

Date: 08th October, 2024

To,
BSE Limited
Corporate Relations Department,
1st Floor, New Trading Ring,
P. J. Towers, Dalal Street,
Mumbai - 400 001.

Reference: Scrip code – 500389 - Silverline Technologies Limited

Sub: - Intimation under Regulation 30(5) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 – Proposal for One time settlement of Advance facility taken from Apex Urban Co-operative Bank of Maharashtra and Goa.

Dear Sir/Madam,

Pursuant to Regulation 30 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“the Regulation”), we would like to inform that the new Board of company has decided to enter into One time settlement with Apex Urban Co-operative Bank of Maharashtra and Goa for principal amount of Rs 21.25 Crores (Rupees Twenty-One Crores Twenty-Five Lakhs Only) in total which was executed between the Apex Urban Co-operative Bank of Maharashtra and Goa represented by Sanjeev Khadke, the official liquidator of bank and the earlier management of Silverline Technologies Limited represented by Mr Ravi Subramanian and Mr Srinivas Pattamadai through Original Advance facility agreement dated 17th March, 2020 supplemented with various other further extension and indentures subject to terms and conditions in those agreements.

The Company had made default in repayment of the advance facility taken from the said bank. The Arbitration was initiated between the company and Apex Urban Co-operative Bank of Maharashtra and Goa and after the appropriate proceedings, an Arbitral award was issued by the Arbitrator on 21st June, 2024 as enclosed. The Company have failed to intimate such information which is price sensitive in nature to BSE limited under Regulation 30 of SEBI LODR Regulations due to suspension of its trading and the company being in dormant state was not able to communicate to its investors. However, the settlement matter with the Apex Bank was discussed in the 32nd AGM of the Company by the new board.

As you are aware, the company faced several financial constraints and was not able to manage its day-to-day operations and take suitable steps for expansion of business of the company. The delay in filing financial statements and other statutory documents had occurred on account of the company being in a dormant state and the company was suspended from BSE Limited since 2012. Now the effective steps have been taken recently to bring the company to revival and appointments of various professionals to manage the compliance work i.e., legal and secretarial. The Company has already regularized many of the defaults under Companies Act 2013 and SEBI LODR Regulations and have received the trading approval from BSE Limited vide letter dated 08th August, 2024.

The Company has also received legal notice dated 06th September, 2024 from M/s Singhania & Co LLP. The letter is herewith enclosed. The new board management has taken note of the same and company took cognizant of the same. The newly formed board of the company was in communication with officials of Apex Urban Co-operative Bank of Maharashtra and Goa. The new board hereby decided to go for a one-time settlement with the Apex Urban Co-operative Bank of Maharashtra and Goa taking into consideration

the arbitration award received dated 21st June, 2024 against the company which has to be complied within a certain time frame to save the company from the legal Consequences amicably as mentioned in the said arbitration award.

After Considering and evaluating the possible consequences of the legalities involved in the matter, the new board has decided to settle the matter with APEX Bank amicably and accordingly initiated communication with the representatives of APEX Bank.

The Company have adopted governance mechanism to comply with provisions of the relevant laws and regulations which enables the management to run organization more efficiently.

The Company at present being in proper place have entered such price sensitive information in Structured Digital Database software and notice has been sent to the Designated Officials in this regard.

The Board of Directors at its Meeting held today discussed and decided to make one time settlement of Rs 21.25 Crores (Rupees Twenty-One Crores Twenty-Five Lakhs Only) to Apex Urban Co-operative Bank of Maharashtra and Goa. The further communication will be made to the Stock Exchange on agreed payment terms of Advance facility as decided between bank and new board of the company.

The company hereby authorizes Mr Manoj Sawant, Executive director of the company to enter, negotiate, facilitate or execute the agreements and documents on behalf of the company and do all such acts, matters deeds and things and to take all steps and do all things and give such directions as may be required, necessary, expedient or desirable for giving effect to the said resolution.

The above may kindly be taken on your records.

Thanking you,
Yours faithfully,
For **Silverline Technologies Limited**

KSHIPRA BANSAL Digitally signed by KSHIPRA
BANSAL
Date: 2024.10.08 16:51:36 +05'30'

Kshipra Bansal
Company Secretary
Membership No- A45665
Encl:

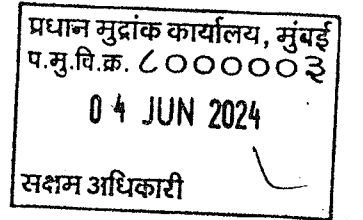
- 1. Arbitration Award**
- 2. Legal Notice received from M/s Singhania & Co LLP**



महाराष्ट्र MAHARASHTRA

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श्रीम. एल. एस. सांगळे

BEFORE THE LD. SOLE ARBITRATOR,

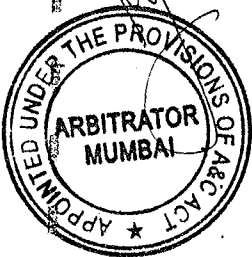
(MR. M. R. MAKHARE,

RETIRED MEMBER OF THE MAHARASHTRA STATE CO-

OPERATIVE APPELLATE COURT, MUMBAI AT PUNE

BENCH)

ARBITRATION CASE NO. 1 OF 2023



केवल प्रतिज्ञापनासाठी Only for Affidavit (U/I)

Apex Urban Co-operative Bank

मुद्रांक विकत घेणाऱ्याचे नाव

Maharashtra & Goa Ltd., Mumbai

मुद्रांक विकत घेणाऱ्याचे रहिवासी पत्ता

Sharda Sadan, 2nd Floor,

मुद्रांक विक्रीबाबतची नोंद वही अनु. क्रमांक

11, Sardar Abdulla Brelvi Road

Mumbai - 400 001.

मुद्रांक विकत घेणाऱ्याची सही

परवानाधारक मुद्रांक विक्रीत्याची सही

परवाना क्रमांक : ८०००००३

मुद्रांक विक्रीचे नाव/पत्ता : श्री. अशोक रघुनाथ कदम

२९०, शहिद भगत सिंह रोड, तळमजला २/१५, आनंद भुवन, फोर्ट, मुंबई-४०० ००९.

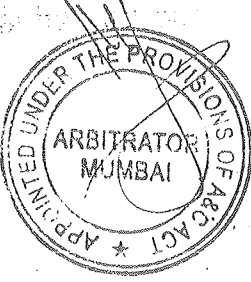
आरक्षणीय कायदेल्यासमोर/न्यायालयासमोर प्रतिज्ञापत्र सादर करणाऱ्या मुद्रांक

कामदायी आवश्यकता नाही. (आसन आदेश दि. ०१/०७/२००४) नुसार

ज्या समरणासाठी मगानी मुद्रांक खरेदी केला त्यांनी त्याच कारणासाठी मुद्रांक खरेदी केल्यापासून दमनित्वित करण्याचे आदेशकारक आहे.

13 JUN 2024

13 JUN 2024



In the matter of Arbitration Agreement contained in Clause 12 of Last Agreement for Further Extension of Advance Facility dated 14th August, 2023.

AND

In the matter of disputes between the Apex Urban Co-operative Bank of Maharashtra & Goa Limited (In Liquidation) (Disputant)

and (i) Silverline Technologies Ltd. (Principal Borrower) (ii) Srinivasan Pattamadai Sithapathy, Director / Guarantor and (iii) Ravi Ramchandrapuram Subramanian "Director/Guarantor/Mortgagor in respect of recovery of outstanding amount of Advance Facilities and Invocation of Guarantee/ securities interest/mortgage.

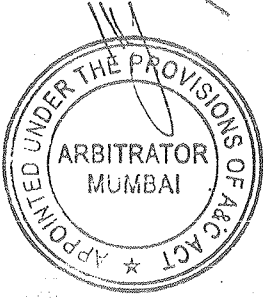


Apex Urban Co-operative Bank of)
Maharashtra and Goa Ltd. (in liquidation),)
through its Liquidator,)
having registered Office address at)

Sharda Sadan, 2nd Floor, 11,)
Sayed Abdulla Brelvi Road,)
Fort, Mumbai- 400 001)...Claimant/Disputant

Versus

1. Silverline Technologies Ltd.,)
A public limited company incorporated)
Under the Companies Act, 1956/ 2013)
Having address at)
Unit No. 121, SDF IV, SEEPZ,)
Andheri (E), Mumbai 400-096.)
2. Srinivasan Pattamadai Sithapathy,)
Age 75 years, Occu: business,)
3/45, Gokul, Near Mangal Anand)
Hospital Swastik Park, Chembur,)
Mumbai-400071.)
3. Ravi Ramchandrapuram Subramanian,) ... deceased
Through his legal heirs,)
- 3(a) Rama Subramanian, Widow of Late)
Ravi Ramchandrapuram Subramanian)



3(b) Raj Subramanian, Son of Late)

Ravi Ramchandrapuram Subramanian)

3(c) Rati Rohin Vazirani, daughter of Late)

Ravi Ramchandrapuram Subramanian)

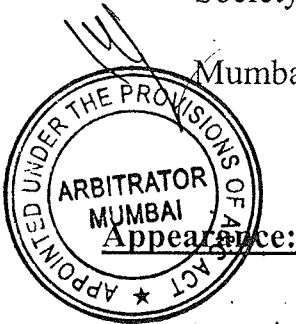
All adults residing at:)

Kalpana Padma Co-operative Housing)

Society Ltd., 5th Road, Chembur,)

Mumbai – 400071.)

... Respondents/
Opponents



Ld. Advocate Shri. Hakani for the Disputant along with its Liquidator Shri

S. N. Khadke.

Ld. Advocate Shri. Adit Desai along with Ld. Advocate Shri. Gadre,

holding for M/s Alatheia Law LLP for the Opponent Nos. 1 & 2

Opponent Nos. 3(a) to 3(c) though properly served, found absent and

hence, proceeded ex-parte.

Claim in Dispute: For recovery of Rs.29,67,47,212/- upto
31.12.2023 along-with interest thereon and
other reliefs

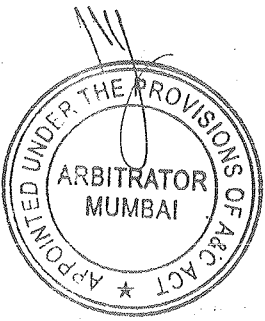
JUDGMENT

DECLARED IN OPEN ARBITRATION HALL ON 21/06/2024

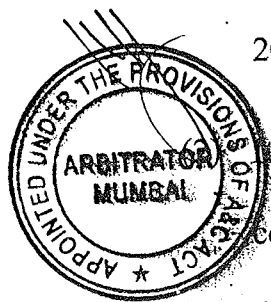
I. The Disputant Co-operative Bank has initiated this Dispute bearing No. 1/2023 as against the Opponent Nos. 1 to 3 for recovery of Rs.29,67,47,212/- along with future interest and cost, as prayed in Prayer Clause of this Dispute along with other prayers as prayed in Prayer Clause (b) to (j) of the Dispute on the basis of facts and averments raised in the Dispute.

II. The brief facts giving rise to the present Dispute are as follows:

(1) The Disputant is the Apex Urban Co-operative Bank of Maharashtra and Goa Ltd. (in Liquidation) registered under the Multi State Co-operative Societies Act, 1984 now deemed to have been registered under Act 38 of 2002 (in short "MSCS Act"). The Disputant states that, by an Order dated 2nd December, 2005, the Ld. Central Registrar, Co-operative Societies, Government of India, Ministry of Agriculture and Co-operation was pleased to order the winding up of the Apex Urban Co-operative Bank of Maharashtra and Goa Ltd., Mumbai. Mr. Sanjeev Narhari Khadke (Retired Divisional



Joint Registrar, Co-operative Societies) is the present Liquidator who has been appointed as the Liquidator of the Bank by Order dated 26th November, 2019 issued by the said Central Registrar, Co-operative Societies under the provisions of the MSCS Act and his term is extended up to 25th November, 2022 vide Order received on 12th January, 2022. In continuation of the aforesaid order, the term of the present Liquidator has been extended until further orders vide dated 23rd November 2022.

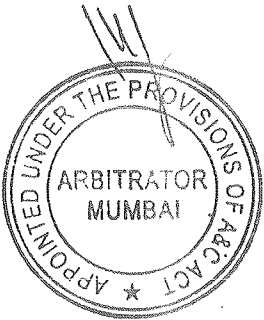


It is further stated that the Opponent No. 1 is public limited company incorporated under the Companies Act, 1956 (now deemed to have been incorporated under the Companies Act, 2013). The Opponent No. 2 & 3 are the directors of the Opponent No.1 and also guarantors in respect of the advance facilities granted to the Opponent No.1. The Opponent No.3 (now deceased) is also the mortgagor who mortgaged his immovable properties being Share Certificate No. 7 & 14 issued by the Deonar Industrial Premises Co-operative Society Ltd. and two Plot of Land admeasuring 435.13 sq. mtrs and 425.25

sq. mtrs. allotted by the said Society as securities for repayment of said advance facilities vide registered Deed of Mortgage.

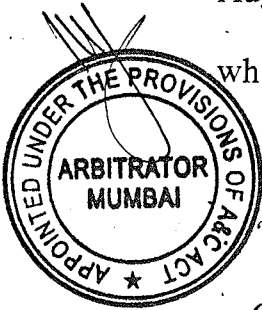
(3) It is seen from proceeding that during the pendency of this

Dispute, the Opponent No.3 expired and hence, by an order of this Tribunal passed on Application under Exhibit 36 on 26/04/2024, his legal heirs viz Opponent Nos. 3(a) to 3(c) were brought on record in his place and hence, para no. 2(a) in reference to these legal heirs was added in the present Dispute wherein it is stated that during pendency of the present Arbitration Proceedings, the Opponent No. 3 expired on 23rd April, 2024 at Mumbai, leaving behind him the Opponent No. 3(a), 3(b) and 3(c). It is submitted by the Disputant that the Opponent Nos. 3(a), 3(b) and 3(c) are Legal Representative, as defined u/s 2(g) of the Arbitration and Conciliation Act, 1996 and that they have been representing the estate of the Original Opponent No. 3 (since deceased). It is further stated by the Disputant that for the sake of brevity in the Dispute, unless the context otherwise requires, the expression/word - 'the Opponent No. 3' may be read and construed as the Original Opponent No. 3 wherever herein after appearing in this Dispute



and that the said expression the Opponent No. 3/Original Opponent No. 3 includes the newly substituted the Opponent No. 3(a), 3(b) and/or 3(c) above named, if the context in which the same is permitted.

- (4) It is further stated that the Opponents are not members of the Disputant. Hence, the present arbitration proceeding is in terms of the Arbitration Agreement contained in Clause 12 of the Agreement for Further Extension of Advance Facility dated 14th August, 2023 signed and executed by and between the parties wherein Clause 12 of the said Agreement which runs as under:



"12. It is agreed by and between the parties hereto that the Clause 24 of the Advance Facility Agreement dated 17th March, 2020 concerning the Arbitration shall be substituted by the following Arbitration clause:

"In the event of any dispute or differences, if any, that may arise between the Bank and the Borrowers and/or the Bank and any of the Borrowers (i.e. whether the company, 1st Guarantor or 2nd Guarantor) concerning the interpretation and/or construction of

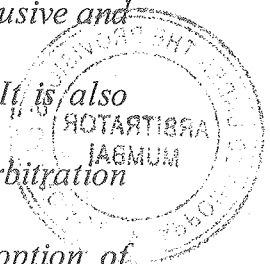
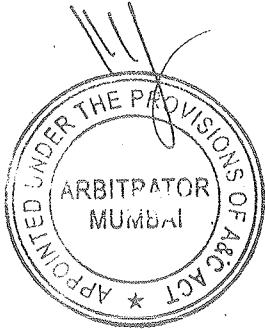
this Agreement and/or documents mentioned in clause 2 above including their implementation thereof, non-payment/ dishonor of all or any of the cheques and/or also for enforcement/ realisation of security shall be referred to the Sole Arbitrator "Mr.

Madhav R. Makhare (Former Member of the Maharashtra State Co-operative Appellant Court at Mumbai)" under the provisions of the Arbitration and Conciliation Act, 1996 as modified from time to time

and his decision/ award shall be final, conclusive and the same shall be binding on the parties. It is also

agreed and made clear that the seat of Arbitration shall be at Mumbai and/or Pune at the option of

Learned Arbitrator and the language of the Arbitration shall be English."

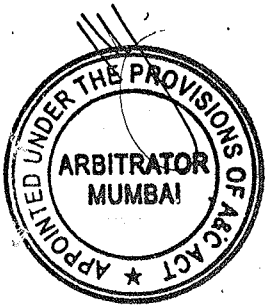


It is hereby recorded that the Parties hereto have agreed to the name of Mr. Madhav R. Makhare (Former Member of the Maharashtra State Co-operative Appellant Court at Mumbai) as Sole Arbitrator, which has been suggested by the

Borrowers and consented/concurred by the Bank. It

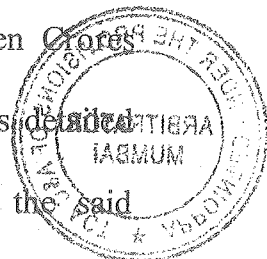
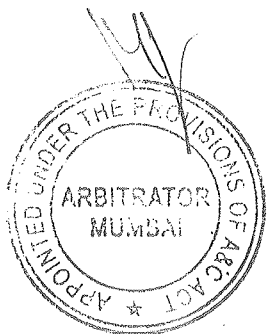
is agreed that the Arbitrator shall have power to appoint Receiver of the mortgaged properties and securities with direction to dispose-off and/or realise the mortgaged properties and securities during the pendency of the arbitral proceedings."

- (5) It is further stated by the Disputant that the Opponent No.1, with the Authorities of its Board of Directors, applied for advance facilities to the Disputant and that the Disputant- Bank sanctioned advance facilities upto Rs. 25,00,00,000/- (Rupees Twenty-Five Crores Only) on personal guarantee of the Opponent No.2 and 3 to enable the Opponent-Company to attain the objective concerning co-operative sector vide its letter dated 3rd March, 2020 and that the Opponents vide their letter 5th March, 2020 accepted the terms and conditions recorded in the said Sanctioned letter. The said letter dated 5th March, 2020 was signed by the Opponent No.2 and 3 on behalf of the Opponent No.1. The Opponents had executed an Agreement styled as "Advance Facility Agreement" dated 17th March, 2020 and other requisite documents in favour of the Disputant. The



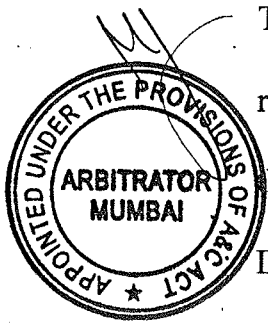
Disputant further stated that the Disputant has relied upon (a) the Resolutions of the Board of Directors authorizing the Opponent No.2 and 3 to avail Advance Facilities from the Disputant, (b) proposal / application for Advance Facilities made by the Opponents and (c) the relevant, correspondence made between the parties in this regard and granted the advance facility of Rs.25,00,00,000/- as per the said Advance Facility Agreement" dated 17th March, 2020.

- (6) It is further stated that the Disputant Bank disbursed an aggregate sum of Rs.18,00,00,000/- (Rupees Eighteen Crores Only) out of Rs.25,00,00,000/- on different dates, as detailed below, on the terms and conditions recorded in the said Advance Facility Agreement:



SR NO.	DATE	AMOUNT (RS.)
1	28/05/2020	6.00 Crores
2	22/06/2020	6.00 Crores
3	07/08/2020	5.00 Crores
4.	27/08/2020	1.00 Crore
TOTAL:		18.0 Crores

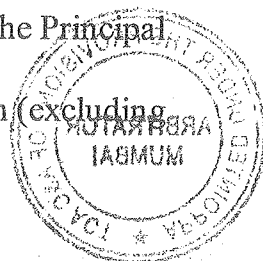
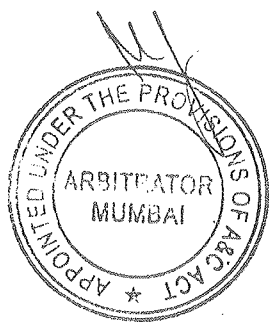
- (7) The Disputant further stated that as per Clause 6 of the said Advance Facility Agreement dated 17th March, 2020, the Opponents were liable for repayment / refund of said facilities within 24 months from the date of first disbursement or 31st March, 2022, whichever is earlier. The clause 6(b) provides interest at the rate of 5.10% per annum compounded quarterly.



The Opponents to issue undated account payee cheques towards repayment of the said Advance Facilities. It is further submitted that the clause 18 of the said Agreement provides that the Disputant shall have right to appropriate the amounts paid by the Opponents in such manner, as detailed in the said Agreement and at the sole discretion of the Disputant.

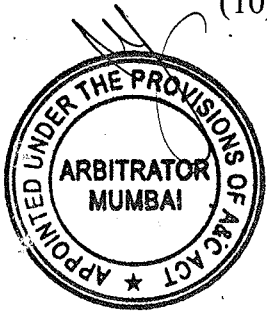
- (8) It is further stated that as on 31st March, 2022, the Opponents were liable to pay a sum of Rs.19,67,28,577/- (Rupees Nineteen Crores Sixty-Seven Lakhs Twenty-Eight Thousand Five Hundred and Seventy-Seven only) inclusive of aforesaid Principal amount plus interest thereon. The said amount does not include the processing charges and relevant expenses. The Opponents vide their balance confirmation letter dated 12th

January, 2022 confirmed and admitted the liability of Rs.19,42,51,866/- (Rupees Nineteen Crores Forty-Two Lacs Fifty-One Thousand Eight Hundred Sixty-Six Only) as on 31st December, 2021 and agreed and undertook to pay the same on or before 31st March, 2022. The Disputant stated that the Opponent No.1 in the Meeting of its Board of Directors held on 4th April, 2022 admitted the liability of Rs.19,67,28,577/- and issued 6 cheques in favour of the Disputant drawn on ICICI Bank Ltd., Chembur Branch towards repayment of the Principal advance facility and also the interest accrued thereon (excluding the processing fees) as detailed below:



Cheque Date	Cheque Number	Amount on Cheque (in Rs.)
31/03/2022	000516	6,00,00,000
31/03/2022	000517	6,00,00,000
31/03/2022	000519	5,00,00,000
31/03/2022	000520	1,00,00,000
31/03/2022	000521	1,42,51,866
31/03/2022	000522	24,76,711
TOTAL		19,67,28,577

(9) It is further stated that in the terms of the said Board Resolution dated 4th April, 2022, the Opponents issued balance confirmation and forwarded the aforesaid 6 cheques along with its letter dated 5th April, 2022. It is further stated by the Disputant that vide its said letter dated 5th April, 2022, the Opponents recorded *"By our letter dated 29/03/2022, we have requested your kind good-self to grant time for repayment by depositing aforesaid Cheques, on or before 21/06/2022"*.



(10) It is further stated that in view of the inability of the Opponent No. 1 to make repayment of the amount disbursed under Advance Facility Agreement, the parties to the Agreement, after negotiations, entered into an Agreement styled as 'Advance Facility Extension Agreement' which was executed on 31st March, 2022 by and between Disputants & Opponents. By the said Advance Facility Extension Agreement, the period for the advance facility was extended with modifications of certain terms of the original Advance Facility Agreement. The important terms and conditions of the said Advance Facility Extension Agreement as modified are reproduced below:

"3. FACILITY/ SERVICE ADVANCE FACILITY

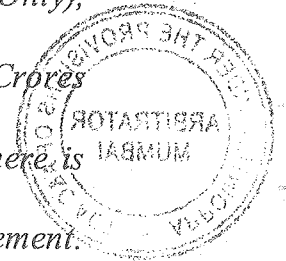
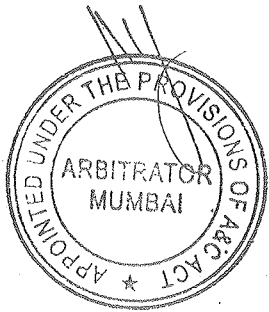
This will remain the same as mentioned in the Advance Facility Agreement entered between the Parties on

17/03/2020, besides the following: -

a) The tenure is being extended by additional 75 days to push the repayment due-date from 31/03/2022 to 14/06/2022; and

b) Although the Original sanction was to the tune of Rs. 25.00 Crores (Rupees Twenty Five Crores Only), the disbursement was freeze at Rs.18.00 Crores (Rupees Eighteen Crores Only), for which there is no dispute between the Parties to this Agreement.

Guarantors specifically have no grievances for the disbursement of Rs. 18.00 Crores out of the total sanction of Rs. 25.00 Crores; and they undertake not to challenge the same before any authority. It is being emphasized that unless the end-use of funds was provided, the disbursement could not have been made to the fullest. The Company and the



Guarantors appreciate that over 75% of the total sanctioned amount was disbursed during the COVID19 pandemic period.

**5. REFERRAL FEES/ PROCESSING CHARGES /
OTHER CHARGES**

This will remain the same as mentioned in the Advance Facility Agreement entered between the Parties on 17/03/2020, subject to the additional / modified terms as under: -



- a) 1.50% of the disbursed amount is being debited and recovered at the end of the tenure as per the terms of the Original Advance Facility Agreement;*
- b) Another 1.50% of the disbursed amount shall be debited recovered at the end of the tenure as per the terms of this Extended Agreement, which shall be carried out on 14/06/2022;*
- c) The GST levied or leviable by our Consultants / Advisors, etc. (by whatever name called) shall be*

levied on actual, which shall be in the form of
Reimbursements.

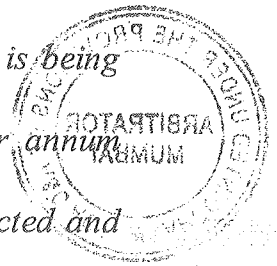
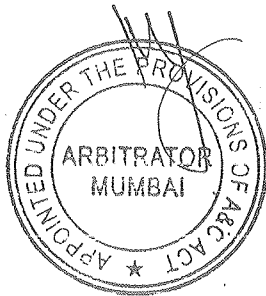
6. REPAYMENT / REFUND

(a) The Company alongwith its Guarantor(s) agrees
and undertakes to make the repayment / refund of the
Facility within the further extended Tenure of 75
(Seventy Five) days from the end of 31st March 2022,
which is being freezed at 14/06/2022;

(b) The interest rate of 5.10% per annum is being
replaced with interest rate of 12.50% per annum
compounded quarterly, which shall be effected and
calculated after 31/03/2022 on a sum of Rs.
19,99,14,606/- as stated in sub-clause (c)

hereunder. This is in view of the expressions
provided in Clause 10 of this Extended Agreement;

c) The Compounded value as on 31/03/2022 shall be
a sum of following values: -



a. *Principal Amount* Rs. 18,00,00,000/-

b. *Interest Accrued* Rs. 1,67,28,606/-

c. *Processing Fees* Rs. 27,00,000/-

d. *GST Reimbursements* Rs. 4,86,000/-

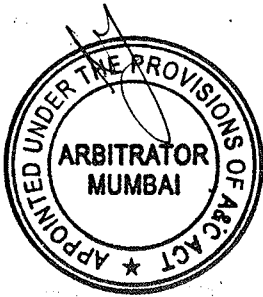
Total Rs. 19,99,14,606

(d) *Additional Cheques to be procured from the Company towards interest for the period 01/04/2022 to 14/06/2022, and for Processing Fees towards Original "Advance Facility Agreement" as well as "Advance Facility Extended Agreement";*

(e) *The Parties to the Original & the present Extended Agreement shall not create any dispute in relation to the arrangements agreed to as above;*

7. DISBURSEMENT OF FACILITY AMOUNT

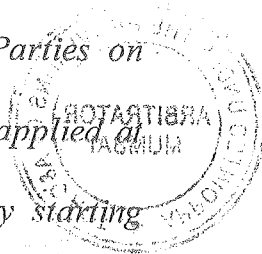
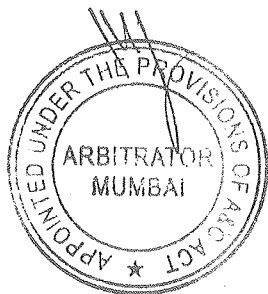
This will remain the same as mentioned in the Advance Facility Agreement entered between the Parties on 17/03/2020, subject to the fact that a sum of Rs. 18.00 Crores (Rupees Eighteen Crores Only) were disbursed



against the total sanction to the tune of Rs. 25.00 Crores (Rupees Twenty Five Crores), for which the Party of the Second Part and Party of the Third Part has no grievance, as agreed under Clause 3(b) stated supra.

