and exclusive procedures for the resolution of Disputes.

18.1.2 For 30 (thirty) days after a Party provides notice of the existence of a Dispute to the other Party which notice expressly references that it is being provided pursuant to this Clause 18.1, each Party shall use best efforts to attempt to settle such Dispute

² Agreement



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and reach a resolution satisfactory to both Parties (as evidenced by an instrument in writing) promptly through negotiations conducted in good faith, between Persons holding a senior management position and having authority to reach such a settlement. All negotiations pursuant to this Clause 18.1.2 shall be confidential and shall be treated as compromise and settlement negotiations and shall not be admissible for any purposes in any subsequent arbitration or other dispute resolution proceeding. If any Party refuses to participate in good faith in negotiations as provided, the other Party may initiate arbitration at any time after such refusal.

18.1.3 If any Disputes or differences between the Parties are not resolved under Clause 18.1.1 and 18.1.2 above, the same shall be referred to and finally decided by arbitration under the Arbitration and Conciliation Act, 1996.

18.1.4 The arbitral tribunal shall consist of 3 (three) arbitrators - one arbitrator nominated by each Party and the third arbitrator being nominated by the 2 (two) arbitrators so appointed by the Parties ("**Tribunal**").

18.1.5 The Parties shall proceed with the arbitration expeditiously. The Tribunal shall endeavor to conclude all proceedings thereunder, including any hearing, in order that an award may be rendered within 9 (nine) months after the first case management conference with the Tribunal. The Tribunal's award shall include a written explanation of the basis of their decision with respect to all Disputes that were arbitrated.

18.1.6 Unless the Parties agree otherwise, the seat of the arbitration of all Disputes shall be in Delhi, and the arbitration shall be conducted solely in the English language. The courts in Delhi shall have sole and exclusive jurisdiction on any matter connected with or arising under this Agreement. The law governing the arbitration and the process shall be Indian law.

18.1.7 Once appointed, the Tribunal shall have sole jurisdiction to decide all aspects of any Dispute brought to them, including, without limitation, whether a particular Dispute is or is not arbitrable, any order relating to provisional relief, attorney disqualification, and the timeliness of the making of any claim. The Tribunal shall resolve the Dispute in accordance with the governing law and the terms and conditions of this Agreement.

18.1.8 Unless otherwise mutually agreed in writing by the Parties, during the pendency of any arbitration proceedings, the Seller shall diligently perform its obligations hereunder, including the



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correction of any Defects and the provision of any warranty services pursuant to the Module Warranty hereunder, and Owner shall continue to make undisputed payments and perform its obligations under this Agreement.

18.1.9 Notwithstanding the agreements to arbitrate, and without prejudice to the right of either Party to seek such relief from an emergency arbitrator appointed in accordance with the Arbitration and Conciliation Act, 1996, either Party may apply to any court of competent jurisdiction to obtain provisional relief if such action is necessary to avoid irreparable harm or to preserve the status quo prior to the appointment of the Tribunal.

18.2 Governing Law This Agreement is to be construed in accordance with and governed by the laws of India. Subject to Clause 18. 1 above, the courts at New Delhi shall have exclusive jurisdiction over any matter in respect of this Agreement.”

3. After addressing the Court at length on the reliefs sought, learned Senior Counsel appearing on behalf of the parties submit that they are *ad idem* that the disputes *inter se* the parties be referred to arbitration.

4. In view of the aforesaid consensus and in terms of Clause 18.1.4 of the Agreement, it is directed that the disputes *inter se* the parties be referred to arbitration to be adjudicated by an Arbitral Tribunal comprising of three (03) arbitrators, with each party nominating one arbitrator, and the third arbitrator being nominated by the two arbitrators so appointed.

5. Learned Senior Counsel appearing on behalf of the Petitioner proposes the name of **Hon’ble Mr. Justice (Retd.) Dr. S. Muralidhar, former Chief Justice of Orissa High Court** as the nominee Arbitrator on behalf of the Petitioner. Learned Senior Counsel appearing on behalf of the Respondents proposes the name of **Hon’ble Mr. Justice Vipin Sanghi, former Chief Justice of Uttaranchal High Court** as the nominee Arbitrator on behalf of the



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Respondents.

6. Accordingly, this Court hereby requests the learned nominee Arbitrators to nominate the Presiding Arbitrator within a period of one (01) week from the date of receipt of this Order. Parties are directed to communicate this Order to the learned Arbitrators.

7. Since the parties have mutually consented to adjudication of their disputes by way of Arbitration, this Court is of the view that the commencement of arbitral proceedings to adjudicate the disputes between the parties should not be unduly delayed. Accordingly, in the peculiar facts of the present case, the requirement of initiation of separate proceedings under Section 11 of the Act are dispensed with.

8. In terms of the undertaking by the respective counsel, the parties are requested to take appropriate steps for the constitution of the learned Arbitral Tribunal in the given period.

9. Once the learned Arbitral Tribunal is constituted, it is requested to enter upon the reference and adjudicate the disputes *inter se* the parties.

10. The learned Arbitrators 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 into the reference.

11. The respective costs of arbitration shall be borne equally by the parties.

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

13. Needless to state, nothing in this order shall be construed as an



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expression of opinion of this Court on the merits of the controversy.

14. Accordingly, the present Petition under Section 9 of the Act shall be treated as an Application under Section 17 of the Act, and appropriate directions may be passed by the learned Tribunal after entering upon the reference.

15. The learned Arbitral Tribunal is requested to accord their consideration to the Section 17 Application as expeditiously as possible.

16. The Registry is directed to send a receipt of this order to the parties through all permissible modes, including through e-mail.

17. The parties are also at liberty to communicate this Order to the learned Arbitrators expeditiously.

18. 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/kr/sg