8. INTEREST ON ADVANCES IN THE EVENT OF DEFAULT

This will remain the same as mentioned in the Advance Facility Agreement entered between the Parties on 17/03/2020, and that the interest shall be applied at 12.50% per annum compounded quarterly starting from 01/04/2022.

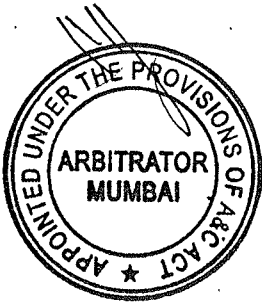


19. COSTS AND EXPENSES

This will remain the same as mentioned in the Advance Facility Agreement entered between the Parties on 17/03/2020, subject to additional / modified terms as under: -

a) That AUCBL shall debit all costs, legal expenses and other expenses in the event of non-completion of the assignment as at the extended cut-off date of 14/06/2022 without any reference to the Company and the Guarantor(s);

b) The Company shall indemnify and keep indemnified AUCBL at all times in relation to non-compliance of the Company:

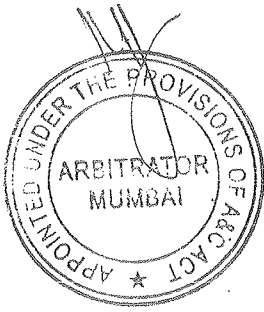


c) The Interest and Processing Fees alongwith GST reimbursable shall be recovered from the Company:

d) Any other costs incurred by AUCBL on account of affairs of the Company for protecting the interests of AUCBL shall be recovered from the assets of the Company alongwith its Directors / Guarantors."

(11) It is further stated that under the said Advance Facility Extension Agreement, the Opponents admitted their liability to pay Rs. 19,99,14,606/- (Rupees Nineteen Crores Ninety-Nine Lakhs Fourteen Thousand Six Hundred and Six Only) inclusive

of interest and processing fees and that the Disputant Bank has granted further period of 75 days for repayment of the said outstanding amount of 'Advance Facilities' from 1st April, 2022 and ending on 14th June, 2022. By the said Advance Facility Extension Agreement, the rate of interest was modified/ replaced by compounding interest of 12.50% p.a. to be calculated at quarterly rest in place and stead of interest @ 5.10% p.a. The said modification in interest rate made effective from 01st April, 2022.

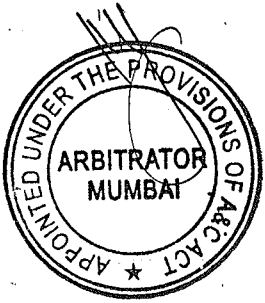


- (12) It is further stated that in the said Advance Facility Extension Agreement dated 31st March, 2022, the Opponent Nos. 1, 2 & the deceased Opponent No. 3 jointly and severally admitted and confirmed the liability of Rs.19,99,14,606/- (Rupees Nineteen Crore Ninety-Nine Lakhs Fourteen Thousand Six Hundred and Six Only) as on 31st March, 2022, inclusive of interest and Processing Charges and relevant levies as per Clause 6(c) of the said Agreement.

- (13) It is further stated that the Opponent No. 1 issued the said six cheques as mentioned in para-7 of the Dispute under the signature of its Managing Director i.e. the Opponent No. 2 for

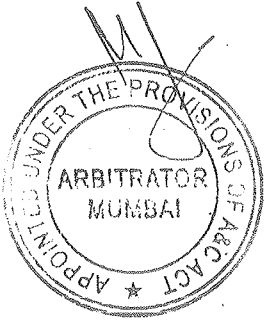
an aggregate sum of Rs.19,67,28,577/- (excluding the processing charges) all dated 31st March, 2022 and drawn on ICICI Bank, Chembur Branch, Mumbai towards refund / repayment of the said outstanding amount.

(14) It is further stated that all the said six cheques on their presentation were dishonored by Opponents' Bank i.e. ICICI Bank, Chembur Branch, Mumbai on ground of 'fund insufficient'. The Disputant demanded the said amount of dishonored cheques by issuing written demand notice dated 22nd July, 2022 but the Opponents have failed & neglected to pay the amount as demanded and as a result, the Disputant filed Criminal Complaint No. 4101 of 2022 against the Opponents under Section 138 & Section 141 of the Negotiable Instruments Act, 1881 and that the said Complaint is pending on the file of the Metropolitan Magistrate, 33rd Court, Mumbai.

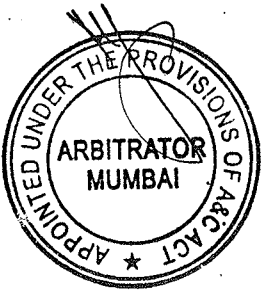


(15) It is further stated that during the pendency of the said Criminal Complaint, on request of the Opponent No. 1 and its Directors (i.e. Opponent No. 2 & deceased Opponent No.3), the Disputant was obliged to grant further facilities by way of permitting to withdraw to the extent of Rs. 3,25,00,000/- (Rupees Three

Crores Twenty-Five Lakhs only) out of the balance sanctioned limit of advance facility of Rs.25,00,00,000/- (Rupees Twenty-Five Crores Only) thereby making total outstanding advance facility amount of Rs.23,24,14,606/- (Rupees Twenty-Three Crores Twenty-Four Lakhs Fourteen Thousand Six Hundred and Six only) with further interest at the rate of 12.5% thereon to be calculated at Quarterly rests. The said further withdrawal was allowed on condition that the deceased Opponent No. 3 shall mortgage his two immoveable properties and accordingly, the Registered Deed of Simple Mortgage cum Memorandum of Recording Deposit of Title Deeds dated 29th November, 2022 was executed by the Opponents in favour of the Disputant which was registered on 29th November, 2022 under Document No. 23050/2022 in the Office of the Sub-Registrar, Kurla-5, Mumbai) securing the entire Advance Facilities. It is further stated that on execution of the said Mortgage Deed, the repayment period of said Advance Facility was further extended up to 30th June, 2023 by permitting the further withdrawal of the sanctioned advance facilities. The Disputant states that, thus, by the said Mortgage Deed, the deceased Opponent No. 3



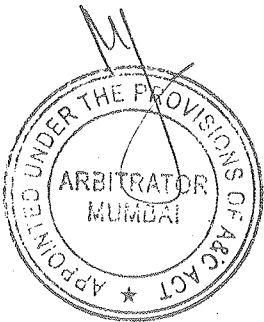
mortgaged properties as mentioned therein. The said Mortgage Deed also recorded the terms and conditions of the guarantee and also created floating charge over assets of the Company. The Disputant also stated that the Opponents have duly received the amount of further facilities. The Mortgage was also registered with the Office of the Registrar of Companies Mumbai under SRN AA1190374 and Charge ID as 100656326 with date of creation as 29th November 2022 for a sum of Rs.23,34,14,606/- (Rupees Twenty-Three Crores Thirty-Four Lakhs Fourteen Thousand Six Hundred and Six only).



- (16) It is further stated that the said Mortgage Deed specifically provides that the Bank may act against the Opponent Nos. 2 & deceased Opponent No. 3, as if the Opponent Nos. 2 & the deceased Opponent No. 3 are principal debtors of the Bank. In the said Mortgage Deed, the Opponent Nos. 2 and deceased Opponent No. 3 as Guarantors agreed that any legal action or proceeding (arising out of Guarantee incorporated under the said Mortgage Deed) may be brought by the Disputant in its absolute discretion by way of Arbitration, etc. Under the said

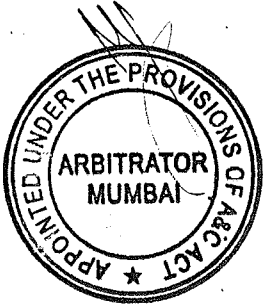
Mortgage Deed, Opponents appointed and nominated the Liquidator as their Constituted Attorney for sale, transfer, assignment, alienation, deal with, etc., of the Mortgaged Properties.

(17) It is further stated that the deceased Opponent No. 3, subsequently, executed in favour of the Liquidator of the Disputant registered Power of Attorney dated 5th September, 2023 in respect of the Mortgaged Properties so as to enable the Liquidator of the Disputant to realise the outstanding amount of the Advance Facilities by selling, transferring, assigning, etc., of the Mortgaged Properties (possession whereof is already with the Disputant) without intervention of the Court and other powers as set-out therein.



(18) It is further stated that the parties to the said Mortgage Deed also executed Indemnity Bond cum Declaration dated 3rd December, 2022 by which the Opponents have given indemnity and made declaration in favour of the Bank, as more particularly recorded therein. It is pertinent to note that the Opponents in the said Indemnity Bond Cum Declaration dated 03rd December, 2022 inter alia recorded having knowledge of

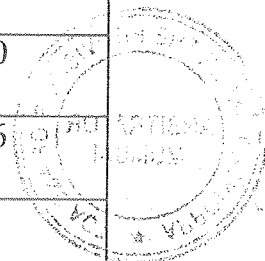
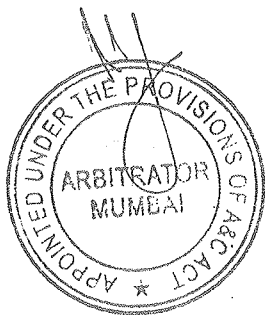
pendency of the said criminal complaint and receipt of demand notice and also receipt of the copy of the criminal complaint. The Disputant further stated that the Opponents have violated the said Indemnity Bond/ Declaration by not returning the two Share Certificate Nos. 7 and 14 concerning the said Mortgaged Properties. Thus, Opponents have violated the said Indemnity Cum Declaration. In addition to the contractual civil liability, the Opponents may also be liable to be prosecuted for cheating, forgery, etc., punishable under the Indian Penal Code. The Disputant hereby reserves its right to take criminal action against the Opponents, if so advise. The Disputant states that Opponent have committed several breaches of Indemnity Bond dated 03rd December, 2022.



- (19) It is further stated that in repayment of amount due and payable under the said Agreements read with the said Mortgage Deed, the Opponent No. 1 issued following nine cheques for aggregate sum of Rs. 25,14,14,606/- (Twenty-Five Crores Fourteen Lakhs Fourteen Thousand Six Hundred and Six Only) all dated 26th June, 2023 drawn on State Bank of India, Malad (West) Branch, Mumbai towards repayment of Advances together-with interest

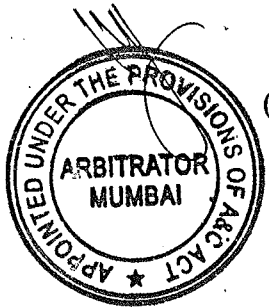
thereon calculated upto 31st December, 2022 and expenses along-with charges debited upto 31st January, 2023 excluding the processing fees and other charges debited to the account of the Company maintained in the books of the Bank. The details of the said 9 cheques are as follows:

Sr. No.	Cheque Numbers	Amount
1.	613620	6,00,00,000
2.	613621	6,00,00,000
3.	613622	5,00,00,000
4.	613623	1,00,00,000
5.	613624	1,42,51,866
6.	613625	24,76,711
7.	613626	60,00,000
8.	613627	1,20,00,000
9.	613628	3,66,86,029
	Total	25,14,14,606



All the aforesaid cheques issued by the Opponent No. 1 are signed by the Opponent No. 2 i.e. Mr. Srinivasan Pattamadai Sithapathy in his capacity as the Managing Director/ Authorised

signatory of the Company. The above referred cheques at Sr. Nos. 1 to 6 are in lieu of and in addition to earlier dishonoured cheques No. 000516, 000517, 000519, 000520, 000521 and 000522 all drawn on ICICI Bank, Chembur Branch, Mumbai, as mentioned in Paras. 3 & 4 of the Dispute, which are subject matter of the Criminal Complaint No. 4101 of 2022 under Section 138 and 141 of the Negotiable Instruments Act, 1881 and pending on the file of the Metropolitan Magistrate, 33rd Court, Mumbai.



- (20) It is further stated that after issuing and handing over the aforesaid nine cheques, the Opponent No. 1 vide their E-mail dated 30th June, 2023 requested the Disputant not to deposit the said cheques, as the Opponents were in process of raising funds to completely discharge the liability to the Disputant and that the Opponents requested the Disputant for extension upto 15th July, 2023. The Disputant further stated that thereafter, the Opponents requested for further extension upto 30th August, 2023 for repayment so as to enable them to arrange funds. The Disputant states that the Opponent assured the Disputant and also undertook that the said cheques would be honored and paid

by the Opponents' bank i.e. said State Bank of India, any time after 30th August, 2023.

(21) The Disputant further stated that it is an admitted and confirmed

by the Opponents that to show the Opponent's bonafide to repay

the advance facilities availed within extended period and as agreed thereto, the deceased Opponent No. 3 had on 1st July,

2023 voluntarily handed over to the Liquidator of the Disputant

Bank, the peaceful physical possession of the said Mortgaged

Properties, more particularly described in the 1st Schedule and

2nd Schedule of the said Mortgage Deed. While handing over

the possession, the deceased Opponent No. 3 assured and

undertook to the Liquidator to get his title to the said Mortgaged

Properties perfected by getting two Share Certificates

transferred in his name and returning the same to the Disputant

within 30 days as recorded in the said Indemnity Bond cum

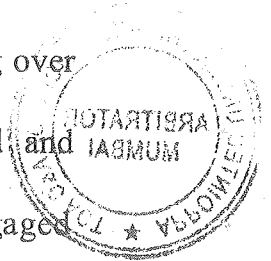
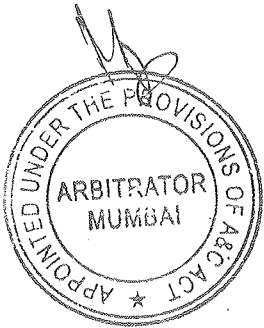
Declaration. It is further stated that the Opponents have

deliberately failed to return the said two Share Certificates, as

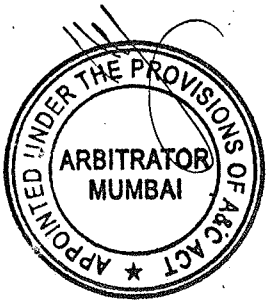
per undertaking/ assurances within 30 days or even till date.

Thus, the Opponents have committed breach of the

Agreement/s and their undertaking/s.

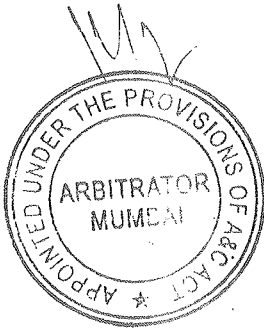


(22) The Disputant further stated that by Agreement for Further Extension of Advance Facilities dated 14th August, 2023 executed by & between the Disputant (therein referred to as the bank/mortgagee), the Opponent No. 2 (therein referred to as the '1st Guarantor'), the deceased Opponent No. 3 (therein referred to as the '2nd Guarantor/Mortgagor') and the Opponent No. 1 (therein referred to as the 'Company') wherein above referred amongst other facts are recorded, admitted and confirmed and that the Opponents were granted time for re-payment upto 30th August, 2023. The Disputant further stated that thus the Opponents have admitted & confirmed above referred amongst other facts, as recorded in the said Agreement for Further Extension of Advance Facility dated 14th August, 2023. The Disputant further stated that the Opponents have recorded and confirmed having issued and handed over to the Disputant post-dated cheque of Rs.3,30,18,587/- bearing No. 613563 dated 30th August, 2023 drawn on the Company's Bank Account with the State Bank of India, Malad West Branch, Mumbai under the signature of the Opponent No. 2 as Managing Director/ Authorized signatory thereof. The Important Clause Nos. 8 to



11 of the said Last Agreement are reproduced hereinbelow for ready reference:

"8. It agreed by and between the Parties that in event of dishonour of all or any of the cheques mentioned at Sr. No. (i) to (vi) hereinabove, the Bank shall have liberty to continue with the said pending Criminal Complaint No. 4101 of 2022 without prejudice to having recourse for filing fresh and independent criminal complaint(s). Similarly, the Banks shall have liberty to file complaint under Section 138 / 141 of the Negotiable Instrument Act against Borrowers or any of them in event of dishonor of all or any of the cheques not mentioned at Serial No.(i) to (vii) mentioned in Clause 3 above and also as mentioned in Clause 7 hereinabove.

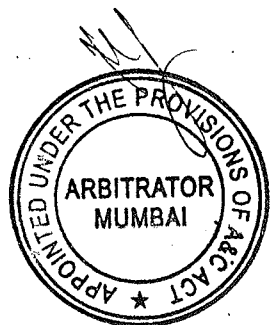


9. The Borrowers jointly and severally declare, confirm and undertake that the above-referred cheques including the further cheque/s that may be issued hereafter shall be good for payment and same shall be honored by their Bank i.e. State Bank of India on its presentation any time after 30th August, 2023. It is agreed and confirmed by the Borrowers in the event of dishonor and/or non-payment of all or any aforesaid cheques including any cheques that may be issued hereafter, the Bank shall have liberty to take action under Section 138 and Section 141 of the

Negotiable Instruments Act without prejudice to and in addition to any other legal remedies including criminal action as well as Arbitration provided herein. The Notice of the demand (that may be issued in consequence of dishonor) be served on e-mail to the Company at silverlinetechnologies13@gmail.com and receipt of such Notice on any of the borrower shall be deemed to be receipt by all the borrowers.

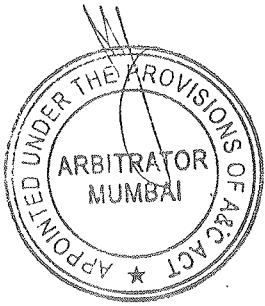
10. *The 2nd Guarantor hereby admits and confirms having handed over to the Liquidator of the Bank the physical possession of the Mortgaged Property (more particularly described in 1st Schedule and 2nd Schedule written hereunder).*

11. *It is agreed by the Borrowers that in event of dishonor of all or any of the aforesaid cheques, they will not take defense that the amount due and payable under the cheques are secured by the Mortgaged Property now in possession and custody of the Liquidator of the Bank.*



(23) It is further stated that the Ld. Advocate of the Disputant issued two separate Demand Notices both dated 10th October, 2023, informing the Opponents that the Opponents' 10 (ten) cheques (as mentioned in Para. 18 above and Para. 21 of the Dispute) i.e. Cheque Nos. 613620, 613621, 613622, 613623, 613624, 613625, 613626, 613627, 613628 and 613563 issued by the

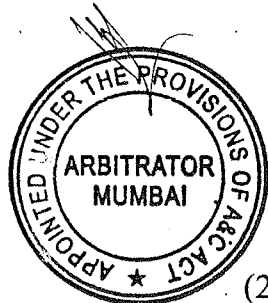
Opponent No. 1 were dishonored and returned unpaid by the Opponents Bank i.e. State Bank of India, Malad West Branch, Mumbai (when presented for payment as per the Opponents request through the Disputant's bank i.e. Janata Sahakari Bank, Fort Branch, Mumbai) on the ground of 'insufficient fund' vide OW Return Memo all dated 21st September, 2023 issued by the said State Bank of India. The Disputant further stated that all the Opponents have been duly served with the said two Demand Notices through Registered Post AD. In the first Demand Notice, the Disputant has demanded the amount of six dishonored cheques all dated 26th June, 2023 as detailed below:



Sr. No.	Cheque Numbers	Amount
1.	000516	6,00,00,000/-
2.	000517	6,00,00,000/-
3.	000519	5,00,00,000/-
4.	000520	1,00,00,000/-
5.	000521	1,42,51,866/-
6.	000522	24,76,711/-
TOTAL		19,67,28,577/-

(24) The Disputant further stated that in the second Notice, the Disputant demanded the amount of said dishonored four cheques all drawn on State Bank of India, Malad West Branch, Mumbai as are mentioned below: -

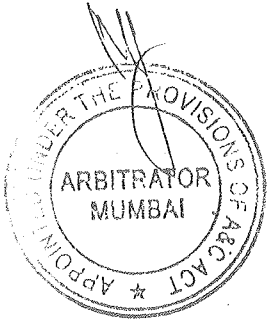
Sr. No.	Date	Cheque Numbers	Amount
1.	26/06/2023	613626	60,00,000/-
2.	26/06/2023	613627	1,20,00,000/-
3.	26/06/2023	613628	3,66,86,029/-
4.	30/08/2023	613563	3,30,18,587/-
TOTAL			8,77,04,616/-



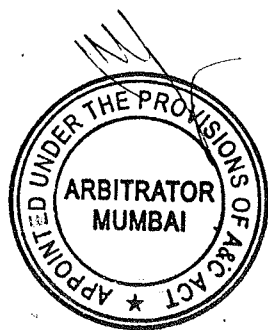
(25) The Disputant further stated that in the said both Demand Notices for total sum of Rs. 28,44,33,193/- (Rupees Twenty Eight Crores Forty Four Lakhs Thirty Three Thousand One Hundred And Ninety Three Only), the Disputant recorded that the Opponent No. 2 & the deceased Opponent No. 3 are not only liable to pay on the ground of the Opponent No.2 & the deceased Opponent No. 3 are being Guarantors but also on the ground that the Opponent No. 2 and the deceased Opponent No.

3 were and are Managing Director/ Directors of the Opponent No. 1, who at the time of issuance of aforesaid cheques and dishonor thereof were in-charge of and were responsible to the company for the conduct of its business as well as the company. Hence, the Opponents are liable to be prosecuted in the event the Company fails to comply with this Demand Notice.

(26) The Disputant further stated that in spite of receipt of said Demand Notices, the Opponents failed and neglected to comply with both the Demand Notices by not making payment of all or any of the dishonored cheques within a period of 15 days or even thereafter till date. As a result, the Disputant filed two separate Criminal Complaints being Summary Case No. 506730 of 2023 and Summary Case No. 506731 of 2023 against the Opponents u/s 138/141 of the Negotiable Instrument Act, 1881 in the Court of the Ld. Metropolitan Magistrate, 33rd Court, Ballard Pier at Mazgaon, Mumbai in terms of Clause 8 of the said Last Agreement. The said Criminal Complaints are pending before the Ld. Metropolitan Magistrate, 33rd Court, Ballard Pier at Mazgaon, Mumbai.



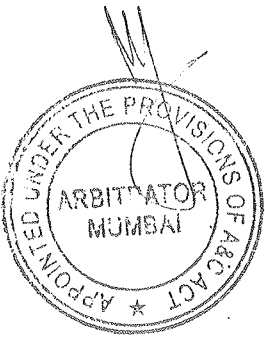
(27) The Disputant further stated that the Opponents have committed breach of all the Agreements and also their undertaking and assurances. It is also stated that the Opponents also failed to complete and get perfected their title to the said Mortgaged Properties and also committed various breaches of and non-compliance of the said Agreements including the said Last Agreement, Mortgage Deed, Indemnity Bond cum Declaration, etc., resulting into several disputes and differences of which some of such disputes and differences have been recorded in the Notice dated 30th November, 2023 and demanded the outstanding sum of Rs.28,44,33,193/- (Rupees twenty-eight crores forty-four lakhs thirty-three thousand one hundred and ninety three only) with further interest @ 12.5% thereon to be calculated from 1st September, 2023 till payment or realisation or called upon to comply with requisition made therein. The Disputant also stated that the Opponents were served with the said Notice dated 30th November, 2023 by registered post and also by email.



(28) The Disputant further stated that in spite of the receipt of the said Notice dated 30th November, 2023, the Opponents

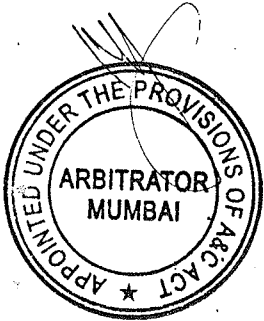
deliberately failed and neglected to comply with the requisition contained in the said notice dated 30th November, 2023.

- (29) The Disputant further stated that upon failure of the Opponents to comply with the requisition contained in the said notice dated 30th November, 2023, the arbitration agreement automatically stood invoked in terms of the said notice and accordingly, the Disputant appointed and referred the matter to this Hon'ble Tribunal vide Letter dated 18th December, 2023 written by the Disputant and that the said appointment letter was forwarded to the Opponents by the Advocate for the Disputant vide his letter dated 18th December, 2023. The said Notices / letters were served upon the Opponents by email and also by the registered post. The Opponents duly received and even otherwise were well aware about the appointment of this Hon'ble Arbitrator and the matter referred to the arbitration by the Disputant.



- (30) The Disputant further stated that the Opponents have agreed to pay and accordingly, they are liable to pay to the Disputant, interest at the rate of 12.50 % P.A. on the outstanding amount of Rs.28,44,33,193/- (Rupees twenty-eight crores forty-four

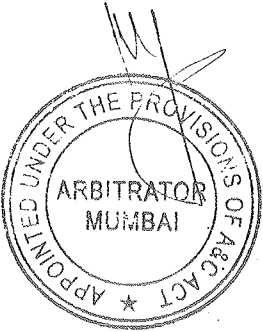
lakhs thirty-three thousand one hundred and ninety-three only) as on 31st August, 2023 and that the said interest to be compounded at quarterly rest, as per the said Agreements read with the said Mortgage Deed and last Agreement dated 14.08.2023. Thus, the Disputant claimed the interest based on and supported by the Agreements executed by and between the parties. It is submitted that the said liability of the Opponents is supported by the dishonored cheques and therefore, they are liable to pay interest @ 18% p.a. as per Section 80 of the Negotiable Instrument Act. However, the Disputant is claiming only contractual rate of interest @12.5% p.a. on the dishonored cheques for an aggregate value of Rs.28,44,33,193/- (Rupees twenty-eight crores forty-four lakhs thirty-three thousand one hundred and ninety-three only).



- (31) It is further submitted by the Disputant that there is now due, owing and payable by the Opponents to the Disputant sum of Rs.29,67,47,212/- (Rupees twenty-nine crores sixty-seven lakhs forty-seven thousand two hundred twelve only) as per particulars of the Disputant's claim with further interest

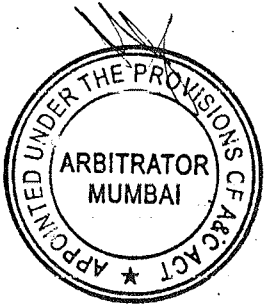
@12.50% P.A. to be compounded at quarterly rest with effect from 01.01.2024 till payment or realization.

(32) The Disputant further stated that in view of the facts, circumstances and events that have happened, the Disputant is entitled for judgment and award from this Hon'ble Tribunal against the Opponents and in favour of the Disputant directing and ordering the Opponents jointly and severally to pay to the Disputant sum of Rs.29,67,47,212/- (Rupees twenty-nine crores sixty-seven lakhs forty-seven thousand two hundred twelve only) together with interest @ 12.50% thereon to be calculated at quarterly rest with effect from 1st January, 2024 till payment or realisation.

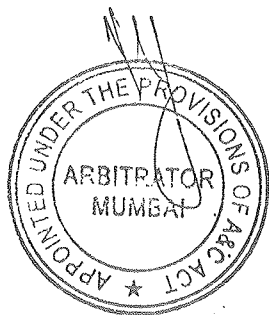


(33) The Disputant further stated that the Opponents have committed default of re-payment of the Advance Facilities of a sum of Rs.28,44,33,193/- (Rupees twenty-eight crores forty-four lacs thirty-three thousand one hundred & ninety-three only) and interest thereon. The deceased Opponent No. 3 who mortgaged his immovable properties had voluntarily handed over the physical possession of the Mortgage Property to the Disputant, as recorded and admitted in the said last Agreement for

Advance facility dated 14.08.2023. Moreover, the deceased Opponent No. 3 has nominated and constituted the Liquidator of the Disputant as his lawful attorney and authorized him to deal with and/or make correspondences with Deonar Industrial Premises Co-operative Society Ltd., etc., for completing and perfecting the title of the deceased Opponent No. 3 to the said Mortgage Properties and in event of default in re-payment of amount under the Mortgage Deed to sell, transfer, assign and/or give on lease and/or to grant development rights of the said Mortgage properties and to appropriate the proceeds of the said Mortgage Properties towards repayment of the amount due and payable under the said agreements and other cost, charges, etc. Moreover, the deceased Opponent No. 3 has also executed a Special Power of Attorney (Exh. - 'I' hereto) in favour of the Liquidator of the Disputant in furtherance of the power already granted under the said Mortgage Deed. It is submitted that admittedly the deceased Opponent No. 3 who is a Mortgagor has executed Registered Mortgage Deed and handed over the possession of the Mortgage Property with a Special Power of Attorney to deal with and dispose off the Mortgage Property for



purpose of recovering outstanding Mortgaged debts. It is submitted that admittedly the Share Certificate No. 7 & 14 issued by the said Society (and deposited with the Disputant with intention to create equitable Mortgage) was entrusted with the deceased Opponent No. 3 for the specific purpose of getting the same transferred in his name in the Society's record. Admittedly, the deceased Opponent No. 3 deliberately failed to return the said two Share Certificates of the said Society after getting the same transferred in his name. Thus, the deceased Opponent No. 3 has violated the terms of the Indemnity Bond cum Declaration and the Agreement for further Extension of the Advance Facility Agreement dated 14th August, 2023. Thus, in the circumstances and in the events that have happened, the Disputant is entitled for reliefs set-out hereinafter against the Opponents, particularly the deceased Opponent No. 3.



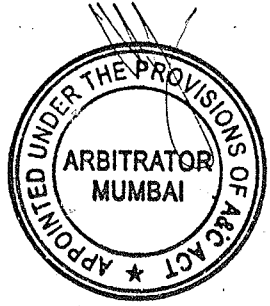
(34) It is further stated that in view of the facts and circumstances as

quoted above, this Hon'ble Arbitral Tribunal may be pleased to pass Judgment and Award by ordering and directing the Opponents, particularly the deceased Opponent No. 3 to get completed and perfected the title of the deceased Opponent No.

3 to the Mortgaged Properties, more particularly described in the Schedule recorded in the said 'Deed of Simple Mortgage Cum Memorandum of Recording Deposit of Title Deeds dated 29th November, 2022 and also to get recorded in Revenue Records (particularly in the Property Card) the charge of the Disputant over the Mortgaged properties within such time as this Hon'ble Tribunal may deem fit and proper.

(35) It is further stated by the Disputant that in alternative to above referred relief, this Hon'ble Arbitral Tribunal may be pleased to pass Judgment and Award authorizing and directing the Disputant or its Liquidator/Nominee to get completed and perfected the title of the deceased Opponent No. 3 to the Mortgage Properties and thereafter or otherwise to get transferred and/or assign &/ or alienate the said Mortgage Properties, more particularly described in the said Mortgage Deed in favour of the Disputant or its nominee or its assignee.

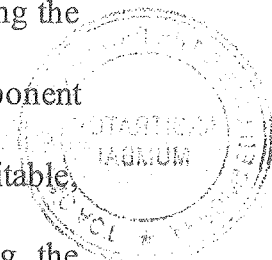
(36) It is further stated that the Disputant is entitled to deal with and dispose the said Mortgage Properties for the recovery of the outstanding Advance Facilities. Hence, it is just and proper, in view of the facts and circumstances that this Hon'ble Arbitral



Tribunal may be pleased to permit and authorize the Disputant to realize the Mortgage properties, more particularly described in the said Mortgage Deed by way of sale, transfer, assign and/or giving on lease and/or to grant development rights of the said Mortgaged properties and to appropriate the proceeds thereof towards full or part satisfaction, as the case may be, of the Award of recovery of the outstanding amount that may be passed by this Hon'ble Arbitral Tribunal.

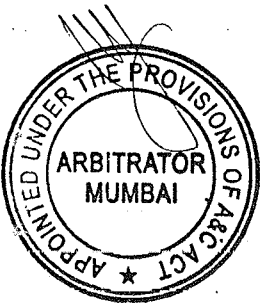


- (37) The Disputant submitted that considering the facts, circumstances and the events that have happened including the conduct of the Opponents, particularly the deceased Opponent No. 3, it is not only necessary but just, proper, equitable, convenient and in the interest of justice, that pending the hearing and final disposal of the arbitral proceedings, the Opponents themselves, their agents, servants or persons claiming through them be restrained by an Order and temporary injunction of this Hon'ble Tribunal from any manner whatsoever, directly or indirectly transferring, selling, dealing with, alienating, surrendering and/or creating third party interest in/or over the said Mortgage Properties, more



particularly described in the said Mortgage Deed and that they may be further restrained from interfering and/or obstructing the Disputant's possession of the Mortgage properties, more particularly described in the said Mortgage Deed.

(38) It is further stated by the Disputant that in view of the facts and circumstances and the events that have happened, it is necessary, just, proper, equitable, convenient and in the interest of justice, that pending the hearing and final disposal of the arbitral proceedings, this Hon'ble Tribunal be pleased to authorize the Liquidator of the Disputant to realize the Mortgage Properties by way of sale, transfer, assign and/or giving on lease and/or to grant development rights of the said Mortgaged Properties and to appropriate the proceeds thereof towards full or part satisfaction, as the case may be, of the Award of recovery of the outstanding amount that may be passed by this Hon'ble Arbitral Tribunal.



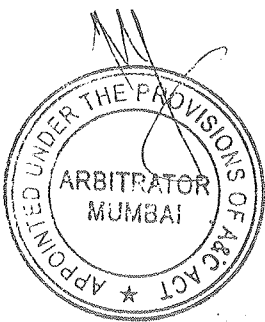
(39) It is also further stated that it is clear from the aforesaid facts and submissions that the Disputant has made a strong prima facie case and that there is a bright chance for the Disputant to get the Award as prayed for in its favour. In the circumstances,

it is submitted that if the interlocutory/ interim relief, as prayed for is not granted, then the Disputant will suffer irreparable loss, harm and injury which cannot be compensated in terms of money. Moreover, the balance of convenience is in favour of the Disputant and no loss or prejudice will cause to the Opponents, if the interim relief is granted.

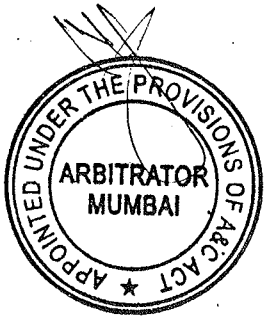
(40) It is also submitted that the claim of the Disputant is not barred by law of limitation and that the cause of Action arose when the cheques issued by the Opponents finally dishonored on or about 21st September, 2023 and when the Opponents failed to comply with two Notices of demand both dated 10.10.2023 and subsequent Notice of Demand dated 30.11.2023.

(41) It is submitted that by virtue of Arbitration Agreement contained in Clause 12 of Agreement for further Extension of Advance Facility dated 14th August, 2023 read with Clause 2 thereof, this Hon'ble Arbitral Tribunal has jurisdiction to try, entertain and decide the disputes and differences between the parties.

(42) In view of this, the Disputant Bank prayed that:



- (a) that this Hon'ble Tribunal may be pleased to pass the judgment and award against the Opponents and in favour of the Disputant directing and ordering the Opponents jointly and severally to pay to the Disputant sum of Rs. 29,67,47,212/- (Rupees twenty-nine crores sixty seven lakhs forty seven thousand two hundred twelve only) as per Particulars of the Disputant's Claim with interest @ 12.50% per annum thereon to be calculated at quarterly rest with effect from the date of filing of the Claim till the date of Award and thereafter at the same rate of interest or such rate as this Hon'ble Arbitral Tribunal may deem fit from the date of Award till payment or realization;

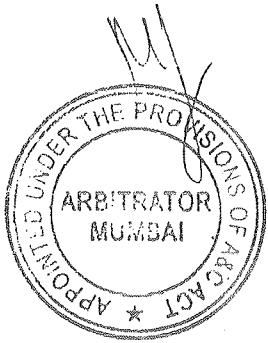


- (b) that this Hon'ble Arbitral Tribunal may be pleased to pass Judgment and Award by Ordering and directing the Opponents, particularly Opponent No. 3 and/or the Opponent No. 3(a) to 3(c) to get completed and perfected the title of Opponent No. 3 to the Mortgaged Properties, more particularly described in the Schedule recorded in the said 'Deed of Simple

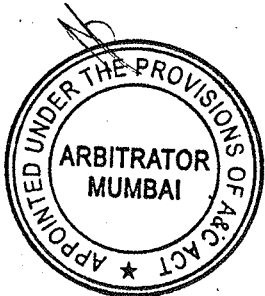
Mortgage Cum Memorandum of Recording Deposit of Title Deeds dated 29th November, 2022 within such time as this Hon'ble Court deem fit and proper with further directions handover to the Disputants the Share Certificates No. 7 and 14 more particularly described in the Mortgage Deed hereto after getting the same transferred in the name of the Opponent No.

3;

- (c) that in alternative to and/or in addition to Prayer clause (b) above, this Hon'ble Arbitral Tribunal may be pleased to pass Judgment and Award authorizing the Disputant or its Liquidator/Nominee to get completed and perfected the title of the Opponent No. 3 to the Mortgage Properties at the costs and expenses of the Opponents and thereafter or otherwise to get transferred and/or assign the said Mortgage Properties, more particularly described in the said Mortgage Deed in favour of the Disputant or its nominee or its assignee;



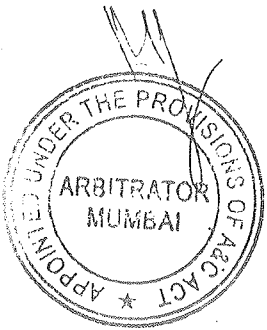
(d) that this Hon'ble Arbitral Tribunal may be pleased to pass Judgement and Award permitting and authorizing the Liquidator of the Disputant to realize the Mortgage properties, more particularly described in the said Mortgage Deed by way of sell, transfer, assign and/or giving on lease and/or to grant development rights of the said Mortgaged properties as he deems fit and to appropriate the proceeds thereof towards full or part satisfaction, as the case may be, of the Award of recovery of the outstanding amount that may be passed by this Hon'ble Arbitral Tribunal in terms of prayer clause (a) above;



(e) that pending hearing and final disposal of the arbitral proceedings, the Opponents themselves, their agents, servants or persons claiming through them be restrained by an Order and temporary injunction of this Hon'ble Tribunal from any manner whatsoever, directly or indirectly transferring, selling, dealing with, alienating, surrendering and/or creating third party interest in/or over the said Mortgage Properties,

more particularly described in the said Mortgage Deed and that they be further restrained from interfering and/or obstructing the Disputant's possession of the Mortgage properties, more particularly described in the said Mortgage Deed;

(f) that pending the hearing and final hearing and disposal of the Arbitral proceeding, this Hon'ble Arbitral Tribunal may be pleased to direct the Opponent No. 3: -



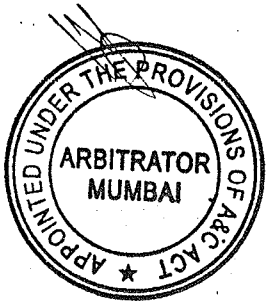
i. to get completed and perfected his title to the said mortgage properties, more particularly described in the Deed of Simple Mortgage Cum Memorandum of Recording Deposit of Title Deeds.

ii. to handover to the Disputant the said Share Certificate No. 7 and 14 described in the said Mortgage Deed forthwith and/or

iii. to get recorded in the Revenue records (particularly in the Property card/ Form 7/12th)

the Charge of the Disputant over the Mortgage properties.

- (g) that pending the hearing and final disposal of the arbitral proceedings, this Hon'ble Tribunal be pleased to authorize and direct the Liquidator of the Disputant to get recorded in the Revenue records (particularly in the Property card/ Form 7/12th) the Charge of the Disputant over the Mortgage properties and to realize the Mortgage properties by way of sell, transfer, assign and/or giving on lease and/or to grant development rights of the said Mortgaged properties and to appropriate the proceeds thereof towards full or part satisfaction, as the case may be, of the Award of recovery of the outstanding amount that may be passed by this Hon'ble Arbitral Tribunal in terms of prayer clause (a) above;



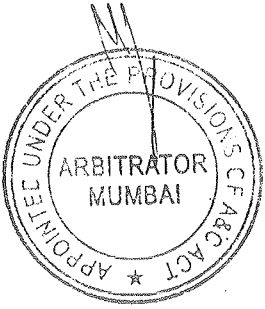
- (h) that ex-parte ad-interim relief in terms of prayer clause (e), (f) and/or (g) above;

(i) the costs and professional cost of the Arbitration be provided for;

(j) such other and further reliefs as this Hon'ble Arbitral

Tribunal may deem fit and proper may also be granted.

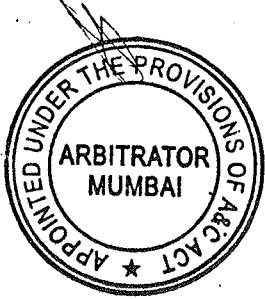
(43) It is also seen from proceeding that the Disputant in support of its claim in dispute has given specific particulars of the claim in dispute under Exhibit "L" which comes to Rs.29,67,47,212/- along with interest thereon at 12.5% w.e.f. 1st January, 2024 till its complete realization and cost of the Dispute.



(44) It is also seen from the proceedings that the Disputant Bank also filed near about 11 documents along with list Exh. 4 in support of its claim in dispute.

(45) It is further seen from proceeding that along with this Dispute, the Disputant also filed Interim Application which is at Exh.5 along with Affidavit of Shri. S. N. Khadke, Liquidator of the Disputant Bank in support of the said Application (Exh 6) praying therein:

(a) that pending hearing and final disposal of the arbitral proceedings, the Opponents themselves, their agents, servants or persons claiming through them be restrained by an Order and temporary injunction of this Hon'ble Tribunal from any manner whatsoever, directly or indirectly transferring, selling, dealing with, alienating, surrendering and/or creating third party interest in/or over the said Mortgage Properties, more particularly described in the said Mortgage Deed (Exh.- 'H' to the Statement of Claim) and that they be further restrained from interfering and/or obstructing the Claimant's possession of the Mortgage properties, more particularly described in the said Mortgage Deed (Exh.- 'H' to the Statement of Claim);



b) that pending the hearing and final hearing and disposal of the Arbitral proceeding, this Hon'ble Arbitral Tribunal may be pleased to direct the Opponent No.3(a) to 3(c) :-

(i) to get completed and perfected his title to the said mortgage properties, more particularly described in the Deed of Simple Mortgage Cum Memorandum of

Recording Deposit of Title Deeds (Exh. - 'D' to the Statement of Claim).

(ii) to handover to the Claimant the said Share Certificate

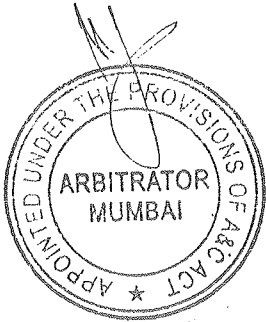
No. 7 and 14 described in the said Mortgage Deed

(Exh. - 'H' to the Statement of Claim) forthwith and/or

(iii) to get recorded in the Revenue records (particularly

in the Property card/ Form 7/12th) the Charge of the

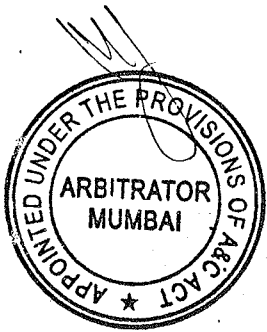
Claimant over the Mortgage properties.



- c) that pending the hearing and final disposal of the arbitral proceedings, this Hon'ble Tribunal be pleased to authorize and direct the Liquidator of the Claimant to get recorded in the Revenue records (particularly in the Property card/ Form 7/12th) the Charge of the Claimant over the Mortgage properties (more particularly described in the Mortgage Deed [Exh.-'H' to the Statement of Claim]) and to realize the Mortgage properties by way of sell, transfer, assign and/or giving on lease and/or to grant development rights of the said Mortgaged properties and to appropriate the proceeds thereof towards full or part satisfaction, as the

case may be, of the Award of recovery of the outstanding amount that may be passed by this Hon'ble Arbitral Tribunal in terms of prayer clause (a) in the Statement of Claim;

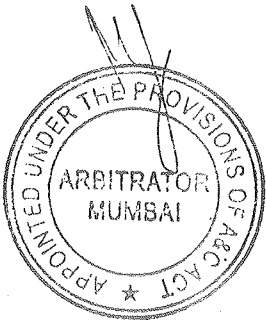
- d) that ex-parte ad-interim relief in terms of prayer clause (a), (b) and/or (c) above;
- e) the costs and professional cost of this Application be provided for;
- f) such other and further reliefs as this Hon'ble Arbitral Tribunal may deem fit and proper may also be granted." etc., on the grounds mentioned in Para 1 to 6 of the Interim Application.



(46) It is further seen from the proceeding that on dt. 3rd January, 2024, after hearing the arguments of Senior Ld. Advocate Shri. Hakani in the context of this Interim Application, this Tribunal passed interim order on the basis of facts, reasoning and grounds mentioned in Para No. 1 to 5 of the said Order, which runs as follows:

"ORDER

1. *The Opponents or any other person on behalf of them are hereby restrained and prohibited from transferring, selling, dealing with, alienating, surrendering and/or creating third party interest directly or indirectly in/or over the mortgaged properties, more particularly described in the Mortgaged Deed (Exh. H to the Statement of Claim/ Dispute) and that they be further restrained from interfering and/or obstructing the Disputants/ Claimants possession of the mortgaged properties, more particularly described in the said Mortgaged Deed (Exh. H to the Statement of Claim/ Dispute).*

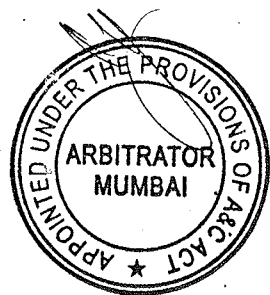


2. *Issue show cause notice to the Opponents as to why the order passed at Sr. No. 1 above should not be made absolute and as to why the other prayers made in prayer clause (b) and (c) should not be granted along with regular notices to all Opponents returnable on 13th January, 2024."*

(47) It is further seen from proceeding that in view of this Order passed on Exh. 5 on date 3rd January, 2024, this Tribunal issued regular notices to all the Opponents along with Show Cause Notice and directed the Opponents to answer the Dispute as well as answer the Show Cause Notice as to why the Interim

Order passed on Interim Application Exh. 5 should not be made absolute and as to why the other prayers made in prayer clause (b) and (c) should not be granted, returnable on 13th January, 2024.

(48) It is seen from proceedings especially from Roznama dated 13th January, 2024, the Notice issued to the Opponent No.1, returned back to this Tribunal with postal remark as "Left address" (Exh. 9). The Opponent No.2 was properly served as per postal acknowledgment (Exh. 10) and the notice issued to the Opponent No.3 was also returned back from the postal authority to this Tribunal with postal remark as "insufficient address" (Exh. 11). The office copies of the regular notice and show cause notice are on record at Exh. 7 & 8.

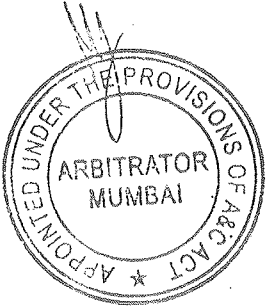


(49) In response to this regular notice (Exh. 7) and show cause notice (Exh. 8), the Opponent No. 1 & 2 appeared before this Tribunal on 13th January, 2024 and filed vakalatnama of Alatheia Law LLP through Ld. Advocate Shri. Adit Desai (Exh. 12 & 13). The Ld. Advocate, Shri. Adit Desai also filed Undertaking on date 13th January, 2024 (Exh. 14) stating therein that "*We, undertake to file Vakalatnama on behalf of the Opp. No. 3 on*

the next date” and sought time by Application (Exh. 15) to file Say to the Interim Application and Written Statement to the Dispute and accordingly, matter was posted for Say and WS on 24th January, 2024.

(50) On 24th January, 2024, the Opponent No.1 & 2 through their Ld.

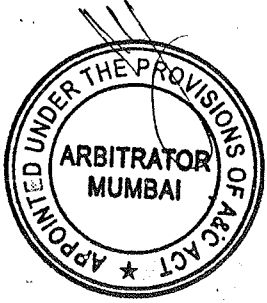
Advocate Shri. Adit Desai filed adjournment Application (Exh. 16) which was strongly objected by Ld. Advocate Shri. Hakani and after considering the submissions of both the Parties, the matter was again posted for Say and WS on 16th February, 2024, then on 17th February, 2024. On 17th January, 2024, the Disputant-Society filed Report in respect of compliance of orders dated 3rd January, 2024 and 24th January, 2024 (Exh. 17).



(51) It is further seen from proceedings that the Opponent Nos. 1 &

2 have submitted their Reply (Exh. 18) to the Interim Application at Exh. 5 on 17th February, 2024 wherein it has denied almost all the adverse facts, allegations raised in the Application and very specifically stated that the Interim Application is ex-facie beyond the scope of the present arbitration as the same pertain to enforcing the alleged rights of the Disputant under the alleged mortgage deed. It is a settled

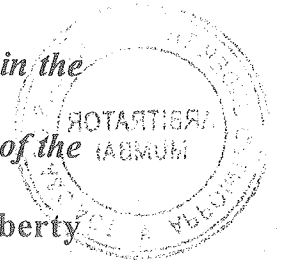
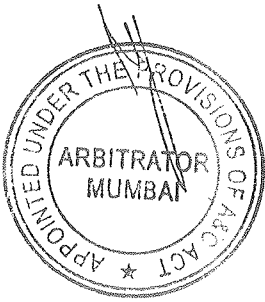
law that matter that pertains to enforcement of rights in rem cannot be adjudicated by a private forum such as an Arbitral Tribunal. In view of this, the Opponents and their Advocate have referred to the case law of the Hon'ble Supreme Court in the matter of Booz Allen and Hamilton Inc. (2011) (5) SCC 532 wherein it has been categorically held that the Parties trying to enforce a mortgage claim or a mortgage deed would have to approach the respective court and the same cannot be adjudicated by the private forum such as arbitral tribunal.



Admittedly, this entire reply is revolving around this case law and ultimately, prayed for vacating the Interim Order passed on Interim Application Exh. 5 by rejecting the same with cost. In this context, I also heard the argument of Ld. Advocate Shri. Hakani for the Disputant as well as Ld. Advocate Shri. Gadre for the Opponent Nos.1 & 2 at length on date 17th February, 2024 and the matter was posted for orders on Interim Application Exh. 5 and Written Statement of the Opponents on 2nd March, 2024.

(52) On 2nd March, 2024, the Disputant Bank through Ld. Advocate Shri. Hakani filed Pursis Exh. 20 which runs as follows:

"1. In view of the handing over of the possession of the mortgaged property to the Liquidator of the Claimant/ Disputant- Bank, with special power of attorney (Ex. I to the SoC) to deal with and dispose of the mortgaged property (Ex. H to the SoC), the Claimant is not seeking relief before this Hon'ble Arbitral Tribunal in terms of Prayer Clause (d) and also not seeking relief in terms of Prayer Clause (c) to the extent *"and thereafter or otherwise to get transferred and/or assign the said Mortgage Properties, more particularly described in the said Mortgage Deed (Exh.- 'H' hereto) in favour of the Claimant or its nominee or its assignee;"* with the liberty to claim the same before the appropriate forum as and when required."

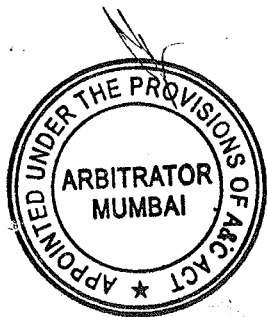


(53) In view of the aforesaid, the Disputant- Bank is not pressing interim application under Section 17 of the Arbitration and Conciliation Act, 1996 and prayed that this Hon'ble Arbitral Tribunal may be pleased to issue appropriate order and direction on the basis of grounds mentioned in Para 1 of the said Pursis. Admittedly, the Opponents through their Ld. Advocate

Shri. Adit Desai has given his no objection to this Pursis and prayer made therein. Accordingly, after hearing the submissions of both Advocates, this Tribunal passed following order on the said Pursis (Exh.20) on 2nd March, 2024, which runs as follows:

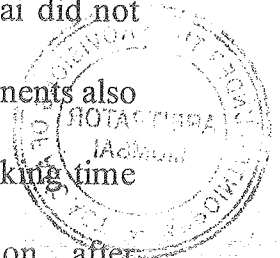
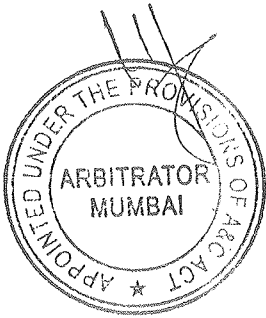
"Order

- 1. Interim Application Exh. 5 is hereby disposed off as it is not pressed.*
- 2. All the Interim Orders passed on the said Interim Application are hereby vacated.*
- 3. Opps. are directed to submit their w.s. on next date without fail."*



In view of this, the matter was posted for w.s. on 9th March, 2024 with directions to both Parties to deposit the 50% fees of the Arbitrator each as per the fourth schedule of Arbitration and Conciliation Act, 1996 and cost of the Arbitrator of Rs.50,000/- each on next date without fail i.e. Rs.15,50,000/-each party and accordingly, the matter was adjourned as per order passed on adjournment application (Exh. 21) and matter was posted for w.s. of the Opponents on 9th March, 2024.

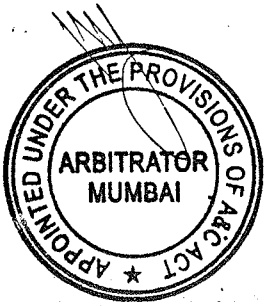
(54) On 9th March, 2024, the Opponents filed Application (Exh. 22) seeking disclosure u/s 12 r/w 6th Schedule of the Arbitration and Conciliation Act, 1996 and accordingly, this Application was disposed off by passing appropriate order and by submitting the disclosure, as asked for by the Opponents, the copy of which is at Exh. 22/1. On the same day, the Opponents also filed application (Exh. 23) praying therein that the present venue of the arbitration be changed on the grounds mentioned in the said Application but later on Ld. Advocate Shri. Adit Desai did not press with the said Application (Exh. 23). The Opponents also filed next application (Exh. 24) on the same date seeking time to submit Written Statement. The said Application, after hearing both parties, was granted subject to cost of Rs.1,000/- payable by the Opponents to the Disputant and then the matter was posted for w.s. on 16th March, 2024. On 16th March, 2024, the Opponents again filed Application (Exh. 25) seeking time to file w.s. but the said Application after hearing both parties was rejected by an order dated 16th March, 2024 and no w.s. order was passed against all the Opponents and the matter was posted for evidence of the Disputant on 23rd March, 2024.



(55) On 23rd March, 2024, the Opponent Nos. 1 & 2 submitted their WS along with Application Exh. 26 which is at Exh 27 along with Affidavit of Mr. Srinivas Pattamadai Sithapathy wherein they have stated and submitted as laid down hereinafter.

(56) The Opponent No. 2 stated that the Opponent No.2 is the Managing Director and director of the Opponent No.1.

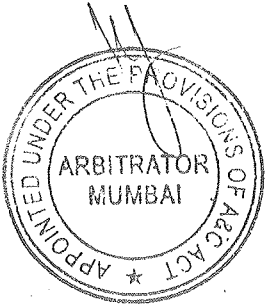
(57) The Opponent further stated that, from the year 2012-2019, the Opponent No.1, Silverline Technologies had stopped all its operation, Opponent No.1 company was shut down due to non-compliance with the BSE norms, in the result of which Bombay Stock Exchange suspended trading in Silverline shares.



(58) The Opponents further stated that, thereafter from the year 2019 the Opponents tried to revive the company by raising funds from investors.

(59) The Opponents stated that, thereafter in year 2020, the Opponents came up with a project to help Co- operatives functioning all around India, This project provides an overview to come up with a robust fully computerized information system for implementation at the grass root level covering the Primary

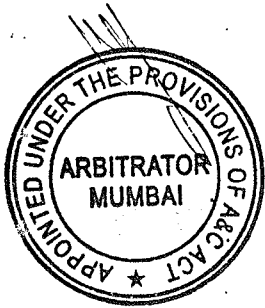
Agricultural credit societies (PACS) and the urban cooperative credit societies along with their governing bodies at the district level- the district cooperative banks and the Apex organization at the head office level for the state of Maharashtra. The proposed system will bring about a complete revamp of the organization and there will be considerable enhancement in the efficiency of the working coupled with the administration of meaningful control of the business based on timely and accurate information about the locations and their activities.



- (60) The Opponents stated that, thereafter, the Opponents came in contact with the Liquidator of the Disputant- Bank regarding the implementation of this project and to raise funds in support for the Project, Mr. Sanjeev Narhari Khadke had been appointed as Liquidator for Apex Urban Co-operative Bank, Mr. Sanjeev Narahari Khadke being an influential well-connected person assured the Opponents that the Liquidator will land this project with the help of Government to the Silverline Technologies, Opponent No.1. After receiving the Project from the government, the Government will pay Rs.50,00,00,000/- as an advance to the Opponent company.



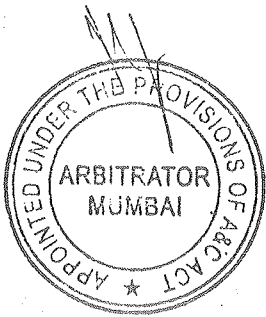
(61) The Opponents further stated that, as on assurance from the Liquidator of the Disputant-Bank, that the Opponents will receive the project and funding will be given by the Government regarding the implementation of project. In the year 2020 Apex Urban Co-operative Bank funded Rs.20,00,00,000/- of the loan with 5.10% as interest to Silverline Technologies.



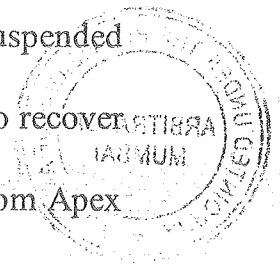
(62) The Opponents further stated that, after receiving the Loan Amount Rs. 20,00,00,000/- the Opponents used that money to settle the overdue of Government agencies, statutory agencies, employees, and contractors, which was all pending for a long period. Details of the end use have been submitted to the Internal Auditor of Apex Bank, Mr. Gulab Singh.

(63) The Opponents further stated that, with the help of this project, the Company was going to function again with the initial fundings of Rs.50,00,00,000/- from the Indian Government as result of which operations of the company and loan which was taken from the Claimant Bank would be given back to the Claimant Bank.

(64) The Opponents further stated that, surprisingly the Opponents came to know that the project was given to NABARD and all the planning went into vail, the Opponents further state that, the Opponents had issued for loan from the claimant on the basis that the Opponents were going to receive money from the initial funding from the Government and after receiving the initial funding the Opponents were going to pay off the loan taken by the Claimant Bank.



(65) The Opponents further stated that, from 2021 onwards as there was a lot of debt on the company and SEBI had suspended Silverline from trading, the Opponents were not able to recover money from the market to lay off the Loan taken from Apex Urban.

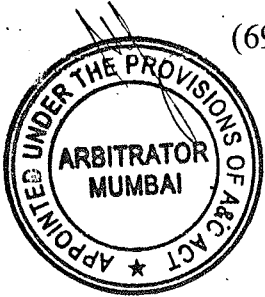


(66) The Opponent stated that, thereafter Silverline laid off all the employees due to insufficient funds and stopped its operation as well.

(67) The Opponent submitted that, in the current scenario as the Opponent did not land the project from the Government,

thereby they were not able to repay the amount Rs 20,00,00,000/-.

(68) The Opponent submitted that the Opponents were under tremendous pressure from the Liquidator of the Disputant as he failed to land the project for Opponents. It was because of failure of the Liquidator of the Disputant to land the project; the Opponent could not excel in the business. It was then, the Liquidator of the Disputant started pressurizing Opponents to repay the said Loan and give Post- dated cheques as security.



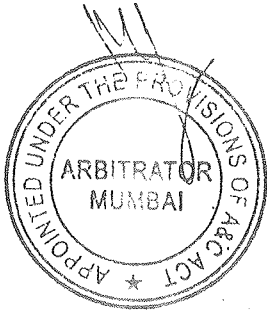
(69) The Opponent further submitted that the Opponents were pressurized to enter the 3rd Agreement dated 14th August 2023, interest was increased to 12.50% the Opponents were made to agree the interest increased interest rates.

(70) Thereafter, the Opponents submitted that, according to clause 24 of the Advance Facility Agreement dated 17th March 2020 sole Arbitrator was appointed by the unilateral decision of the Applicants.

(71) The Opponents denied all the allegations contained therein. The Opponent No. 1 further stated that the contentions and

allegations raised by the Applicant in the above Application are untenable and thus the Application is liable to be dismissed with cost.

(72) The Opponents further denied all the allegations contained therein. The Opponents further stated that the contentions and allegations raised by the Applicant in the above Application are untenable and thus the Application is liable to be dismissed with cost.



(73) The Opponents have further answered the averments raised in the Dispute in the paragraph-wise manner as under: -

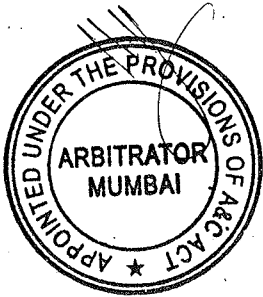
(a) With respect to paragraph no.1 of the Dispute, the Opponents stated that the same is a matter of record and forms part of the proceedings and therefore warrants no comments from the Opponents.



(b) With respect to paragraph no.2 of the Dispute, it is admitted position that the Opponents mortgaged his immovable properties being share certificates no.7 & 14 issued by the Deonar Industrial Premises Co- operative Society Ltd, the Opponents were forced to enter into

Mortgage deed. The Opponents further submitted that, the parties entered into the 1(st) agreement dated 17th March 2020 there was no security given by the Opponents, the Disputant bank disposed of Rs.18,00,00,000/- on interest basis without any security, the Disputant bank had an understanding that Opponents would receive the project and dipose off Loan amount.

- (c) With respect to paragraph no. 3 of the Dispute, the Appointment of the Arbitrator was made unilateral, the name of the Arbitrator was suggested by the Disputant, and there was no consent taken by the Opponents while appointing the Arbitrator.

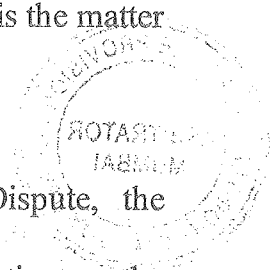
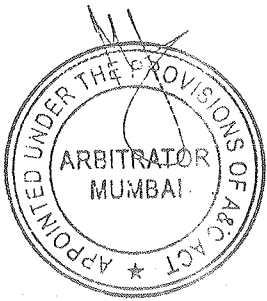


- (d) With respect to paragraph no.4 of the Dispute, the Opponents stated that the same is a matter of record and forms part of the proceedings and therefore warranted no comments from the Opponents.

- (e) With respect to paragraph no.5 of the Dispute, sum of Rs.18,00,00,000 was sent to the Opponents, there is no denial in that, the said sum of money was sent in hopes that

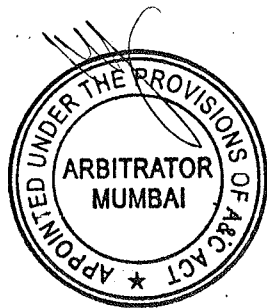
the Opponents will get the project from the Government and likewise will receive advance sum of Rs.50,00,00,000/-, the Opponents came to know that the project was given to NABARD therefore the Opponents were not able to return the loan amount to the Disputant bank till date.

- (f) With respect to paragraph no. 6 of the Dispute, is the matter of record and needs no comments.
- (g) With respect to paragraph no.7 of the Dispute, is the matter of record and needs no comments.
- (h) With respect to paragraph no. 8 of the Dispute, the Opponents had requested to Applicant to grant time, as the Opponents were forced into giving cheques in spite of the Opponents giving surety that the Opponent will return the Loan back once the company starts its operation.
- (i) With respect to paragraph no. 9(5) of the Dispute, Referral Fees/Processing Charges/ Other Charges were not agreed to by the Opponents.



(j) With respect to paragraph no. 9(6) of the Dispute, the Opponents stated that the Repayment / Refund the Interest rate of 5.10% per annum is being replaced with an interest rate of 12.5% per annum compounded quarterly, was not agreed by the parties, it was done unilaterally by the Disputant.

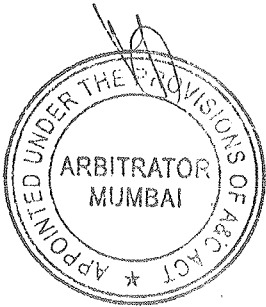
(k) With respect to paragraph no. 9(8) of the Dispute, the Opponents stated that Interest in advance in the event of Default This will remain the same as mentioned in the Advance Facility Agreement entered between the parties on 17.03.2020 and the interest shall be applied at 12.50% per annum compounded quarterly starting from 01.04.2020.



(l) The Opponents further stated that, the increased interest rates from 5.10% to 12.50% do not suffice as earlier when there was a loan given without any security, interest rates were low and on contrast when the debt was made secure by "Mortgage Deed" there was no reason to increase the interest rate from 5.10% to 12.50 levying even after securing the debt.

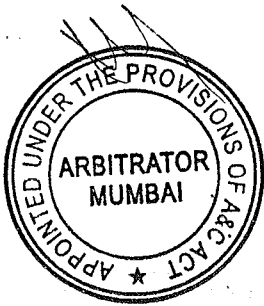
(m) With respect to paragraphs no. 10 to 13 of the Dispute, the Opponents stated that the Amount which is derived from the Interest is not agreed by the Opponents which is wrong, and unjust on the part of the Disputant, the Opponents were pressurized to sign all the agreements.

(n) With respect to paragraph no. 14 of the Dispute, the Opponents stated that there is no denial of the bank granting an extended loan of Rs. 3,25,00,000/-, the Opponents further submitted that the increase in Interest was not agreed upon by the Opponents.



(o) With respect to paragraph 15 to 16 of the Dispute, the Opponents stated that the Liquidator of the Disputant promised the Opponents that the project would be given to Opponents and thereafter the Liquidator forced the Opponent to enter into an agreement and mortgage deed in spite of knowing the fact that the Opponents did not receive the project and the Opponents would need some time to raise funds and give it back to the Applicant.

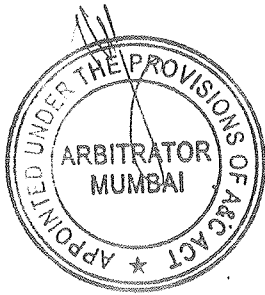
(p) With respect to paragraph no. 17 of the Dispute, the Opponents stated and denied all the allegations contained therein. The Opponents further stated that the contentions and allegations raised by the Applicant in the above Application are untenable, According to BOOZ ALLEN AND HAMILTON INC. (2011) (5) S.C.C 532 has categorically held that the parties trying to enforce a Mortgage claim, or a Mortgage Deed would have to approach the respective court and the same cannot be adjudicated by the private forum such as arbitral tribunal, therefore the Arbitration does not has jurisdiction to have claim over the property.



- (q) With respect to paragraph no. 18 & 19 of the Dispute, the Opponents had intimated the Disputant via Email requesting the Applicants not to deposit Cheques as the Opponents are arranging for funds. In spite of several intimation and the claimant knowing that the project was not received by the Opponents are arranging for funds.
- (r) With respect to paragraph no. 20 to 27 of the Dispute, the Opponents stated that the cheques were given as security,

but it was intimated by the Opponents not to withdraw those cheques as there were no funds in it. As the Opponents were managing funds for clearing the dues with the bank.

- (s) With respect to paragraph no. 28 of the Dispute, the Opponents stated that the appointment of the Arbitrator was made unilaterally by the Disputant, the name of the Hon'ble Arbitrator was suggested by the Disputant bank itself. The Opponent further stated that disclosure was also not given while appointing the Arbitrator.



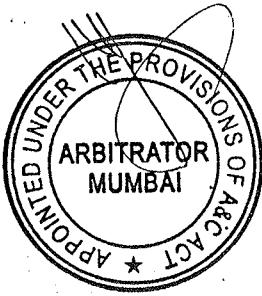
- (t) With respect to paragraph no. 29-30 of the Dispute, the Opponent stated and denied the interest rate in the said paragraph.

- (u) With respect to paragraphs 31-38 of the Dispute, the Opponents stated that the Hon'ble Supreme Court in the matter of BOOZ ALLEN AND HAMILTON INC. (2011)

(5) S.C.C 532 has categorically held that the parties trying to enforce a Mortgage claim, or a Mortgage Deed would have to approach the respective court and the same cannot

be adjudicated by the private forum such as arbitral tribunal. The relevant portion from Booz Allen and Hamilton Inc Versus SBI Home Finance Limited And Others (2011) (5) S.C.C 532 (supra) is reproduced hereunder:

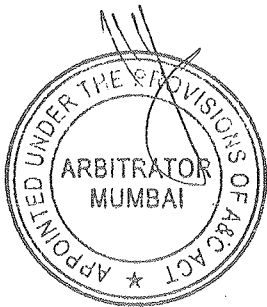
34. The term Arbitrability has different meanings in different contexts. The Three facets of arbitrability, relating to the jurisdiction of the Arbitral Tribunal, are as under:



(i) Whether the disputes are capable of adjudication and settlement by arbitration? That is, whether the disputes, having regard to their nature, could be resolved by a private forum chosen by the parties (the Arbitral Tribunal) or whether they would exclusively fall within the domain of public fora (courts).

(ii) Whether the disputes are covered by the arbitration agreement? That is, whether the disputes are enumerated or described in the arbitration agreement as matters to be decided by arbitration or whether the disputes fall under the "excepted matters" excluded from the purview of the arbitration agreement.

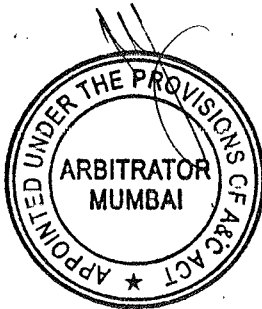
(iii) *Whether the parties have referred the disputes to arbitration? That is, whether the disputes fall under the scope of the submission to the Arbitral Tribunal, or whether they do not arise out of the statement of claim and the counterclaim filed before the Arbitral Tribunal. A dispute, even if it is capable of being decided by arbitration and falling within the scope of the arbitration agreement, will not be "arbitrable" if it is not enumerated in the joint list of disputes referred to arbitration, or in the absence of such joint list of disputes, does not form part of the disputes raised in the pleadings before the Arbitral Tribunal*



35. *The Arbitral Tribunals are private for a chosen voluntarily by the parties to the dispute, to adjudicate their disputes in place of courts and tribunals which are public for a constituted under the laws of the country. Every civil or commercial dispute, either contractual or non-contractual, which can be decided by a court, is in principle capable of being adjudicated and resolved by arbitration unless the jurisdiction of the Arbitral Tribunals is excluded either expressly or by necessary implication. Adjudication of certain categories of proceedings is reserved by the legislature exclusively for public fora as a matter of public policy. Certain other categories of cases,*

though not expressly reserved for adjudication by public fora (courts and tribunals), may be necessary implication stand excluded from the purview of private fora. Consequently, where the cause/dispute is arbitrable, the court where a suit is pending will refuse to refer the parties to arbitration, under Section 8 of the Act, even if the parties might have agreed upon arbitration as the forum for settlement of such disputes.

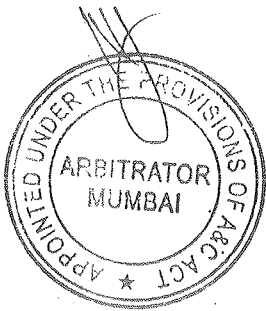
36...



37. It may be noticed that the cases referred to above relate to actions in rem. A right in rem is a right exercisable against the world at large, as contrasted with a right in personam which is an interest protected solely against specific individuals. Actions in personam refer to actions determining the rights and interests of the parties themselves in the subject matter of the case, whereas actions in rem refer to actions determining the title to the property and the rights of the parties, not merely among themselves but also against all persons at any time claiming an interest in that property. Correspondingly, a judgment in personam refers to a judgment against a person as distinguished from a judgment against a thing, right, or status and a judgment in rem refers to a judgment that determines the status or condition of the property

which operates directly on the property itself. (Vide Black's Law Dictionary.)

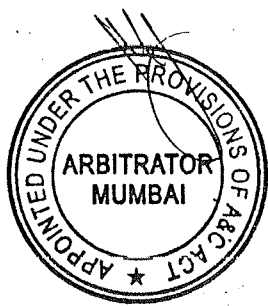
42. *The distinction between disputes that are capable of being decided by arbitration, and those that are not, is brought out in three decisions of this Court. In Haryana Telecom Ltd. v. Sterlite Industries (India) Ltd this Court held: (SCC pp. 689-90, paras 4-5)*



"4. Sub-section (1) of Section 8 provides that the judicial authority before whom an action is brought in a matter, will refer the parties to arbitration the said matter in accordance with the arbitration agreement. This, however, postulates, in our opinion, that what can be referred to the arbitrator is only that dispute or matter that the arbitrator is competent or empowered to decide.

5. *The claim in a petition for winding up is not for money. The petition filed under the Companies Act would be to the effect, in a matter like this, that the company has become commercially insolvent and, therefore, should be wound up. The power to order the winding up of a company is contained under the Companies Act and is conferred on the court. An arbitrator, notwithstanding any agreement between the*

parties, would have no jurisdiction to order the winding up of a company. The matter which is pending before the High Court in which the application was filed by the petitioner herein was related to the winding up of the company. That could not be referred to arbitration and, therefore, the High Court, in our opinion was right in rejecting the application."

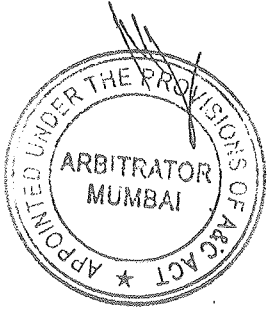


46. An agreement to sell or an agreement to a mortgage does not involve any transfer of right in rem but creates only a personal obligation. Therefore, if specific performance is sought either regarding an agreement to sell or an agreement to mortgage, the claim for specific performance will be arbitrable. On the other hand, a mortgage is a transfer of a right in rem. A mortgage suit for the sale of the mortgaged property is an action in rem, for enforcement of a right in rem. A suit on a mortgage is not a mere suit for money. A suit for enforcement of a mortgage being the enforcement of a right in rem, will have to be decided by the courts of law and not by Arbitral Tribunals.

47. The scheme relating to the adjudication of mortgage suits contained in Order 34 of the Code of Civil Procedure, replaces some of the repealed provisions of the Transfer of Property Act, 1882 relating to suits on mortgages (Sections 85 to 90, 97,

and 99) and also provides for the implementation of some of the other provisions of that Act (Sections 92 to 94 and 96). Order 34 of the Code does not relate to the execution of decrees but provides for preliminary and final decrees to satisfy the substantive rights of mortgagees concerning their mortgage security.

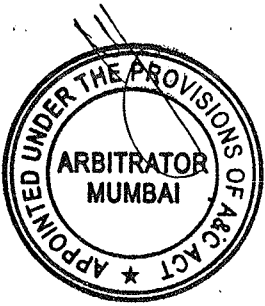
51. If the three issues referred by the appellant are the only disputes, it may be possible to refer them to arbitration. But a mortgage suit is not only about the determination of the existence of the mortgage or the determination of the amount due. It is about enforcement of the mortgage with reference to immovable property and adjudicating upon the rights and obligations of several classes of persons, who have the right to participate in the proceedings relating to the enforcement of the mortgage, vis-a-vis the mortgagor and the mortgagee. Even if some of the issues or questions in a mortgage suit (as pointed out by the appellant) are arbitrable or could be decided by a private forum, the issues in a mortgage suit cannot be divided”



- (v) With respect to paragraph no. 39 of the Dispute, the Opponent stated that the said facts are matter of record and require no comment from the Opponents.

(w) With respect to the paragraph 40 of the Dispute, the deceased Opponent No. 3 stated that the said facts are matter of record and requires no comment from this Opponent.

(x) With respect to paragraph no 41 of the Dispute, the Opponent stated that the said facts are matter of record and require no comment from this Opponent. preliminary and final decrees to satisfy the substantive rights of mortgagees concerning their mortgage security.



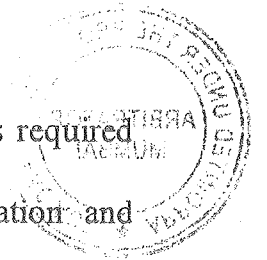
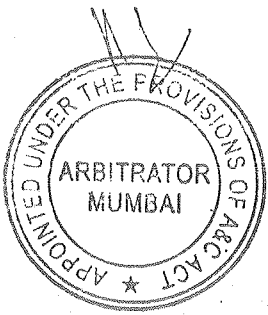
(74) Accordingly, it is further seen from proceedings that after receipt of the said Written Statement (Exh. 27), the matter was posted for evidence of the Disputant on 30th March, 2024.

III. Considering the pleadings of both the Parties, it is very necessary to frame the following issues for effectual consideration, adjudication and decision of this Dispute on merits:

ISSUES

(1) Whether this Arbitral Tribunal has the jurisdiction to try and entertain the present Dispute as per the provisions of the Arbitration and Conciliation Act, 1996?

- (2) Do the Opponents prove that according to the judgment of Booz Allen and Hamilton Inc (2011) (5) SCC 532, the present Dispute is not maintainable?
- (3) Do the Opponent Nos.1 and 2 prove that the appointment of the Arbitrator was made unilaterally by the Disputant Bank and without consent of the Opponents, as the name of the Arbitrator was suggested by the Disputant Bank itself?
- (4) Do Opponent Nos.1 & 2 prove that the disclosure as required under the provisions of Section 12 of the Arbitration and Conciliation Act, 1996 was not given while appointing the Arbitrator?
- (5) Does Disputant- Bank prove its claim in Dispute of Rs.29,67,47, 212/- as against the Opponents along with future interest thereon @12.5% p.a. from the date of filing the Dispute till the date of Award and thereafter, at the same rate of interest till payment or realization of the entire amount along with cost of this Dispute?
- (6) Do the Opponent Nos. 1 & 2 prove that they were pressurized to enter into the 3rd Agreement dated 14th August, 2023 and they

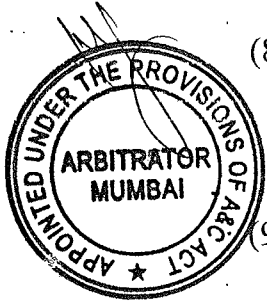


were compelled to pay interest at the rate of 12.5% instead of 5.10% p.a., as alleged in their Written Statement?

- (7) Do Opponents prove that the Liquidator of the Disputant- Bank promised and assured them that the project would be given to them and accordingly, he forced the Opponents to enter into an agreement and mortgage deeds, as alleged in Para 3(l) of their Written Statement?

- (8) Whether the Disputant- Bank is entitled to claim reliefs as prayed in Prayer Clauses (b) to (g) of the Dispute?

- (9) What order and award?



IV. My answers to the above issues are as follows:

Issue No. (1): in the Affirmative, as discussed.

Issue No. (2): in the Negative, as discussed

Issue No. (3): in the Negative, as discussed

Issue No. (4): in the Negative, as discussed

Issue No. (5): in the affirmative, as discussed

Issue No. (6): in the Negative, as discussed

Issue No. (7): in the Negative, as discussed.

Issue No. (8): in the affirmative, as discussed to the extent of prayer clause (b) only.

Issue No. (9): As per order below.

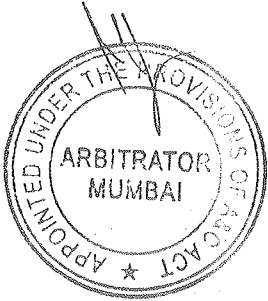
V. Reasoning to the above answers are as follows:

(1) Before going through the reasoning, it is very necessary to examine the oral and documentary evidence given by both the Parties one by one as follows.

(2) It is seen from the proceeding on date 30th March, 2024, the Disputant has submitted the Affidavit of Evidence of Shri. Sanjiv Narhari Khadke, its Liquidator (Exh. 28) in support of its claim in dispute

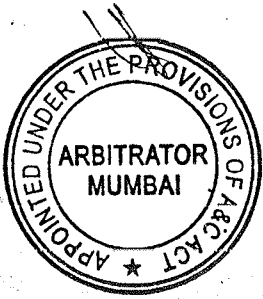
(3) The said Witness Shri. S. N. Khadke on oath deposed, which runs as it is as under:

"1. I say that, I am liquidator of the Claimant bank appointed by the Central Registrar of the Co-operative Societies vide his order dated 26/11/2019 under the provisions of Multi State Co-operative Societies Act, 2002 (in short 'MSCS Act') and my term is extended up to 23rd November, 2022 vide Order received on 12th January,



2022. In continuation of the aforesaid order, my tenure as Liquidator has been extended until further orders vide dated 23rd November 2022. I am producing the copy of the said last Order dated 23rd November, 2022 which is already produced as Exhibit-'A' to the Compilation of Documents. I request the Tribunal to take same on record and marked as Exhibit _.

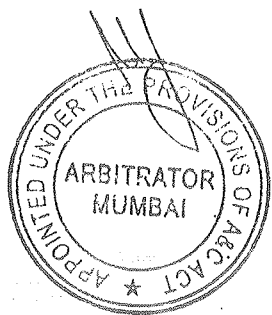
2. I say that by virtue of the power conferred on me under Section 90 of the MSCS Act, I am entitled to give evidence. I am conversant with the facts of the case based on the available records of the Claimant-Bank and also within my personal knowledge. I am able to depose as under:



3. I say that the Apex Urban Co-operative Bank of Maharashtra and Goa Ltd. ('in Liquidation') is registered under the Multi State Co-operative Societies Act, 1984, now deemed to have registered under Act 38 of 2002 (i.e. MSCS Act). I say that, by Order dated 2nd December, 2005, the Central Registrar, Co-operative Societies, Government of India, Ministry of Agriculture and Co-operation was pleased to order the winding up of the Apex Urban Co-operative Bank of Maharashtra and Goa Ltd., Mumbai

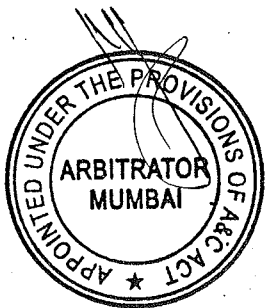
4. I say that the Respondent No. 1 i.e. M/s. Silverline Technologies Limited is a public limited company incorporated under the Companies Act, 1956 (now

deemed to have been incorporated under the Companies Act, 2013). The Respondent No.2 & 3 are the directors of the Respondent No.1 and also guarantors in respect of the advance facilities (being subject-matter of this Arbitration) granted to the Respondent No.1. The Respondent No.3 is also the mortgagor who mortgaged his immovable properties being Share Certificate No. 7 & 14 issued by the Deonar Industrial Premises Co-Operative Society Ltd. (in short 'the said Society') and two Plot of Land admeasuring 435.13 sq. mtrs and 425.25 sq. mtrs. allotted by the said Society as securities for repayment of said advance facilities vide registered Deed of Mortgage. I say that the Claimant is seeking Award for recovery of money and not seeking enforcement of the said Mortgage Deed. However, the Claimant is merely seeking Order against the Respondent No. 3 to perfect his title to the Mortgage Property.

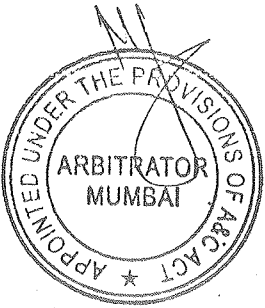


5. I say that the Claimant has referred the Disputes and Differences between the Claimant and Respondents to this Hon'ble Tribunal in terms of Clause 12 of the said Agreement for Further Extension of Advance Facility under the provisions of Section 11 of The Arbitration and Conciliation Act as the Respondents are not members of the Claimant. I am producing the Agreement for Further Extension of Advance Facility dated 14th August, 2023 and that the copy whereof has already been produced as

Exhibit- 'B' in the Compilation of Documents and request the Hon'ble Tribunal to mark the same as Exhibit. I say that the said Agreement is signed by me on behalf of the Claimant as its Liquidator. I admit and confirm the execution and contents of the said Agreement for Further Extension of Advance Facility. The said Agreement for Further Extension of Advance Facility is also signed by Mr. Srinivasan Pattamadai Sithapathy and Mr. Ravi Ramchandrapuram Subramanian as 1st Guarantor and 2nd Guarantor respectively in my presence and also in presence of 4 Witnesses. Mr. Srinivasan Pattamadai Sithapathy has signed the said Agreement for Further Extension of Advance Facility in presence of Mr. M B Jambhekar and Mr. Dattatray D. Ikke. Similarly, Mr. Ravi Ramchandrapuram Subramanian signed the said Agreement for Further Extension of Advance Facility in presence of Mr. Prasad S Kolaskar and Mr. Shashikant B Bhalekar. The said Witnesses of the Respondent No. 2 and Respondent No.3 had signed the said Agreement for Further Extension of Advance Facility as Witnesses in my presence. Moreover, the said Agreement for Further Extension of Advance Facility is signed by the said Mr. Srinivasan Pattamadai Sithapathy and Mr. Ravi Ramchandrapuram Subramanian for and on behalf of Respondent No. 1 Company in their Capacity of Directors thereof in presence of myself as well as the said 4 Witnesses i.e. Mr. M B Jambhekar, Mr. Dattatray D Ikke,

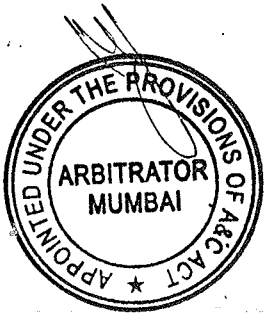


Mr. Prasad S Kolaskar and Mr. Shashikant B Bhalekar. I hereby identify the signatures of Mr. Srinivasan Pattamadai Sithapathy, Mr. Ravi Ramchandrapuram Subramanian (Directors) and Mr. M B Jambhekar, Mr. Dattatray D. Ikke, Mr. Prasad S Kolaskar and Mr. Shashikant B Bhalekar (Witnesses). The said Agreement for Further Extension of Advance Facility was signed by all the concerned parties and their Witnesses in presence of Adv. S N Danage, Notary, Government of India. I identify the Signatures and Stamp of the said Notary who has signed and put his stamp in my presence.



6. *I say that, the Respondent No.1, with Authorities of its Board of Directors, applied for advance facilities to the Claimant and that the Claimant- Bank sanctioned advance facilities upto Rs. 25,00,00,000/- (Rupees Twenty-Five Crores Only) on personal guarantee of the Respondent No.2 and 3 to enable the Respondent- Company to attain the objective concerning co-operative sector vide its letter dated 3rd March, 2020 and that the Respondents vide their letter dated 5th March, 2020 accepted the terms and conditions recorded in the said Sanctioned letter. The said letter dated 5th March, 2020 was signed by the Respondent No.2 and 3 on behalf of the Respondent No.1. The Respondents had executed an Agreement styled as "Advance Facility Agreement" dated 17th March, 2020 (hereinafter referred to as the "said*

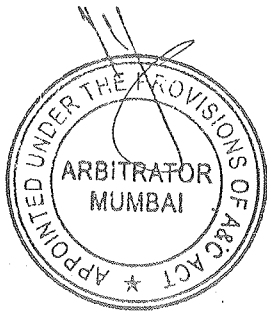
Advance Facility Agreement") and other requisite documents. I hereby call upon the Respondents to produce their Minutes Book of the Board of Directors containing the Resolution authorizing the Respondent No.2 and 3 to avail Advance Facilities from the Claimant, proposal / application for Advance Facilities made by the Respondents and the relevant, correspondence made between the parties in this regard. I am producing the said Advance Facility Agreement dated 17th March, 2020 the copy whereof is already produced as Exhibit – 'C' with the Compilation of Documents. I request the Hon'ble Tribunal to take the said Advance Facility Agreement on record as mark the same as Exhibit. I admit and confirm the execution and contents of the said Agreement for Advance Facility. The said Agreement for Advance Facility is also signed by Mr. Srinivasan Pattamadai Sithapathy and Mr. Ravi Ramchandrapuram Subramanian as 1st Guarantor and 2nd Guarantor respectively in my presence. Moreover, Mr. Srinivasan Pattamadai Sithapathy has signed the said Agreement for and on behalf of Respondent No. 1 as Director and Authorized Signatory thereof. I identify the signatures of Mr. Srinivasan Pattamadai Sithapathy and Mr. Ravi Ramchandrapuram Subramanian.



7. I say that the Bank disbursed an aggregate sum of Rs.18,00,00,000/- (Rupees Eighteen Crores Only) on

different dates, as detailed below, on the terms and conditions recorded in the said Advance Facility Agreement (Exh. - 'C' to the Compilation of Documents).

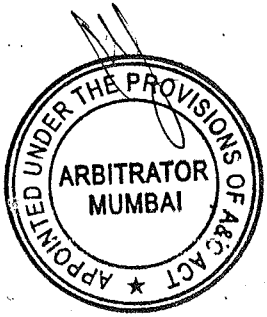
SR NO.	DATE	AMOUNT (RS.)
1.	28/05/2020	6.00 Crores
2.	22/06/2020	6.00 Crores
3.	07/08/2020	5.00 Crores
4.	27/08/2020	1.00 Crore
TOTAL:		18.00 Crores



8. I say that as per Clause 6 of the said Advance Facility Agreement the Respondents were liable for repayment / refund of facilities within 24 months from the date of first disbursement or 31st March, 2022 whichever is earlier. The Clause 6 (b) provides interest at the rate of 5.10% per annum compounded quarterly. The Respondents to issue undated account payee cheques towards repayment of the said Advance Facilities. I submit that Clause 18 of the said Agreement provides that the Claimant shall have right to appropriate the amounts paid by the Respondents in such manner detailed in the said Agreement and at the sole discretion of the Claimant.

9. I say that as on 31st March, 2022, the Respondents were liable to pay sum of Rs.19,67,28,577/- (Rupees Nineteen Crores Sixty-Seven Lakhs Twenty-Eight

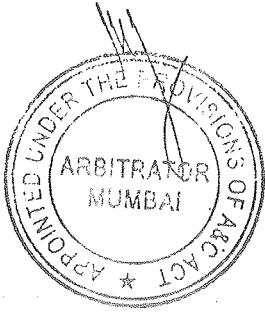
Thousand Five Hundred and Seventy-Seven only) inclusive of aforesaid Principal amount plus interest thereon. The said amount does not include the processing charges and relevant expenses. The Respondents vide their balance confirmation letter dated 12th January, 2022 confirmed and admitted the liability of Rs.19,42,51,866/- (Rupees Nineteen Crores Forty-Two Lacs Fifty-One Thousand Eight Hundred Sixty-Six Only) as at 31.12.2021 and agreed and undertook to pay the same on or before 31st March, 2022. I am producing the said balance confirmation letter dated 12th January, 2022 together with its forwarding letter and request the Hon'ble Tribunal to take the same on record. The said Confirmation letter dated 12th January, 2022 together with its forwarding letter are signed by the Respondent No. 2 and 3 as Directors of the Respondent No. 1. The said letter bears the round rubber stamp of Respondent No. 1. I am familiar with the signature of the said Mr. Srinivasan Pattamadai Sithapathy and Mr. Ravi Ramchandrapuram Subramanian and that I identify their respective signatures appearing on the said Confirmation letter including its forwarding letter.



10. I say that the Respondent No.1 in the Meeting of its Board of Directors held on 4th April, 2022 admitted the liability of Rs.19,67,28,577/- and issued 6 cheques in favour of the Claimant drawn on ICICI Bank Ltd.

Chembur Branch towards repayment of the Principal advance facility and also the interest accrued thereof (excluding the processing fees) the details of which are as follows :

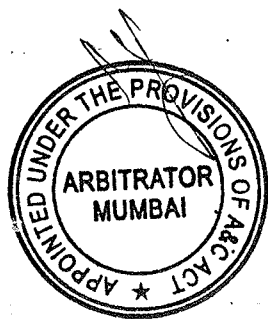
<i>Cheque Date</i>	<i>Cheque Number</i>	<i>Amount on Cheque (Rs.)</i>
31/03/2022	000516	6,00,00,000
31/03/2022	000517	6,00,00,000
31/03/2022	000519	5,00,00,000
31/03/2022	000520	1,00,00,000
31/03/2022	000521	1,42,51,866
31/03/2022	000522	24,76,711
TOTAL		19,67,28,577



I am producing the Certified copy of the said Board Resolution of the Respondent No.1 dated 4th April 2022 (copy whereof is already annexed as Exhibit-'E' to the compilation of document) duly certified by the Respondent No.1 through its Directors i.e. the Respondent No.2 and the Respondent No.3. I request the Hon'ble Tribunal to take the same on record and marked as Exhibit __. I hereby call upon the Respondent to produce Minutes Book of the Board of Directors of the Respondent No. 1 containing the said Resolution dated 4th April, 2022. The said Resolution also bears the rubber stamp of the Respondent No.1 with initial of the Respondent No.2.

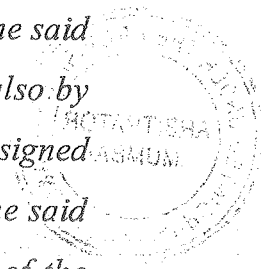
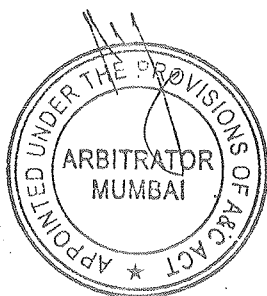
I am familiar with the signatures of the Respondent No.2 and 3 and I hereby identify their signatures appearing on the said certified true copy of the Board Resolution of the Respondent No.1 dated 4th April, 2022.

11. I say that in terms of the said Board Resolution dated 4th April, 2022, the Respondents issued balance confirmation and forwarded the aforesaid 6 cheques (as detailed hereinabove) vide its letter dated 5th April, 2022. I say that, vide its said letter dated 5th April, 2022, the Respondents recorded 'By our letter dated 29/03/2022, we have requested your kind good-self to grant time for repayment by depositing aforesaid Cheques, on or before 21/06/2022'. I am producing the said letter dated 5th April, 2022 (copy whereof is annexed as Exhibit- 'F' to the compilation of document) with the request this Hon'ble Tribunal to take the same on record and marked as Exhibit _____. The said letter is signed by the Respondent No.1 and 2 as Directors of the Respondent No.1. The said letter bears the stamp of the Respondent No.1 with initials of the Respondent No.2.

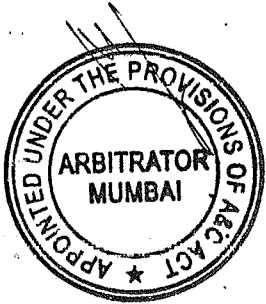


12. I say that in view of the inability of the Respondent No. 1 to make repayment of the amount disbursed under Advance Facility Agreement, the parties to the Agreement, after negotiations, entered into an Agreement styled as 'Advance Facility Extension Agreement' which was executed on 31st March, 2022 by and between Claimants

& Respondents. I am producing the said Advance Facility Extension Agreement dated 31st March, 2022 (the copy whereof is already annexed as Exhibit-'G' to the Compilation of Documents). I request the Hon'ble Tribunal to take the same on record and mark as request the Hon'ble Tribunal to mark the same as Exhibit _____. The said Advance Facility Extension Agreement has been signed and executed by the Claimants and the respective Respondent No.1 to 3. The said Advance Facility Extension Agreement was signed by the Respondent No.3 on behalf of the Respondent No.1 as its Director and also in his personal capacity as guarantor. Similarly, the said Advance Facility Extension Agreement is signed also by the Respondent No.2. The Respondent No.2 and 3 signed the said Agreement in my presence and I signed the said Advance Facility Extension Agreement on behalf of the Claimant. That by the said Advance Facility Extension Agreement, the period for the advance facility was extended with modifications of certain terms of the original Advance Facility Agreement as pointed out in para 9 of the Statement of Claim. I submit that as pointed out in para No.9 of Statement of Claim, Clause 3, 5, 6, 7, 8, 19, of the said Advance Facility Extension Agreement stand modified. The important terms and conditions of the said Advance Facility Extension Agreement as modified are already reproduced in para 9 of the Statement of Claim.



13. I say that, thus, under the said Advance Facility Extension Agreement, the Respondents admitted their liability to pay Rs.19,99,14,606/- (Rupees Nineteen Crores Ninety-Nine Lakhs Fourteen Thousand Six Hundred and Six Only) inclusive of interest and processing fees and that the Bank has granted further period of 75 days for repayment of the said outstanding amount of 'Advance Facilities' from 1st April, 2022 and ending on 14th June, 2022. By the said Advance Facility Extension Agreement, the rate of interest has been modified/ replaced by compounding interest of 12.50% p.a. to be calculated at quarterly rest in place and instead of interest @ 5.10% p.a. The said modification in interest rate is made effective from 01st April, 2022.



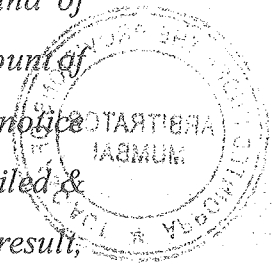
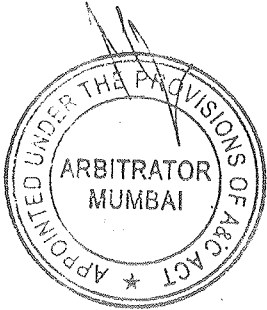
14. I say that as stated hereinabove in the said Advance Facility Extension Agreement, Respondent No. 1, 2 & 3 jointly and severally admitted and confirmed the liability of Rs.19,99,14,606/- (Rupees Nineteen Crore Ninety-Nine Lakhs Fourteen Thousand Six Hundred and Six Only) as on 31st March, 2022, inclusive of interest and Processing Charges and relevant levies as per Clause 6(c) of the said Agreement.

15. I say that the Respondent No. 1 issued the said six cheques as mentioned in para 10 hereinabove under signature of its Managing Director i.e. Respondent No. 2 for an aggregate sum of Rs.19,67,28,577/- (Rupees

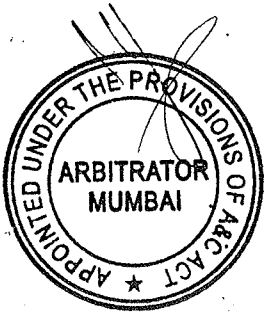
Nineteen Crores Sixty-Seven Lakhs Twenty-Eight Thousand Five Hundred and Seventy-Seven Only) (excluding the processing charges) all dated 31st March, 2022 and drawn on ICICI Bank, Chembur Branch, Mumbai towards refund / repayment of the said outstanding amount. I say that for the sake of convenience, hereinafter the said Advance Facility Agreement and the said Advance Facility Extension Agreement may collectively be referred to as "the said Agreements".

16. I say that all the said six cheques on their presentation were dishonored by Respondents' Bank i.e. ICICI Bank, Chembur Branch, Mumbai on ground of 'fund insufficient'. The Claimant demanded the amount of dishonored cheques by issuing written demand notice dated 22nd July, 2022 but the Respondents have failed & neglected to pay the amount as demanded and as a result, the claimant Bank (through its General Manager) has filed Criminal Complaint No. 4101 of 2022 against Respondents under Section 138 & Section 141 of the Negotiable Instruments Act, 1881 and that the said Complaint is pending on the file of the Metropolitan Magistrate, 33rd Court, Mumbai.

17. I say that during the pendency of the said Criminal Complaint, on request of the Respondent No. 1 and its Directors (i.e. Respondent No. 2 & Respondent No.3), the claimant Bank was obliged to grant further facilities by

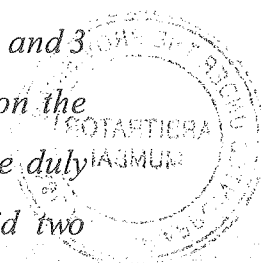
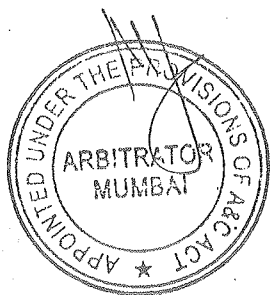


way of permitting to withdraw to the extent of Rs.3,25,00,000/- (Rupees Three Crores Twenty-Five Lakhs only) out of the balance sanctioned limit of advance facility of Rs. 25,00,00,000/- (Rupees Twenty-Five Crores Only) thereby making total outstanding advance facility amount of Rs.23,24,14,606/- (Rupees Twenty-Three Crores Twenty-Four Lakhs Fourteen Thousand Six Hundred and Six only) with further interest at the rate of 12.5% thereon to be calculated at Quarterly rests. The said further withdrawal was allowed keeping in mind commercial expediency but on condition that the Respondent No. 3 shall mortgage his two immoveable properties and accordingly the Registered Deed of Simple Mortgage cum Memorandum of Recording Deposit of Title Deeds dated 29th November, 2022 was executed by the Respondents in favour of the claimant Bank, which has been registered on 29th November, 2022 under Document No. 23050/2022 in the Office of Sub-Registrar, Kurla-5, Mumbai) securing the entire Advance Facilities, hereinafter referred to as the "said Mortgage Deed"). I say that on execution of the said Mortgage Deed, the repayment period of said Advance Facility was further extended up to 30th June, 2023 by permitting the further withdrawal of the sanctioned advance facilities. I say that, thus, by the said Mortgage Deed, Respondent No. 3 mortgaged properties as mentioned therein. The said Mortgage Deed also recorded the terms and conditions of

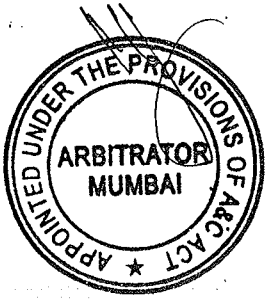


the guarantee and also created floating charge over assets of the Company. I am producing the said registered Mortgaged Deed (the copy whereof is already produced as Exhibit-'H' to the Compilation of Documents) and request the Hon'ble Tribunal to take the same on record as marked as Exhibit _____. The said mortgaged Deed duly signed and executed by the Respondent No.2 and Respondent No.3 as guarantor and also both have signed for and on behalf of the Respondent No.1 as its Director. The said mortgaged Deed is signed by me on behalf of the Claimant Bank in the capacity of its Liquidator. I am familiar with the signatures of the Respondent No.2 and 3 and I hereby identify their signatures appearing on the said mortgage Deed. I say that, Respondents have duly received the amount of further facilities. The said two mortgaged properties mentioned in the said Mortgage Deed may be hereinafter referred to as the "said Mortgaged Properties". The Mortgage was also registered with the Office of the Registrar of Companies Mumbai under SRN AA1190374 and Charge ID as 100656326 with date of creation as 29th November 2022 for a sum of Rs. 23,34,14,606/- (Rupees Twenty-Three Crores Thirty-Four Lakhs Fourteen Thousand Six Hundred and Six only).

18. The said Mortgage Deed specifically provides that the Bank may act against Respondent Nos. 2 & 3 as if



Respondent Nos. 2 & 3 are principal debtor/s of the Bank. In the said Mortgage Deed, Respondent Nos. 2 and 3 as Guarantors agreed that any legal action or proceeding (arising out of Guarantee incorporated under the said Mortgage Deed) may be brought by the Claimant in its absolute discretion by way of Arbitration, etc. Under the said Mortgage Deed, Respondents appointed and nominated the Liquidator as their Constituted Attorney for sale, transfer, assignment, alienation, deal with, etc., of the Mortgaged Properties.



19. I say that the Respondent No. 3, subsequently, executed in favour of the Liquidator of the Claimant registered Power of Attorney dated 5th September, 2023 in respect of the Mortgaged Properties so as to enable the Liquidator of the bank to realise the outstanding amount of the Advance Facilities by selling, transferring, assigning, etc., of the Mortgaged Properties (possession whereof is already with the Claimant) without intervention of the Court and other powers as set-out therein. I am producing the said registered Special Power of Attorney dated 5th September, 2023. (a copy whereof is produced as Exhibit- 'I' to the Compilation of Documents) and request the Hon'ble Tribunal to take the same on record and marked as Exhibit _____. I am familiar with the signatures of the Respondent No.3 and I hereby identify

his signature appearing on the said Special Power of Attorney dated 5th September, 2023.

20. I say that the parties to the said Mortgage Deed also executed Indemnity Bond cum Declaration dated 3rd December, 2022 by which the Respondents have given indemnity and made declaration in favour of the Bank, as more particularly recorded therein. It is pertinent to note that Respondents in the said Indemnity Bond Cum Declaration dated 03rd December, 2022 inter alia recorded having knowledge of pendency of the said criminal complaint and receipt of demand notice and also receipt of the copy the criminal complaint. I say that the Respondents have violated the said Indemnity Bond/ Declaration by not returning the two Share Certificate Nos. 7 and 14 concerning the said Mortgaged Properties. Thus, Respondents have violated the said Indemnity Bond Cum Declaration. I submit that as per legal advice, in addition to the contractual civil liability, the Respondents may also be liable to be prosecuted for cheating, forgery, etc., punishable under the Indian Penal Code. I submit that the Respondent have committed several breaches of Indemnity Bond cum Declaration dated 03rd December, 2022. I am producing the said Indemnity Bond cum Declaration (copy whereof is produced as Exhibit- 'J' to the Compilation of Documents) and the request Hon'ble Tribunal to take the same on record and marked as

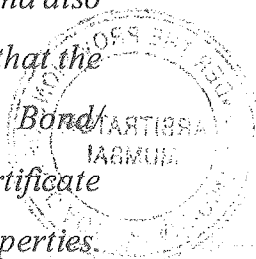
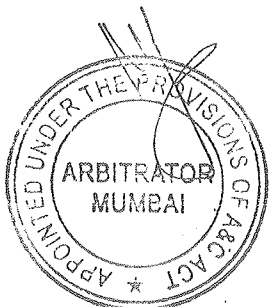
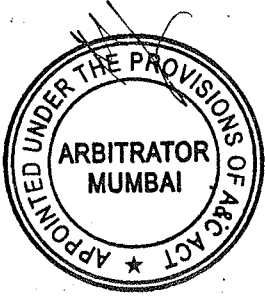


Exhibit- . The said Indemnity Bond is signed by the Respondent No.2 and 3 in their personal capacity and also for and on behalf of the Respondent No.1 as its Directors and that I signed the same on behalf of the Claimant. I am familiar with the signatures of the Respondent No.2 and 3 and I hereby identify their signatures appearing on the said Indemnity Bond cum Declaration.



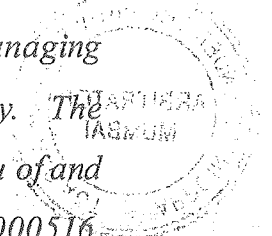
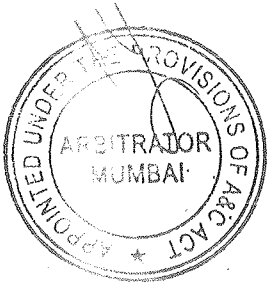
21. *I say that in repayment of amount due and payable under the said Agreements read with the said Mortgage Deed, Respondent No. 1 issued following nine cheques for aggregate sum of Rs. 25,14,14,606/- (Twenty-Five Crores Fourteen Lakhs Fourteen Thousand Six Hundred and Six Only) all dated 26th June, 2023 drawn on State Bank of India, Malad (West) Branch, Mumbai towards repayment of Advances together-with interest thereon calculated upto 31st December, 2022 and expenses along-with charges debited upto 31st January, 2023 excluding the processing fees and other charges debited to the account of the Company maintained in the books of the Bank:*

Sr. No.	Cheque Numbers	Amount
1.	613620	6,00,00,000
2.	613621	6,00,00,000
3.	613622	5,00,00,000
4.	613623	1,00,00,000

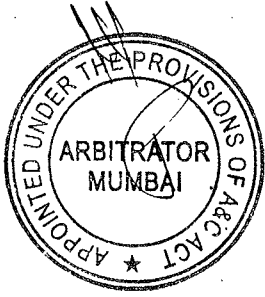
5.	613624	1,42,51,866
6.	613625	24,76,711
7.	613626	60,00,000
8.	613627	1,20,00,000
9.	613628	3,66,86,029
TOTAL		25,14,14,606

All the aforesaid cheques issued by the Respondent No. 1 are signed by Respondent No. 2 i.e. Mr. Srinivasan Pattamadaai Sithapathy in his capacity as the Managing Director / Authorised signatory of the Company. The above referred cheques at Sr. Nos. 1 to 6 are in lieu of and in addition to earlier dishonoured cheques No. 000516, 000517, 000519, 000520, 000521 and 000522 all drawn on ICICI Bank, Chembur Branch, Mumbai, as mentioned hereinabove, which are subject matter of the Criminal Complaint No. 4101 of 2022 under Section 138 and 141 of the Negotiable Instruments Act, 1881 and pending on the file of the Metropolitan Magistrate, 33rd Court, Mumbai.

22. I say that after issuing and handing over the aforesaid nine cheques, Respondent No. 1 vide their E-mail dated 30th June, 2023 requested the claimant Bank not to deposit cheques, as the Respondents were in process



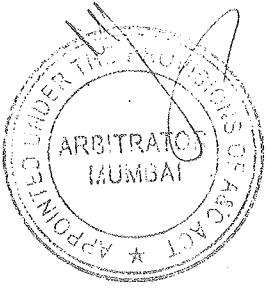
of raising funds to completely discharge the liability to the claimant Bank and that Respondents requested the claimant Bank for extension upto 15th July, 2023. I say that, thereafter, Respondents requested for further extension upto 30th August, 2023 for repayment so as to enable them to arrange funds. I say that Respondent assured the Claimant and also undertook that the said cheques would be honored and paid by the Respondents' bank i.e. said State Bank of India, any time after 30th August, 2023.



23. I say that it is admitted and confirmed by Respondents that to show Respondent's bonafide to repay the advance facilities availed within extended period and as agreed thereto, Respondent No. 3 had on 1st July, 2023 voluntarily handed over to the Liquidator of the Claimant Bank, the peaceful physical possession of the said Mortgaged Properties, more particularly described in the 1st Schedule and 2nd Schedule of the said Mortgage Deed. While handing over the possession, the Respondent No. 3 assured and undertook to the Liquidator to get his title to the said Mortgaged Properties perfected by getting two Share Certificates transferred in his name and returning the same to the Claimant within 30 days as recorded in the said Indemnity Bond cum Declaration (Exh. – 'J' to the Compilation of Documents). I say that the Respondents have deliberately failed to return the said

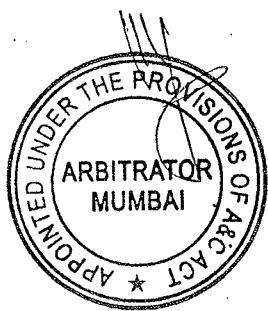
two Share Certificates, as per undertaking/ assurances within 30 days or even till date. Thus, Respondents have committed breach of the Agreement/s and their undertaking/s.

24. I say that by Agreement for Further Extension of Advance Facilities dated 14th August, 2023 (Exh.- 'B' to the Compilation of Documents) executed by & between the Claimant (therein referred to as the bank/mortgagee), Respondent No. 2 (therein referred to as the '1st Guarantor'), Respondent No. 3 (therein referred to as the '2nd Guarantor/ Mortgagor') and Respondent No. 1 (therein referred to as the 'Company') wherein above referred amongst other facts are recorded, admitted and confirmed and that Respondents were granted time for repayment upto 30th August, 2023. The Claimant states that thus the Respondents have admitted & confirmed the above referred amongst other facts, as recorded in the said Agreement for Further Extension of Advance Facility dated 14th August, 2023, (Exh. - 'B' to the Compilation of Documents) (hereinafter referred to as the "said Last Agreement"). I say that the Respondents have recorded and confirmed having issued and handed over to the Claimant post-dated cheque of Rs.3,30,18,587/- bearing No. 613563 dated 30th August, 2023 drawn on the Company's Bank Account with the State Bank of India, Malad West Branch, Mumbai under the signature of the



Respondent No. 2 as Managing Director/Authorized signatory thereof. The Important Clause Nos. 8 to 11 of the said Last Agreement are reproduced in para 21 of the Statement of Claim.

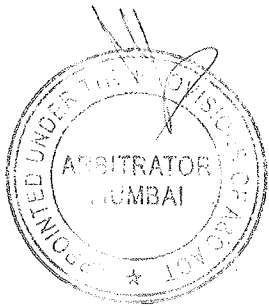
25. *I say that by Claimant's Advocate's two separate Demand Notices both dated 10th October, 2023, the claimant Bank informed the Respondents that, Respondents' 10 (ten) cheques (as mentioned in Para. 21 above and Para. 24 above) i.e. Cheque Nos. 613620, 613621, 613622 , 613623, 613624, 613625, 613626, 613627, 613628 and 613563 issued by Respondent No. 1 were dishonored and returned unpaid by the Respondents' bank i.e. State Bank of India, Malad West Branch, Mumbai (when presented for payment as per Respondents request through the Claimant's bank i.e. Janata Sahakari Bank, Fort Branch, Mumbai) on the ground of 'insufficient fund' vide OW Return Memo all dated 21st September, 2023 issued by the said State Bank of India. I say that all the Respondents have been duly served with the said two Demand Notices through Registered Post AD. In the first Demand Notice, the claimant Bank has demanded the amount of six dishonored cheques bearing No.000516, 000517, 000519, 000520, 000521 and 000522 all dated 26th June, 2023.*



26. *I say that in the second Notice, the Claimant demanded the amount of said dishonoured four cheques*

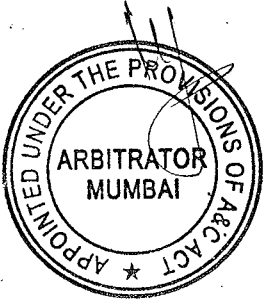
bearing No.613626, 613627, 613628 and 613563 all drawn on State Bank of India, Malad West Branch, Mumbai.

27. I say and submits that in the said both Demand Notices for total sum of Rs. 28,44,33,193 /- (Rupees Twenty Eight Crores Forty Four Lakhs Thirty Three Thousand One Hundred And Ninety Three Only), I recorded that Respondent No. 2 & Respondent No. 3 are not only liable to pay on the ground of Respondent No.2 & Respondent No. 3 being Guarantors but also on the ground that Respondent No. 2 and Respondent No. 3 were and are Managing Director/ Directors of Respondent No. 1 who at the time of issuance of aforesaid cheques and dishonor thereof were in-charge of and were responsible to the company for the conduct of its business as well as the company. Hence, Respondents are liable to be prosecuted in the event the Company fails to comply with this Demand Notice.



28. I say that in spite of receipt of said Demand Notices, Respondents have failed and neglected to comply with both the Demand Notices by not making payment of all or any of the dishonored cheques within a period of 15 days or even thereafter till date. As a result, the claimant Bank has filed two separate Criminal Complaints being Summary Case /506730/2023 and Summary Case.506731/2023 against Respondents u/s 138 and 141

of the Negotiable Instrument Act, 1881 in the Court of the Ld. Metropolitan Magistrate, 33rd Court, Ballard Pier at Mazgaon, Mumbai in terms of Clause 8 of the said Last Agreement dated 14th August, 2023. The said Criminal Complaints are pending before the Ld. Metropolitan Magistrate 33rd Court, Ballard Pier at Mazgaon, Mumbai. I say that the said Ld. Metropolitan Magistrate has taken the cognizance of the said two Criminal Complaints and that the said Hon'ble Court was pleased to issue process against the Respondent No.1 to 3 under Section 138 and 141 of the Negotiable Instrument Act.

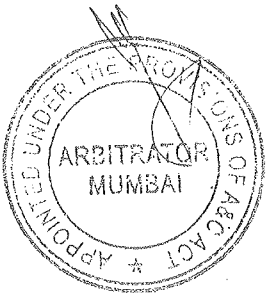


29. *I say that Respondents have committed breach of all the Agreements and also their undertaking and assurances. I say that the Respondents have also failed to complete and get perfected their title to the said Mortgaged Properties and also committed various breaches of and non-compliance of the said Agreements including the said Last Agreement, Mortgage Deed, Indemnity Bond cum Declaration, etc., resulting into several disputes and differences of which some of such disputes and differences have been recorded in the Notice dated 30th November, 2023 and demanded the outstanding sum of Rs.28,44,33,193/- (Rupees twenty-eight crores forty-four lakhs thirty-three thousand one hundred and ninety three only) with further interest @ 12.5% thereon to be calculated from 1st September, 2023*

till payment or realisation or called upon to comply with requisition made therein. I am producing the copy of the said Demand Notice cum Invocation of Arbitration dated 30th November, 2023(copy whereof has already been produced as Exhibit - 'K' to the Compilation of Documents) addressed to the Respondents by the claimant's Bank Advocate and request the Hon'ble Tribunal to take the same on record and marked as Exhibit . I admit and confirm the contents of the said Demand Notice dated 30th November, 2023 and signature of Mr. Kirit J. Hakani, Advocate for the Claimant appearing thereon. I am familiar with the signatures of my Advocate and that I hereby identify his signatures appearing on the said Demand Notice. I say that the Respondents were served with the said Notice dated 30th November, 2023 by registered post and also by email.

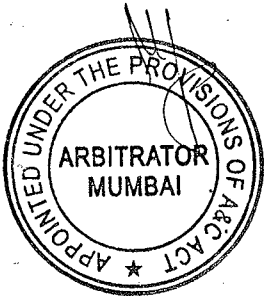
30. I say that inspite of the receipt of the said Notice dated 30th November, 2023, the Respondents deliberately failed and neglected to comply with the requisition contained in the said notice dated 30th November, 2023.

31. I say that upon failure of the Respondents to comply with the requisition contained in the said notice dated 30th November, 2023, the arbitration agreement automatically stood invoked in terms of the said notice and accordingly, as a Liquidator on behalf of the Claimant appointed and referred the matter to this Hon'ble Tribunal vide Letter



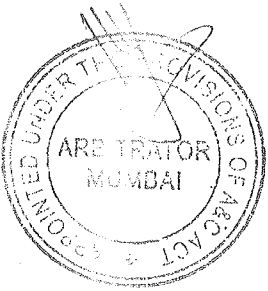
dated 18th December, 2023 written by me on behalf of the claimant Bank and that the said appointment letter was forwarded to the Respondents through the Advocate for the Claimant vide his letter dated 18th December, 2023. The said Notices / letters were served upon the Respondents by email and also by the registered post. The Respondents have duly received and even otherwise well aware about the appointment of this Hon'ble Arbitrator and matter referred to the arbitration by the Claimant.

32. I say that the Respondents have agreed to pay and accordingly they are liable to pay the claimant Bank the interest at the rate of 12.50 % P.A. on the outstanding amount of Rs. 28,44,33,193/- (Rupees twenty-eight Crores forty-four lakhs thirty-three thousand one hundred and ninety-three only) as on 31st August, 2023 and that the said interest to be compounded at quarterly rest as per the said Agreements read with the said Mortgage Deed and last Agreement dated 14.08.2023. Thus, I say that the interest is based and supported by the Agreements executed by and between the parties. It is submitted that the said liability of the Respondents is supported by the dishonored cheques and therefore, they are liable to pay interest @ 18% p.a. as per Section 80 of the Negotiable Instrument Act. However, I am claiming only contractual rate of interest @ 12.5% p.a. on the dishonored cheques for an aggregate value of Rs.28,44,33,193/- (Rupees



twenty-eight crores forty-four lakhs thirty-three thousand one hundred and ninety-three only)

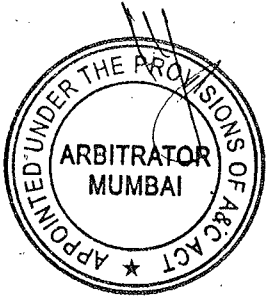
33. I say that as on 31st December, 2023 there was due, owing and payable by the Respondents to the Claimant sum of Rs.29,67,47,212/- (Rupees twenty-nine crores sixty-seven lakhs forty-seven thousand two hundred twelve only) as per particulars of the Claimant's claim (Exhibit- 'L' to the Compilation of Documents) with further interest at 12.50 % P.A. to be compounded at quarterly rest with effect from 01.01.2024 till payment or realization.



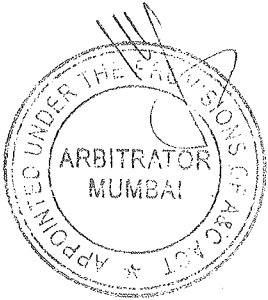
34. In the circumstances, I have filed Statement of Claim before this Hon'ble Tribunal and that the said Statement of Claim was signed and declared before the Notary Adv. K.N. Solunke on 30th December, 2023. I admit the contents of the Statement of Claim and also admit my signature appearing on the said Statement of Claim including on verification clause. – which is at Exh “C”

35. I say that on 23rd March, 2024, the Respondent No. 1 and 2 filed their belated Written Statement and the same has been taken on record by this Arbitral Tribunal by setting aside “No W.S. Order” passed on 17.03.2024 against the Respondent No. 1 & 2. However, the “No W.S” Order against the Respondent No. 3 is already passed and that this liability of the Respondents are joint and several towards the Claimant-Bank. I say that, the contentions

raised in Para 2. b., 2. c., 2. g., 2. j., 2. k., 2. l. of the Written Statement are totally false and frivolous and based on hypothetical thinking and far from truth and also not supported by the records of the Claimant-Bank and put the Respondents to the strict proof thereof. I deny the allegations made against me in the Written Statement. I never represented myself as an influential well-connected person. I deny having made assurance to the Respondents that the Liquidator will land this project with the help of Government to the Respondent No. 1, as alleged. I deny the alleged assurance given by me as recorded in Para 2. f. However, it is true that in the year 2020, the Disputant-Bank funded Rs. 20,00,00,000/- to the Respondent No. 1 on an interest rate of 5.10 % p.a. as stated in Para 2. f. I deny having submissions of details of the end use by the Respondent to the internal Auditor of the Apex Bank as alleged. I deny that the Advance facility was extended on understanding that the advances will be refunded by the Respondents out of the funds received from the Government as alleged in Para 2. i. I strongly deny the allegations made against me in Para 2. m. and put the Respondents to the strict proof thereof. The allegations against me in the Written Statement are far from truth, devoid of merits, ill-motivated, after-thought and made with an abortive attempt to escape from the legal liabilities. I deny having pressurize the Respondents to enter into an Agreement dated 14th August, 2023 as



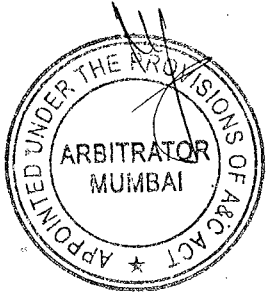
alleged. The allegation of pressuring to enter into an Agreement dated 14th August, 2023 or any other agreements is first time made and the same is after thought, ill motivated and far from truth. I deny the contents thereof. I deny that the Ld. Sole Arbitrator was appointed by the unilateral decision of the Applicant as alleged, but in fact the Ld. Arbitrator is appointed by due consent of the Respondents as per Agreement dated 14th August, 2023.



36. I say that throughout in the Written Statement, particularly in Paras 3 & 4 thereof, the Respondents have not denied the execution and contents of the documents/papers, particularly Exhibit - B, C, D, E, F, G, H, I, J to the Statement of Claim. The Respondents have not denied the receipt and contents of the demand notice cum invocation of the Arbitration dated 30th November, 2023 (Exhibit- 'K' to the Statement of Claim). I submit that the allegation of the appointment of Ld. Sole Arbitrator unilaterally is devoid of merits, far from truth and even otherwise not relevant for the obvious reason that the Respondents have participated in the Arbitral proceedings and also filed various Applications including the Written Statement.

37. With reference to Para 3 of the Written Statement, I repeat and reiterate the contents of Statement of Claim and deny anything stated in the said Written Statement

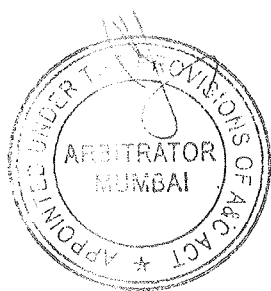
which are inconsistent therewith and contrary thereto. I say that there is no Dispute regarding the rate of interest because the Respondents have issued cheques towards principal and agreed rate of interest. I deny having use of any pressure on the Respondents to execute any document. I say that the documents mentioned in Statement of Claim were signed and executed by the Respondents at their free will and without any coercion. The allegation of pressuring the Respondents by me is first time made with ill-motive. Infact, the Respondents have acted upon the documents as evident from the dishonoured cheques. I say that as stated in Para 4 hereinabove, I am not seeking enforcement of the said Mortgage Deed and therefore what is stated in Para 4 of the Written Statement is irrelevant and unjustified.



38. *In view of the admission of the execution and contents of the documents, it is fit case to pass Award on admission as for the reason that the entire claim for the Disputant-Bank is based on documents as supported by the dishonoured cheques issued by the Respondents for the repayment of Advance facilities with agreed rate of interest.*

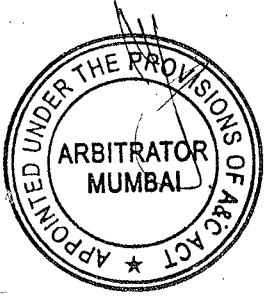
39. *I hereby request and pray to this Hon 'ble Tribunal to make and publish Award as prayed with costs for save and except the reliefs given up vide my Advocate pursis dated 2nd March, 2024."*

- (4) Thus, after examining the Liquidator by way of his Affidavit of Evidence (Exh. 28) on date 30th March 2024, the Disputant-Bank closed its evidence by Pursis (Exh. 29) on date 30th March 2024. In view of this, the matter was closed for evidence of the Opponents on date 13/04/2024.
- (5) On date 13/04/2024, the Ld. Advocate Shri. Adit Desai for the Opponent Nos. 1 & 2 submitted Application (Exh. 30) praying therein that the Opponent Nos. 1 & 2 be allowed to cross examine the witness of the Disputant. Considering the Say of the Disputant and considering the oral submissions of both the Ld. Advocates, this Tribunal rejected the said Application (Exh. 30) by an order dated 13/04/2024 and directed the Opponents to submit their Affidavit of Evidence in support of their claim, if they are interested on next date without fail i.e. on date 20/04/2024. **[The copy of the said Order is below Application (Exh. 30)].**
- (6) It is seen from proceeding that on date 20/04/2024, the Opponents instead of submitting the Affidavit of Evidence, they have filed Application (Exh. 33) under Section 16 of the Arbitration and Conciliation Act, 1996. The said Application



of the Opponent Nos. 1 & 2 (Exh. 33) was also decided by considering the Say of the Disputant (Exh. 35) and oral submissions of both the Ld. Advocates by an Order dated 30/04/2024 and rejected the said Application by holding that the present arbitration proceeding is maintainable in its present form and this Tribunal has the only jurisdiction to try and entertain the present arbitration proceeding as per the provisions of the Arbitration and Conciliation Act, 1996. The said order for immediate reference is as follows:

"O R D E R

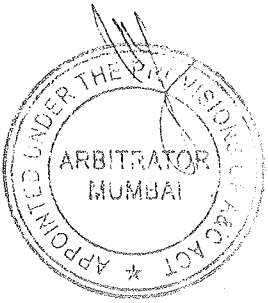


- 1. The application Exh. 33 filed by the respondent on Dt. 20/04/2024 is here by rejected.*
- 2. It is hereby held that the present Arbitration proceeding is maintainable in its present form and this tribunal has the only Jurisdiction to try and entertain present Arbitration proceeding as per the provisions of the Arbitration and Conciliation Act. 1996.*
- 3. In peculiar circumstances of the present proceeding, both parties are here by directed to expediate the hearing of this proceeding without asking any further adjournments.*

4. In view of this, this application Exh. 33 is hereby disposed off as rejected.” [The copy of the said Order is below Application (Exh. 33)]

(7) It is further seen from proceeding that the Disputant- Bank filed Application (Exh. 36) on date 26/04/2024 praying therein that the Disputant- Bank be allowed to bring the alleged legal heirs of the deceased Opponent No.3 on record and accordingly, this Application was allowed by this Tribunal by an Order dated 26/04/2024 and the legal heirs were brought on record as the Opponent Nos. 3 (a) to 3(c). These Opponent Nos. 3 (a) to 3(c) were also properly served with notice. The copy of the notice and service affidavit as well as postal track reports to that effect are on record at (Exh. 41). But, these Opponent Nos. 3 (a) to 3(c) did neither appear before this Tribunal nor answered this Dispute and hence, an ex-parte order was passed against them on date 06/05/2024.

(8) On date 06/05/2024, Mr. Srinivas Pattamadai Sithapathy – the Opponent No.2 has filed his Affidavit of Evidence for himself



and for the Opponent No.1 which is at (Exh. 42), wherein he deposed on oath, which runs as it is, as under:

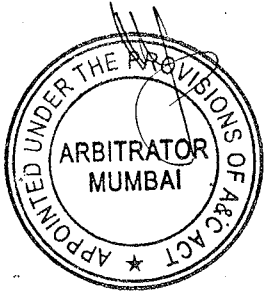
"1. I say that, Respondent No.2 is the Managing Director of Respondent No.1.

a. I say that that, the Respondent No.2 is the director of the Respondent No.1 company.

b. I say that, from the year 2012-2019, Respondent No.1, Silverline Technologies had stopped all its operation, Respondent No.1 company was shut down due to non-compliance with the BSE norms, in the result of which Bombay Stock Exchange suspended trading in Silverline shares.

c. I say that, thereafter from the year 2019 the Respondents tried to revive the company by raising funds from investors.

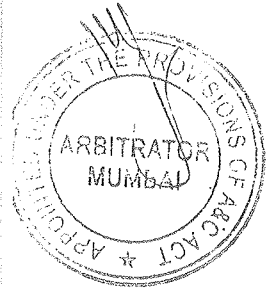
d. I say that, thereafter in year 2020, the Respondents came up with a project to help Co-operatives functioning all around India, This project provides an overview to come up with a robust fully computerized information system for implementation at the grass root level covering the Primary Agricultural credit societies (PACS) and the urban cooperative credit societies along with their governing bodies at the district level the district cooperative banks and the Apex organization at the head



office level for the state of Maharashtra. The proposed system will bring about a complete revamp of the organization and there will be considerable enhancement in the efficiency of the working coupled with the administration of meaningful control of the business based on timely and accurate information about the locations and their activities

e. I say that, thereafter, the Respondents came in contact with Mr. Sanjeev Narhari Khadke regarding the implementation of this project and to raise funds in support for the Project, Mr Sanjeev Narhari Khadke had been appointed as Liquidator for Apex Urban Co- operative Bank, Mr Sanjeev Narahari Khadke being an influential well-connected person assured the Respondents that the Liquidator will land this project with the help of Government to the Silverline Technologies, Respondent No.1. After receiving the Project from the government, the Government will pay Rs.50,00,00,000/- as an advance to the Respondent company.

f. I say that, as on assurance from Mr. Sanjeev Narhari Khadke the Liquidator, that the Respondents will receive the project and funding will be given by the Government regarding the implementation of project. In the year 2020 Apex Urban Co-operative Bank funded Rs.20,00,00,000/- of the loan with 5.10% as interest to Silverline Technologies.

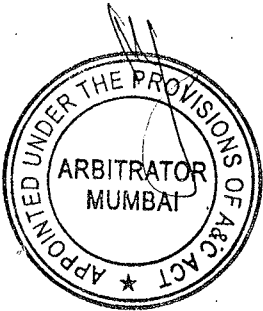


g. I say that, after receiving the Loan Amount Rs. 20,00,00,000/- the Respondents used that money to settle the overdue of Government agencies, statutory agencies, employees, and contractors, which was all pending for a long period. Details of the end use have been submitted to the Internal Auditor of Apex Bank, Mr. Gulab Singh.

h. I say that, with the help of this project, the Company was going to function again with the initial fundings of Rs.50,00,00,000/- from the Indian Government as result of which operations of the company and loan which was taken from the Claimant Bank would be given back to the Claimant Bank.

i. I say that, surprisingly the Respondents came to know that the project was given to NABARD and all the planning went into vail, I say that further state that, the Respondents had issued for loan from the claimant on the basis that the Respondents were going to receive money from the initial funding from the Government and after receiving the initial funding the Respondents were going to pay off the loan taken by the Claimant Bank.

j. I say that, from 2021 onwards as there was a lot of debt on the company and SEBI had suspended Silverline from trading, the Respondents were not able to recover money from the market to lay off the Loan taken from Apex Urban.



k. I say that, thereafter Silverline laid off all the employees due to insufficient funds and stopped its operation as well.

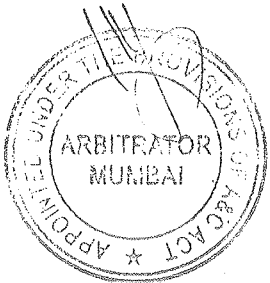
l. I say that, in the current scenario as the Respondent did not land the project from the Government, thereby they were not able to repay the amount Rs 20,00,00,000/-.

m. I say that the Respondents were under tremendous pressure from Narhari Khadke as Mr. Khadke failed to land the project for the Respondents. It was because of failure of Mr. Khadke to land the project; the Respondent could not excel in the business. It was then, Mr. Khadke started pressurizing Respondents to repay the said Loan and give Post-dated cheques as security.

n. I say that the Respondents were pressurized to enter the 3rd Agreement dated 14th August 2023, interest was increased to 12.50% the Respondents were made to agree the interest increased interest rates.

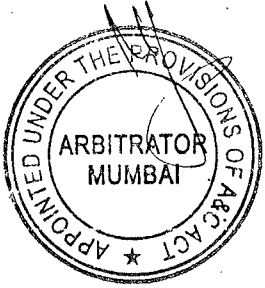
o. Thereafter, I say that, according to clause 24 of the Advance Facility Agreement dated 17th March 2020 sole Arbitrator was appointed by the unilateral decision of the Applicants.

p. I say that, it is admitted position that the Respondents mortgaged his immovable properties being share certificates no.7 & 14 issued by the Deonar Industrial Premises Co-operative Society Ltd, the Respondents were



forced to enter into Mortgage deed. I further say that, the parties entered into the 1st agreement dated 17 March 2020 there was no security given by the Respondents, the Claimant bank disposed of Rs 18,00,00,000/- on an interest basis without any security, the Claimant bank had an understanding that Respondents would receive the project and dispose off the Loan amount.

q. I say that, the Appointment of the Arbitrator was made unilateral, the name of the Arbitrator was suggested by the Claimant, and there was no consent taken by the Respondents while appointing the Arbitrator.



r. I say that the same is a matter of record and forms part of the proceedings and therefore warrants no comments from the Respondents.

s. I say that sum of Rs. 18,00,00,000 was sent to the Respondents, there is no denial in that, the said sum of money was sent in hopes that the Respondents will get the project from the Government and likewise will receive an advance sum of Rs.50,00,00,000/-, the Respondents came to know that the project was given to NABARD therefore the Respondents were not able to return the loan amount to the claimant bank till date.

t. I say that the Respondents had requested to Applicant to grant time, as the Respondents were forced into giving cheques in spite of the respondents giving

surety that the Respondent will return the Loan back once the company starts its operation.

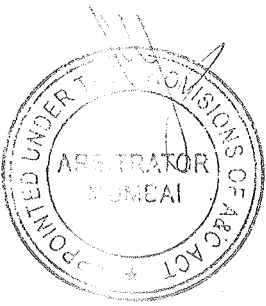
u. I say that (5) Referral Fees/Processing Charges/Other Charges were not agreed to by the Respondents.

9 (6) Repayment / Refund the Interest rate of 5.10% per annum is being replaced with an interest rate of 12.5% per annum compounded quarterly, was not agreed by the parties, it was done unilaterally by the Claimants.

9 (8) Interest in advance in the event of Default This will remain the same as mentioned in the Advance Facility Agreement entered between the parties on 17.03.2020 and the interest shall be applied at 12.50% per annum compounded quarterly starting from 01.04.2020.

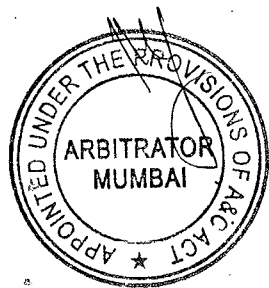
The Respondents states that, the increased interest rates from 5.10% to 12.50% do not suffice as earlier when there was a loan given without any security, interest rates were low and in contrast when the debt was made secure by "Mortgage Deed" there was no reason to increase the interest rate from 5.10% to 12.50 levying even after securing the debt.

v. I say that the Amount which is derived from the Interest is not agreed by the Respondents which is wrong, and unjust on the part of the Claimant, the Respondents were pressured to sign all the agreements.



w. *I say that there is no denial of the bank granting an extended loan of Rs 3,25,00,000/- I further state that the increase in Interest was not agreed upon by the Respondents.*

x. *I say that the Liquidator appointed was Mr. Sanjeev Narhari Khade, the person, who promised the Respondents that the project would be given to respondents and thereafter the Liquidator forced the Respondent to enter into an agreement and mortgage deed in spite of knowing the fact that the respondents did not receive the project and the Respondents would need some time to raise funds and give it back to the Applicant.*



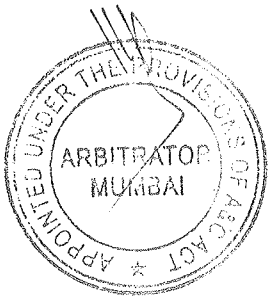
y. *I say further states that, According to BOOZ ALLEN AND HAMILTON INC. (2011) (5) S.C.C 532 has categorically held that the parties trying to enforce a Mortgage claim, or a Mortgage Deed would have to approach the respective court and the same cannot be adjudicated by the private forum such as arbitral tribunal, therefore the Arbitration does not has jurisdiction to have claim over the property*

z. *I state that I had intimated the Claimants via Email requesting the Applicants not to deposit Cheques as the Respondents are arranging for funds. In spite of several intimation and the claimant knowing that the project was not received by the Respondents are arranging for funds.*

aa. I say that, the cheques were given as security, but it was intimated by the Respondents not to withdraw those cheques as there were no funds in it. As the Respondents were managing funds for clearing the dues with the bank.

bb. I say that the appointment of the Arbitrator was made unilaterally by the Claimant, the name of the Hon'ble Arbitrator was suggested by the Claimant bank itself. The Respondent further states that disclosure was also not given while appointing the Arbitrator.

cc. I say that the Hon'ble Supreme Court in the matter of *BOOZ ALLEN AND HAMILTON INC. (2011) (5) S.C.C 532* has categorically held that the parties trying to enforce a Mortgage claim or a Mortgage Deed would have to approach the respective court and the same cannot be adjudicated by the private forum such as arbitral tribunal."



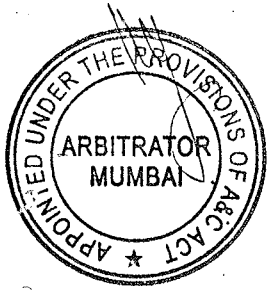
- (9) In view of this, the Opponent Nos. 1 & 2 have closed their evidence by pursis (Exh. 43) on date 06/05/2024 and then the matter was posted for final arguments on date 15/05/2024 and 22/05/2024.

(10) On date 22/05/2024, the Ld. Advocate for the Disputant- Bank submitted his written notes of arguments wherein the Ld. Advocate for the Disputant- Bank submitted as under:

"1. In terms of Clause 12 of the Agreement for Further Extension of Advance Facilities dated 14th August, 2023 (Exh. B), the Claimant/ Disputant has invoked the arbitration and referred the Dispute and differences between the Claimant and the Respondent to this Hon'ble Arbitral Tribunal. The said Clause 12 reads as under:

"12. It is agreed by and between the parties hereto that the Clause 24 of the Advance Facility Agreement dated 17th March, 2020 concerning the Arbitration shall be substituted by the following Arbitration clause:

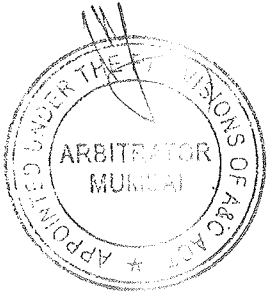
"In the event of any dispute or differences, if any, that may arise between the Bank and the Borrowers and/ or the Bank and any of the Borrowers (i.e. whether the company, 1st Guarantor or 2nd Guarantor) concerning the interpretation and/or construction of this Agreement and/or documents mentioned in clause 2 above including their implementation thereof, non-payment/ dishonor of all or any of the cheques and/or also for enforcement/ realisation of security shall be referred to the Sole Arbitrator "Mr. Madhav R. Makhare



(Former Member of the Maharashtra State Co-operative Appellant Court at Mumbai)” under the provisions of the Arbitration and Conciliation Act, 1996 as modified from time to time and his decision/award shall be final, conclusive and the same shall be binding on the parties. It is also agreed and made clear that the seat of Arbitration shall be at Mumbai and/or Pune at the option of Learned Arbitrator and the language of the Arbitration shall be English.”

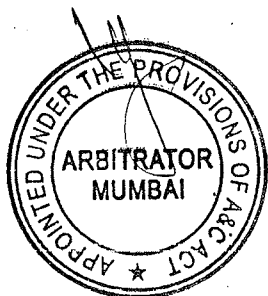
It is hereby recorded that the Parties hereto have agreed to the name of Mr. Madhav R. Makhare (Former Member of the Maharashtra State Co-operative Appellant Court at Mumbai) as Sole Arbitrator, which has been suggested by the Borrowers and consented/concurred by the Bank. It is agreed that the Arbitrator shall have power to appoint Receiver of the mortgaged properties and securities with direction to dispose-off and/or realise the mortgaged properties and securities during the pendency of the arbitral proceedings.”

2. Thus, it is clear that the appointment of the Ld. Arbitrator is by mutual consent and in fact, the Respondents have been participating in the arbitral proceedings without any protest, as clear from filing of the Affidavit-in-Reply to the Interim Application, Written Statement (“WS”), payment of cost imposed by this



Hon'ble Tribunal, etc. It is also clear from the above Arbitration Agreement that the dishonor of cheque is also treated as dispute. Thus, the Respondents have submitted to the jurisdiction of this Hon'ble Arbitral Tribunal

3. *The Liquidator of the Claimant has filed their Statement of Claim ("SoC") along with supporting documents as per Compilation of Documents. The Liquidator of the Claimant is duly appointed by the Central Registrar vide Order dated 26th November, 2019 as extended by Order dated 12th January, 2022 and 23rd November, 2022 (Exh. A colly.). In the Statement of Claim, the Claimant claims various reliefs as per the Prayer Clause. However, by Pursis dated 2nd March, 2024, the Claimant recorded that at present, the Claimant is not pressing the relief in terms of Prayer Clause (c) and (d) for the reasons stated therein. At present, the Claimant is seeking finally following reliefs in terms of Prayer Clause (a) and (b) which reads as under:*

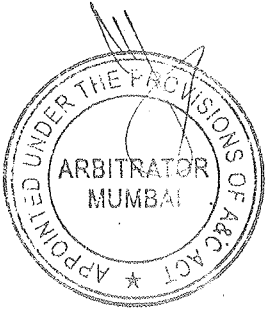


a. "that this Hon'ble Tribunal may be pleased to pass the judgment and award against the Respondents and in favour of the Claimant directing and ordering the Respondents jointly and severally to pay to the Claimant sum of Rs. 29,67,47,212/- (Rupees twenty-nine crores sixty seven lakhs forty seven thousand two hundred twelve only) as per Particulars of the Claimant's Claim (Exh.-'L'

hereto) with interest @ 12.50% per annum thereon to be calculated at quarterly rest with effect from the date of filing of the Claim till the date of Award and thereafter at the same rate of interest or such rate as this Hon'ble Arbitral Tribunal may deem fit from the date of Award till payment or realization;

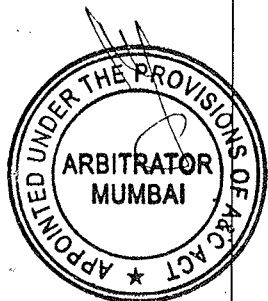
b. that this Hon'ble Arbitral Tribunal may be pleased to pass Judgment and Award by Ordering and directing the Respondents, particularly Respondent No. 3 to get completed and perfected the title of Respondent No. 3 to the Mortgaged Properties, more particularly described in the Schedule recorded in the said 'Deed of Simple Mortgage Cum Memorandum of Recording Deposit of Title Deeds dated 29th November, 2022 (Exh.- 'H' hereto) within such time as this Hon'ble Court deem fit and proper with further directions handover to the Claimants the Share Certificates No. 7 and 14 more particularly described in the Mortgage Deed (Exh- 'H' hereto) hereto after getting the same transferred in the name of the Respondent No. 3;"

4. The Respondents filed their Written Statement and admitted their signatures, execution and contents of the documents produced by the Claimant in support of the Statement of Claim. The details of the documents

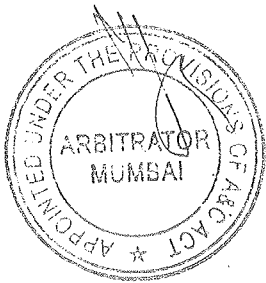


produced and the admission and denial thereof by the Respondents in their Written Statement are recorded in tabular form as under: _

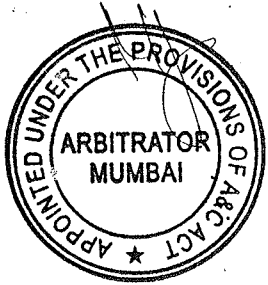
<i>Sr. No.</i>	<i>Particulars</i>	<i>Para of SoC</i>	<i>Para of WS</i>	<i>Remarks</i>
i.	<u>Exhibit "A"</u> <i>The copy of the Order of Appointment of Shri. Sanjeev Narahari Khadke bearing dated 25th November, 2019 and Order dated 23rd November, 2022 extending the tenure of Shri Sanjeev Narahari Khadke as Liquidator until further Order</i>	1	3.a.	<i>Neither disputed nor denied</i>



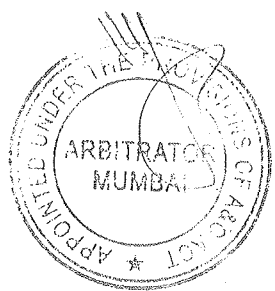
ii.	<i>Averments in Para. 2 of the SoC</i>	2	3.b.	<i>Admitted the execution and contents of the Mortgage Deed as well as the Agreement dated 17th March, 2020 (Exh. C). However, no documents in support of the allegations of the Respondents made therein regarding the alleged understanding of receiving the project and dipose of loan amount. There are no details in respect of allegation as to Respondents being forced to enter into mortgage deed. There are no supporting</i>
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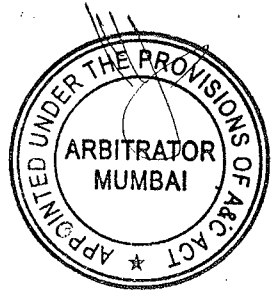


				documents. However, the said allegation is falsified by the Respondents by admitting the execution of mortgage in Agreement for Advance Facility (Exh. B), registered Special Power of Attorney (Exh. I) and Indemnity Bond (Exh. J)
iii.	<u>Exhibit "B"</u> The further extension of copy of the said Agreement for Advance Facility dated 14th August 2023.	3.	3.c.	Described the appointment of the arbitrator as unilateral. However, the Respondents participated in the arbitral



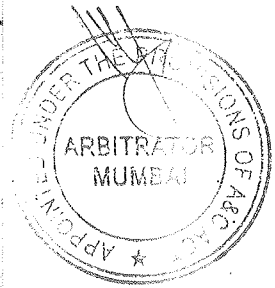
				proceedings as stated above. However, execution and contents of the Agreement dated 14th August, 2023 is neither disputed nor denied
iv.	<u>Exhibit – “C”</u> The copy of the said Advance Facility Agreement dated 17th March, 2020 without Schedule ‘A’ to the Agreement.	4.	3.d.	The Respondents neither disputed nor denied the contents and execution of Exh. C. Similarly, the Respondents have neither denied nor disputed the averments made in Para. 4 of SoC.
v.	Averments made in Para. 5 of SoC	5.	3.e.	The Respondents admitted the receipt of the sum of Rs. 18



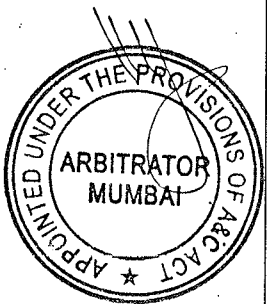


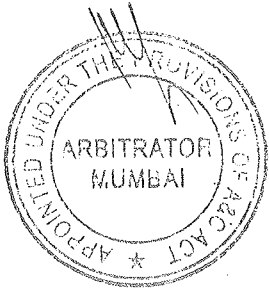
				crores. There is admission of non-payment of advance received by the Respondents. There are no supporting documents in support of the valid and cogent reason for non-payment, as recorded therein.
vi.	Averments made in Para. 6 of SoC	6.	3.f.	The averments made in Para. 6 of SoC are neither disputed nor denied by the Respondents
vii.	<u>Exhibit – “D”</u> The copy of the said balance confirmation	7.	3.g.	The Respondents neither disputed nor denied the averments made in Para. 7 of SoC

	letter dated 12 th January, 2022			including contents and execution of Exh. D being balance confirmation letter including forwarding letter.
viii.	<u>Exhibit "E"</u> The copy of the said Board Resolution of the Respondent No. 1-Company dated 4 th April 2022.	7.	3.g.	Same as above. The Respondents have not denied the contents and execution of Exh. E being the Board Resolution of the Respondents admitting the balance inclusive of interest and processing fee and other levies so also issuance of 6 cheques for aggregate sum of Rs.19,67,28,577/-



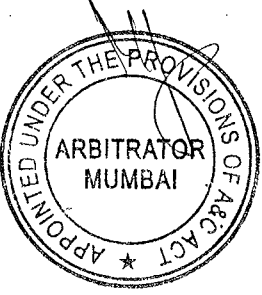
ix.	<u>Exhibit – “F”</u> The copy of the said letter dated 5 th April, 2022 written to the Claimant by the Respondents	8	3 h.	The Respondents have neither denied nor disputed the contents and Execution of the said letter.
x.	<u>Exhibit – “G”</u> The copy of the said Advance Facility Extension Agreement dated 31 st March, 2022	9	3.i.	The Respondents have neither denied nor disputed the contents and Execution of the said Agreement. The Dispute regarding: (a.) payment of referral Fees, Processing Charges/Other Charges, and (b.) revision of interest rate from 5.10% to 12.50%



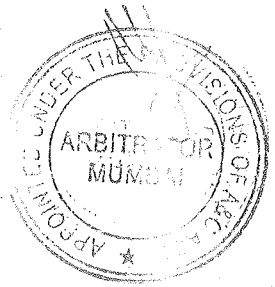


				<i>at compounding interest</i> <i>are raised for the first time and thus, same are an afterthought and devoid of merits in view of Paras. 6 & 7 of the Agreement (Exh. B) admitting the aforesaid payments by making payment by issuing cheques inclusive of interest @ 12.5% and processing fees.</i>
xi.	<i>Averments made in Paras. 10 to 13 of SoC</i>	10. to 13.	3.j.	<i>Not denying the averments made therein save and except the rate of interest which was applied, calculated and included in the</i>

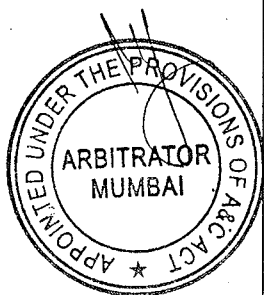
				dishonoured cheques.
xii.	<u>Exhibit – “H”</u> The copy of the said registered Mortgaged Deed dated 29.11.2022. And	14.	3.k.	The Respondents have neither denied nor disputed the contents and Execution of the said Mortgaged Deed. There is no evidence to show execution of the Mortgaged Deed by force. However, the Respondents admitted receipt of additional amount of 3.25 crores but have falsely denied the rate of interest, as agreed and admitted in various documents including adding the same to the amount of



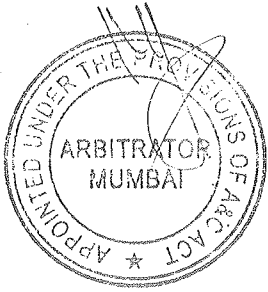
				dishonoured cheques.
xiii.	<i>Averments made in Paras.15 to 16. of SoC and</i> <u>Exhibit – “I”</u> <i>The copy of the said registered Special Power of Attorney dated 5th September, 2023.</i>	15. to 16.	3.l.	<i>The Respondents have neither disputed nor denied the contents and execution of the Special Power of Attorney. The allegations made are not supported by documentary evidence or correspondence.</i>
xiv.	<u>Exhibit – “J”</u> <i>1. The copy of the said Indemnity Bond cum Declaration dated 03.12.2022.</i>	17.	3.m.	<i>The Respondents have neither disputed nor denied the contents and execution of the Indemnity Bond cum Declaration dated 03.12.2022. However, they objected</i>



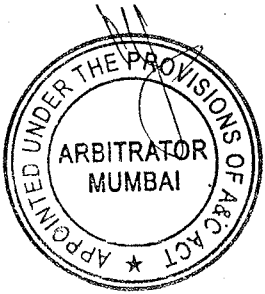
				<i>the enforcement of mortgage.</i>
xv.	<i>Averments made in Paras. 18 & 19 of SoC</i>	<i>18. & 19.</i>	<i>3.n.</i>	<i>The Respondents have neither denied nor disputed the averments. However, they allege that the cheques were deposited despite their request not to deposit. The allegation made is not supported by documentary evidence or correspondence. In fact in fact and law, the claimants are entitled to deposit the cheques for collection.</i>

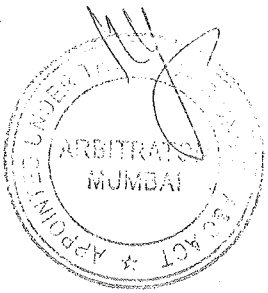


xvi.	<i>Averments made in Paras. 20 to 25 & 27 of SoC</i>	<i>20. to 25. & 27.</i>	<i>3.o.</i>	<i>Not denied the contents of Paras 20 to 27. The defense is baseless and devoid of merits</i>
xvii.	<i><u>Exhibit – “K”</u> The copy of the said Demand Notice cum Invocation of Arbitration dated 30th November, 2023 addressed to the Respondents by the Advocate for the Claimant.</i>	<i>26.</i>		<i>Not denied the receipt and contents of the demand notice.</i>
xviii.	<i>Averments made in Paras. 28 of SoC</i>	<i>28.</i>	<i>3.p.</i>	<i>The allegation is devoid of merits and the same is replied in Paras. 1 & 2 hereinabove.</i>



xix.	Averments made in Paras. 29 & 30. of SoC and <u>Exhibit – “L”</u> Particulars of Claim	29. & 30.	3.o.	The Respondents have admitted the contents of Paras. 29 & 30 but falsely denied the rate of interest, as agreed and admitted in various documents including adding the same to the amount of dishonoured cheques.
xx.	Averments made in Paras. 31 to 38 of SoC	31. to 38.	4.	Para. 31 is concerning the money claim and that the calculation is not denied. The Respondents have neither denied nor disputed the contents and execution of the Mortgaged Deed.



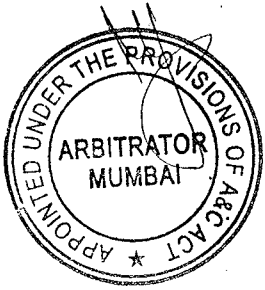


				<i>The Respondents raised the objection to the arbitrability of the enforcement of the mortgage despite the Claimant having recorded in its Pursis dated 2nd March, 2024 that the Claimant is not pressing for the enforcement of the mortgage.</i>
xxi.	<i>Averments made in Paras. 39. to 41. of SoC</i>	<i>39. to 41.</i>	<i>4.r., 4.s. & 4.t.</i>	<i>The Respondents have neither denied nor disputed the contents of Paras 39. to 41. to the SoC.</i>

5. *It is clear from the pleadings and documentary evidence that the Respondents have virtually agreed upon*

and admitted the claim of the Claimant. However, the Respondents have raised following untenable objections:

- i. Denial of the revision of rate of interest from 5.10% to compounding rate of interest at 12.5% and payment of referral Fees, Processing Charges/ Other Charges.
- ii. The execution of Mortgaged Deed and issuance of cheques by force
- iii. Depositing of cheques despite their request not to deposit.
- iv. The repayment is to be made out of the funds received from the Central Government/ NABARD.

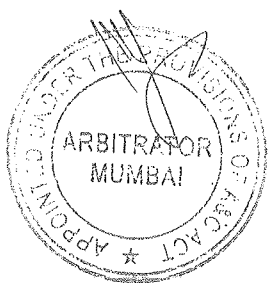


6. It is submitted that the objection at Sr. No.5.(i) above is baseless, afterthought and devoid of merits for the reason that the Respondents agreed and admitted the revision of rate of interest and payment of referral Fees, Processing Charges/Other Charges, etc by executing and signing the documents being Exh. G to the SoC i.e. Advance Facility Extension Agreement dated 31st March, 2022 and also in subsequent agreements. The Respondents issued dishonoured cheques as mentioned in the Agreement for Further Extension of Advance Facilities dated 14th August, 2023 (Exh. B) towards the principal, interest [as agreed in Advance Facility Extension Agreement dated 31st March, 2022 (Exh. G)]

and also, towards referral Fees, Processing Charges and Other Charges, etc. Thus, the objection as to the rate of interest, processing fees, etc., are untenable and devoid of merits.

7. In respect of the objection at Sr. No.5.(ii) above that the execution of Mortgaged Deed was by force, it is submitted that the same is baseless, an afterthought and is devoid of merits. This is evidence from the fact that after the execution of the Mortgaged Deed, the Respondents admitted the contents and execution of the Mortgaged Deed in Indemnity Bond cum Declaration dated 03.12.2022 (Exh. J) and in registered Special Power of Attorney (Exh. I). The Respondents have not complained to any authority including the Police about the forcible execution of said Mortgaged Deed or issuance of 6 dishonoured cheques, as mentioned in Exh. E. The Respondents have not written a single letter containing such allegation. It is made clear that the Claimant is not seeking enforcement of the Mortgaged Deed. Hence, the issue raised is irrelevant.

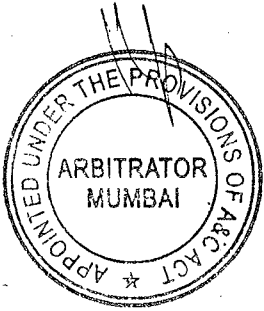
8. In respect of the objection at Sr. No.5.(iii) above, it is submitted that, as recorded in the SoC and also in the correspondence, it is clear that the Claimant withheld from depositing the cheques until it would become stale, relying on the promises and assurance given by the Respondents. However, the cheques were deposited at the



fag end of the validity period of such cheques. It is submitted that there is no agreement between the Parties not to deposit the cheques, as alleged. The objection raised is devoid of law and having no merits.

9. *It is submitted that so far as the objection at Sr. No. 5.(iv) is concerned, there is no agreement to the effect that the repayment shall be made by the Respondents out of the funds received from the Central Government/ NABARD. The repayment of the advances has been unconditional. The allegation is first time made and same is an afterthought and devoid of documentary evidence.*

10. *In view of the aforesaid, it is clear that the defense raised by the Respondents are moonshine, baseless, far from truth, mala fide and devoid of merits and even otherwise, not tenable in the eyes of law.*



To sum up his arguments, the Ld. Advocate Shri Hakani very specifically submitted that in the circumstances, it is just, proper and in the interest of justice that the Award be passed in terms of Prayer Clauses (a) and (b) of the Statement of Claim and so on.

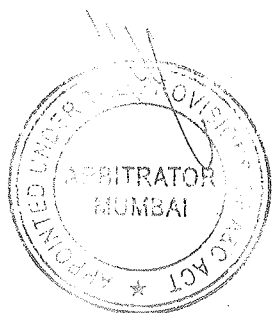
(11) It is also seen from proceeding that the Senior Ld. Advocate Shri. Hakani also submitted the synopsis/ summary of this

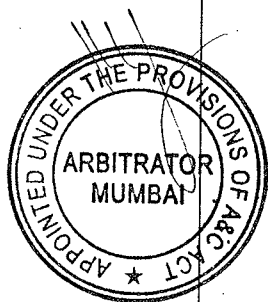
written notes of arguments by way of Annexure 'A' along with
the said written notes of arguments which runs as under:

"ANNEXURE 'A'

SYNOPSIS

<i>Sr. No.</i>	<i>Date</i>	<i>Events</i>	<i>Remark</i>
<i>I.</i>	<i>17-03-2020</i>	<i>The parties hereto signed and executed Advance Facility Agreement by which the Claimant sanctioned and agreed to make available to the Respondent No.1 an amount subject to maximum ceiling of Rs.25 crores on such other terms and conditions mentioned therein.</i> <i>In the said Agreement Recital Clause No.1, specifically stated that the banking license of the</i>	<i>Exh. 'C'</i>

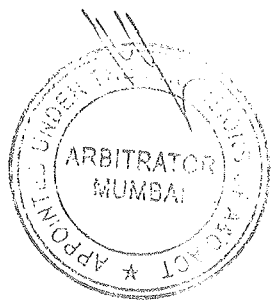




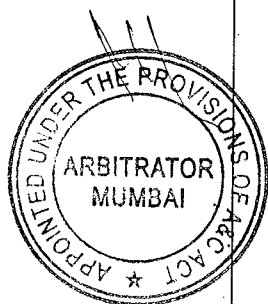
Claimant was cancelled on 30th October, 2003 and that the Claimant bank was ordered to be wound up on 2nd December, 2005.

In the Recital Clause No.5, it is recorded 'the Company has approached AUCBL to capitalize on the opportunity available in the Co-Operation sector throughout India for the betterment, monitoring and supervisory control over compliances of the sector that has been long ignored at the state as well as national level.

The Respondents agreed to pay interest @ 5.10% per annum. Clause 6 provides that the Respondent No1 unconditionally and

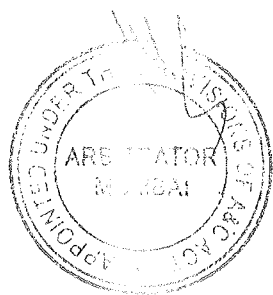


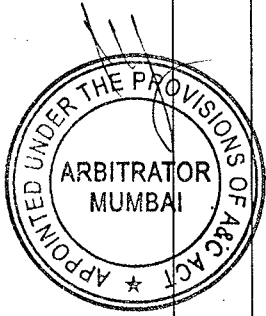
		<i>irrevocably authorized the Claimant to use the PDCs / UDCs for repayment of the said outstanding amount.</i> <i>The Respondent No.2 and 3 signed the said Agreement (Exh. 'C') as guarantors and represented and warranted, as mentioned in Clause 20(ii). It was agreed that the liabilities of the guarantors shall be co-terminus with that of the company. In the said Agreement, the guarantors also gave indemnity.</i>	
2.	12-01-2022	<i>The Respondent No.1 vide letter dated 12th January, 2022 signed by both the Respondents No.2 and 3 forwarded balance confirmation letters. In the said balance confirmation letters signed by both the</i>	<i>Exh. 'D', 'E' & 'F'</i> <i>Thus, there is no disputes regarding</i>



		<i>Respondent No.2 and 3, rate and admitted the receipt of 18 calculation crores towards principal of interest amount in four different including dates and accumulated the amount interest of received Rs.1,42,51,866/- making towards total liability of principal. Rs.19,42,51,866/- as on 31st December, 2021. The said balance confirmation letter is supported by the Resolution of the Board of Directors of the Respondent No.1 and certified to be true by the Respondent No.2 and 3. In the said confirmation letter, they admitted having issued 6 cheques bearing No.000516, 000517, 000519 to 000522 all dated 31st March, 2022 for aggregate value of Rs.19,67,28,577/- The aforesaid amount does not</i>
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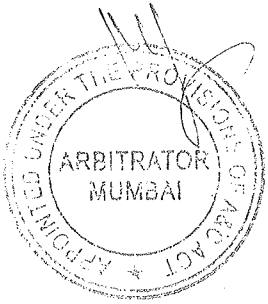
		include processing fees and other charges.	
3.	31-03-2022	Due to inability to get the aforesaid 6 cheques honoured by their bank, the Respondents requested for extension of time for repayment. Accordingly, the parties hereto signed and executed Advance Facility Extension Agreement (Exh. 'G') on 31st March, 2022. By the said Agreement, the period for repayment of Advance Facility was extended for further period of 75 days i.e. to say upto 14th June, 2022 with modifications of certain terms of the Original Advance Facility Agreement (Exh. 'C') and that the important modified terms being Clause No.3, 5, 6, 7,	

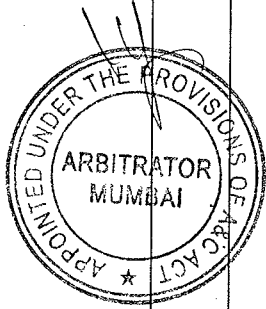




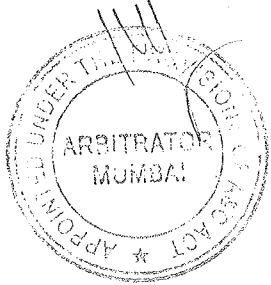
		8, 19, are reproduced in Para 9 of the SOD. The interest rate of Rs.5.10% per annum was replaced by interest rate of 12.50% per annum compounded quarterly with effect from 1st April, 2022 on principal sum of Rs.19,99,14,606/- (Clause 6). There is increase in Referral Fees / Processing Charges / Other Charges, as mentioned in Clause 5 of the said Agreement.	
4.	28-06-2022	The said 6 cheques for aggregate amount of Rs.19,67,28,577/- were dishonoured due to insufficient fund.	
5.	22-07-2022	The Claimant issued Notice of Demand calling upon the Respondents to pay amount of dishonored cheques but the Respondents failed to	

		make payment of dishonored cheques despite receipt of the notice. Hence, the Claimant filed Criminal Complaint under Section 138 and 141 of the Negotiable Instrument Act. The Complaint is pending and that the summons of the said Complaint was duly served upon the Respondents.	
6.	09-11-2022	During pendency of the aforesaid criminal complaint, the Respondents requested to allow them to withdraw further amount of Rs.3,25,00,000/- out of balanced sanctioned limit of Rs.25 crores, thereby making total outstanding Advance facility amount of Rs.23,24,14,606/-. Further withdrawal was granted on condition that the Respondent No.3 will	



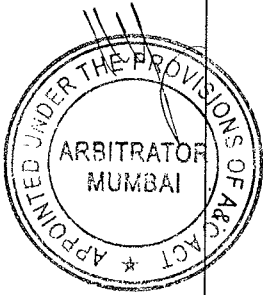


		<i>mortgage his immovable properties and accordingly, the Registered Mortgaged Deed (Exh. 'H') was executed on 29th November, 2022 and that the said Mortgaged Deed was executed by all the Respondents.</i> <i>The said Mortgaged Deed contained the Agreement of Personal Guarantee of Respondent No.2 and 3. The Claimant is relying on the Mortgaged Deed not for enforcement of Mortgage but for enforcement of guarantee given by the Respondent No.2 and 3 including the admission of liability to the tune of Rs.23,34,14,606/-.</i>	
7.	03-12-2022	<i>The Respondents jointly and severally executed</i>	

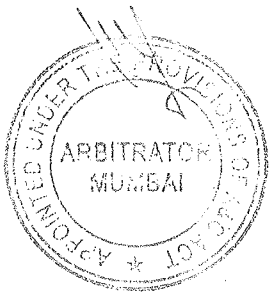


		<i>Indemnity Bond cum Declaration (Exh. 'J') giving Undertaking to return two share certificates of Deonar Industrial Premises Co-operative Society Ltd. after getting transferred the mortgaged properties in favour of the Respondent No.3. The Respondents admitted about the knowledge of pendency of the Criminal Proceedings and also their liability.</i>	
8.	26-06-2023	<i>The Respondents issued 9 cheques for Aggregate sum of Rs.25,14,14,606/- towards principal and compound interest @ 12.5% p.a. upto 30th Sept. 2023.</i>	
9.	30-08-2023	<i>The Respondents issued cheque of Rs.3,30,18,587/- bearing No.613563 dated 30th August, 2023 for the further interest from 1st July,</i>	

		2023 including processing charges and other expenses.	
10.	05-09-2023	The Orig. Respondent No.3 executed Special Power of Attorney dated 5th September, 2023 and also got the same registered with sub-Registrar of Assurance (Exh. 'I') . In the said Power of Attorney, the Respondent No.3 inter alia admitted having handed over physical possession of the mortgaged property on 1st July, 2023 and also admitted execution of various documents, as mentioned therein.	
11.	30-11-2023	On dishonor of the above referred 10 cheques for an aggregate sum of Rs.28,44,33,193/-, the Claimant has re-called the Advance Facilities and	



		<i>stated that the Arbitration Agreement stood automatically invoked on failure to make payment.</i> <i>The Respondents failed to make payment and as a result, the matter has been referred to this Arbitral Tribunal. The Arbitration Agreement provides that the dishonor of cheques are also dispute.</i>	
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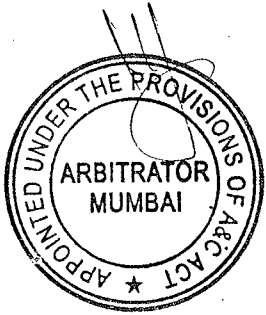


(12) The Opponent Nos. 1 & 2 through their Ld. Advocate Shri. Adit Desai also submitted the written notes of arguments (Exh. 45) on date 22/05/2024 itself which is as under:

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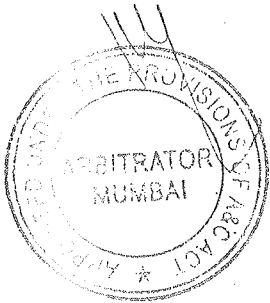
- a. *Respondent No.2 is the director of Respondent No.1 Company.*
- b. *From the year 2012-2019, Silverline Technologies was not operating due to non-compliance with the BSE norms, thereafter Bombay Stock Exchange suspended trading in Silverline shares.*

- c. From the year 2019 the Respondents tried to revive the company by raising funds from the investors.
- d. Thereafter in the year 2020, the Respondents came up with a project, This project provides an overview of the game plan conceptualized to come up with a robust fully computerized information system for implementation at the grass root level covering the Primary Agricultural credit societies (PACS) and the urban cooperative credit societies along with their governing bodies at the district level- the district cooperative banks and the Apex organization at the head office level for the state of Maharashtra. The proposed system will bring about a complete revamp of the organization and there will be considerable enhancement in the efficiency of the working coupled with the administration of meaningful control of the business based on timely and accurate information about the locations and their activities.
- e. The Respondents came in contact with Mr. Sanjeev Narhari Khadke regarding the implementation of this project and to raise funds in support of the Project, Mr. Sanjeev Narhari Khadke has been appointed as Liquidator for Apex Urban Co-operative Bank, Mr. Sanjeev Narhari Khadke being an influential well-connected person assured the Respondents that he will land this project with the help of Government to

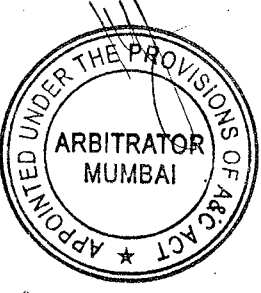


the Silverline Technologies. After receiving the Project from the government, the Government will give Rs.50,00,00,000/- as an advance to the Respondent company.

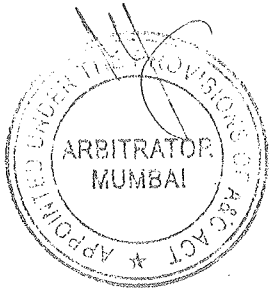
- f. As on assurance from Mr. Sanjeev Narhari Khadke Respondents will get the project and funding will be given by the Government regarding the said project. In the year 2020 Apex Urban Co-operative Bank gave Rs.20,00,00,000/- of the loan with 5.10% as an interest to Silverline Technologies without any security.*
- g. After receiving the Loan Amount Rs. 20,00,00,000/- the Respondents used that money to settle the overdue of Government agencies, statutory agencies, employees, and contractors, which was all pending for a long period. Details of the end use was submitted to the Internal Auditor of Apex Bank, Mr. Gulab Singh, therefore, there is transparency on behalf of the Respondent company that the money given by the bank was not used for any other purposes.*
- h. With the help of this project, the Company was going to flourish again with the initial funding of Rs. 50,00,00,000/- from the Indian Government because of which operations of the company and debt which*



was taken from the Claimant Bank would be given back to the Claimant.

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- i. Surprisingly the Respondents came to know that the project was given to NABARD, The Respondent's idea helping the Co-operative sector in India was taken by the NABARD and implemented by them, all the planning went into vail, the Respondents issued for loan from the claimant on the basis that the Respondents were going to receive money from the initial funding from the Government and after receiving the initial funding the Respondents were going to pay off the loan taken by the Claimant Bank.*
- j. From 2021 onwards as there was a lot of debt on the company and SEBI had suspended Silverline from trading, the Respondent was not able to recover money from the market to lay off the Loan taken from Apex Urban.*
- k. Thereafter, as all funding provided by the claimant was used to revive the company, initial funding was used by the Respondents, and there was no money left in the Account of the Respondents, there was no choice on behalf of Silverline but to lay off all the employees due to insufficient funds and stopped its operation as well.*

- l. *In the current scenario as the Respondent did not get the project from the Government thereby they were not able to repay the amount of 20,00,00,000/-.*
- m. *Respondents were under tremendous pressure from Narhari Khadke as Mr. Khadke failed to with the project for the respondents. It was because of the failure of Mr. Khadke to land the project, that the Respondents could not excel in the business. It was then, that Mr. Khadke started pressurizing Respondents to repay the said loan and give Post-dated cheques as security.*
- n. *Respondents were pressurized to enter the 3rd Agreement dated 14th August 2023, and interest was increased to 12.50% the Respondents were made to agree to the increased interest rate.*
- o. *Thereafter according to clause 24 of the Advance Facility Agreement dated 17th March 2020 sole Arbitrator was appointed by the unilateral decision of the Applicants.*

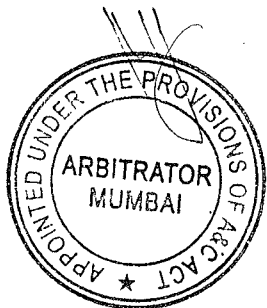


II. SUBMISSIONS

- a. *It is admitted position that the Respondents mortgaged his immovable properties being share certificates no.7 & 14 issued by the Deonar Industrial Premises Co-operative Society Ltd, the Respondents were forced to enter a Mortgage Deed. The parties*

entered into the 1st Agreement dated 17th March 2020 there was no security given by the Respondents, the claimant bank of Rs 18,00,00,000/- on an interest basis without any security, the claimant bank had an understanding that Respondents would receive the project and dispose of loan amount.

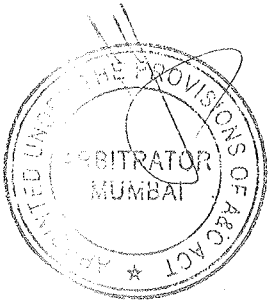
- b. *The Appointment of the Arbitrator was made unilateral, the name of the Arbitrator was suggested by the Claimant, and there was no consent taken by the Respondents while appointing the Arbitrator.*
- c. *sum of Rs. 18,00,00,000 was sent to the Respondents, there is no denial in that, the said sum of money was sent in hopes that the Respondents will get the project from the Government and likewise will receive the advance sum of Rs. 50,00,00,000/- but somehow the project went into the hands of NABARD, therefore, the Respondents were not able to return the loan amount to the claimant bank.*



9 (6) Repayment / Refund the Interest rate of 5.10% per annum is being replaced with an interest rate of 12.5% per annum compounded quarterly, was not agreed by the parties, it was done unilaterally by the Claimants.

9(8) Interest in advance in the event of Default This will remain the same as mentioned in the Advance

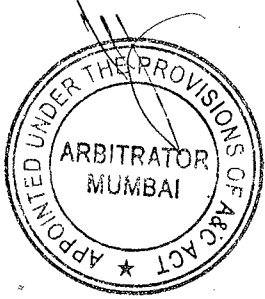
Facility Agreement entered between the parties on 17.03.2020 and the interest shall be applied at 12.50% per annum compounded quarterly starting from 01.04.2020 the increased interest rates from 5.10% to 12.50% do not suffice as earlier when there was a loan given without any security, interest rates were low and In contrast when the debt was made secure by "Mortgage Deed" there was no reason to increase the interest rate from 5.10% to 12.50 levying even after securing the debt.



- d. the Amount which is derived from the Interest is not agreed by the Respondents which is wrong, and unjust on the part of the Claimant.*
- e. the cheques were given as security, but it was intimated by the Respondents not to withdraw those cheques as there were no funds in it. As the Respondents were managing funds for clearing the dues with the bank.*
- f. Appointment of the Arbitrator was made unilaterally by the Claimant, and the name of the Hon'ble Arbitrator was suggested by the claimant bank itself. The Hon'ble Supreme court in case of Perkins Eastman Architects DPC v. HSCC (India) Ltd., (2020) 20 SCC 760: 2019 SCC OnLine SC 1517 at page 779 held in para 21, equal power of the parties to nominate arbitrator vis a vis exclusive power of*

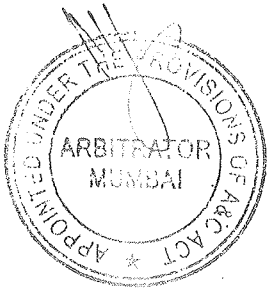
one party to appoint sole arbitrator - effect neutrality and validity of appointment of Arbitral Tribunal/ Arbitrator person who has interest in the outcome or decision of the dispute.

This extract is taken from Perkins Eastman Architects DPC v. HSCC (India) Ltd., (2020) 20 SCC 760: 2019 SCC OnLine SC 1517 at page 779



21. But, in our view that has to be the logical deduction from TRF Ltd. [TRF Ltd. v. Energo Engg. Projects Ltd., (2017) 8 SCC 377: (2017) 4 SCC (Civ) 72] Para 50 of the decision shows that this Court was concerned with the issue, "whether the Managing Director, after becoming ineligible by operation of law, is he still eligible to nominate an arbitrator" The ineligibility referred to therein, was as a result of operation of law, in that a person having an interest in the dispute or in the outcome or decision thereof, must not only be ineligible to act as an arbitrator but must also not be eligible to appoint anyone else as an arbitrator and that such person cannot and should not have any role in charting out any course to the dispute resolution by having the power to appoint an arbitrator. The next sentences in the paragraph, further show that cases where both the parties could nominate respective arbitrators of their choice were found to be completely a different situation. The

reason is clear that whatever advantage a party may derive by nominating an arbitrator of its choice would get counter-balanced by equal power with the other party. But, in a case where only one party has a right to appoint a sole arbitrator, its choice will always have an element of exclusivity in determining or charting the course for dispute resolution. Naturally, the person who has an interest in the outcome or decision of the dispute must not have the power to appoint a sole arbitrator. That has to be taken as the essence of the amendments brought in by the Arbitration and Conciliation (Amendment) Act, 2015 (3 of 2016) and recognised by the decision of this Court in TRF Ltd. (TRF Ltd. v. Energo Engg. Projects Ltd., (2017) 8 SCC 377: (2017) 4 SCC (Civ) 72]

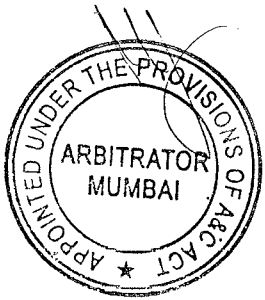


- g. *The applicant says and submits that the in view of the fact that the Claimant is a multi-state cooperative bank and the alleged transaction between the claimant and respondent is of a banking transaction i.e. of lending money in lieu of deferred payment (deferred payment definition). The same squarely falls within the ambit of the special statute enacted for recovery of debt i.e. RDDB Act.*

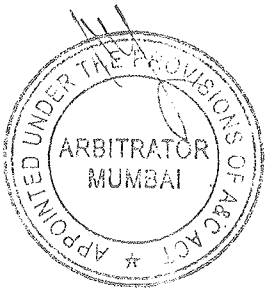
To sum up his argument, the Ld. Advocate Shri. Adit Desai for the Opponent Nos. 1 & 2, submitted that in the circumstances, the Respondent says and submits that the application filed by the claimant be dismissed with costs.

- (13) I have gone through the oral and documentary evidence submitted by both the Parties, submissions advanced by the concerned Ld. Advocates of both the parties by way of their written notes of arguments and also in light of case laws/ rulings given by the Ld. Advocate for the Opponents very carefully. Now, I will deal with these issues, as framed above, one by one as under, in the light of oral and documentary evidence submitted by both the Parties, submissions advanced by the concerned Ld. Advocates of both the parties by way of their written notes of arguments and also in light of case laws/ rulings given by the Ld. Advocate for the Opponents.

- (14) After careful perusal of these issues, Issue No. 1 is in respect of jurisdiction of this Tribunal, Issue No.2 is in respect of maintainability of this Dispute in the light of the judgment of Booz Allen and Hamilton Inc. [(2011) 5 SCC 532] and Issue No. 3 is in respect of the appointment of the Arbitrator

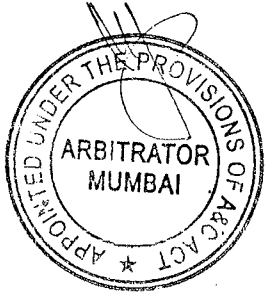


according to the Opponents was made unilaterally by the Disputant and without consent of the Opponents and this Arbitrator has no jurisdiction to try and entertain this Dispute. Admittedly, all these issues are pertaining to the jurisdiction of this Tribunal, maintainability of the present Dispute and improper appointment of the Arbitrator and hence, these issues need to be discussed and considered one by one. At the first instance, as all these issues go to the root of this proceeding.

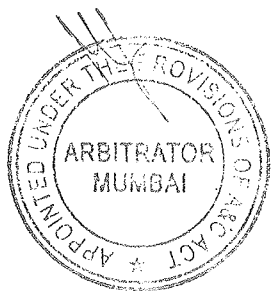


- (15) Issue No.1: so far as this issue is concerned, I carefully gone through this entire proceeding, especially the Written Statement of the Opponents (Exh. 27) wherein these Opponents have raised this issue on several grounds and very specifically alleged that this Tribunal has no jurisdiction to try and entertain the present Dispute as per the provisions of the Arbitration and Conciliation Act, 1996. It is well settled principle that the issue of jurisdiction of any legal proceeding, dispute or suit shall be only decided on the basis of the facts and averments made in the dispute/ suit or said legal proceeding only and not on the basis of defense. Admittedly, here in the present Dispute, it is

the case of the Disputant- Bank that it has provided advance facilities to the Opponent Nos. 1 & 2 as per their demand to run their so called business by executing several Advance Facility Agreements, Mortgage Deeds, etc. in favour of the Disputant with effect from 17th March, 2020 onwards. It is also a specific case of the Disputant that these Opponents have repaid these advances by issuing several cheques to satisfy the said dues, but, admittedly, all the cheques were dishonoured and the Disputant could not recover the said dues in the Dispute and hence, the Disputant have no other alternative but to initiate this Dispute on the basis of Arbitration Agreement contained in Clause 12 of the Agreement dated 14th August, 2023 to recover the said loan dues along with interest and cost from the Opponents on the basis of facts and averments raised in the Dispute. Considering, these facts and especially, Clause 12 of the Agreement for Further Extension of Advance Facility dated 14th August, 2023, the present Dispute is well within the provisions of the Arbitration and Conciliation Act, 1996 and this Tribunal has jurisdiction to try and entertain the present Dispute as against the Opponents. Not only this, it is well

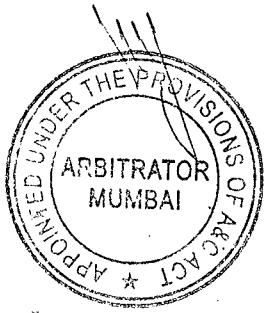


settled principle that any proceeding or dispute which is based on the arbitration agreement having clause of arbitration then the Arbitrator who is appointed by the parties has the only jurisdiction to try and entertain such Disputes and not even the civil court or any other forum have any jurisdiction to try and entertain such dispute. It is also, well settled principle that **“Once a statute prescribes that a certain thing should be done in a certain way, it shall be done in that way or not at all”** [in the case of Satish Vs. State of Maharashtra reported in 2010 (6) Mh.L.J. 434]. It is also well settled principle laid down by the Hon’ble supreme Court in the case of Vijaya Bank Vs. Shyamal Kumar [2010 (6) Mh.L.J. 318] that **“only the court as may be specified in this behalf by the appropriate government have the jurisdiction to decide”**. Here in this case, admittedly, as discussed above, there is an agreement between the Disputant and the Opponents having a clause of arbitration to decide and settle any dispute or differenced that arises between them should be decided by the Arbitrator appointed by the parties as per the provisions of the Arbitration

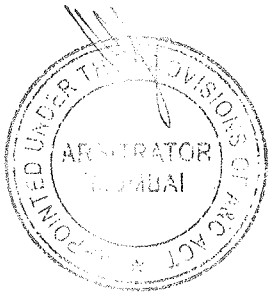


and Conciliation Act, 1996. Accordingly, I answer this Issue No. 1 in affirmative, as discussed.

- (16) It is also seen from proceeding that the Opponents have also raised this Issue by filing an Application under Section 16(2) of the Arbitration and Conciliation Act, 1996 (Exh. 33) raising objection that the advance facilities granted and disbursed to the Opponents squarely fall within the ambit of the definition of 'debt' as prescribed under Section 2(g) of the Recovery of Debts and Bankruptcy Act, 1993 ('RDB Act') and hence, recovery of debt under Section 2(g) of the RDB Act would have to be undertaken under Section 19 of the RDB Act and not otherwise. In view of this, they prayed that in view of the observations of the Hon'ble Supreme Court in the case of Vidya Drolia and Ors. Vs. Durga Trading Corporation [(2021) 2 SCC 1], this Tribunal has no jurisdiction to try and entertain this Dispute as per the provisions of the Arbitration and Conciliation Act, 1996. Admittedly, this Application (Exh. 33) was decided and ultimately, rejected by an order dated 30th April, 2024 and held that this Tribunal has the only jurisdiction to try and entertain the present Dispute, as per the provisions of the

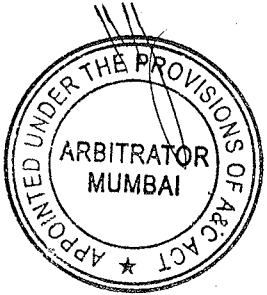


Arbitration and Conciliation Act, 1996. The copy of the said order is on record below Exh. 33. In view of these reasonings, as quoted above, I firmly come to the conclusion that this Tribunal has the only jurisdiction to try and entertain the present Dispute, as per the provisions of the Arbitration and Conciliation Act, 1996 and accordingly answer the Issue No. 1 in affirmative, as discussed above.

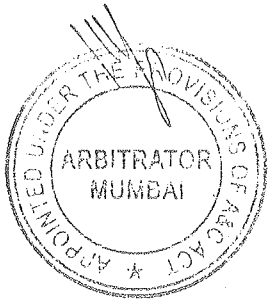


- (17) Issue No. 2. So far this issue is concerned, I carefully gone through the Written Statement of the Opponents, wherein, especially, in Para. No. 4 they alleged that "With respect to paragraphs 31-38 of the Dispute, the Hon'ble Supreme Court in the matter of BOOZ ALLEN AND HAMILTON INC. (2011) (5) S.C.C 532 has categorically held that the parties trying to enforce a Mortgage claim, or a Mortgage Deed would have to approach the respective court and the same cannot be adjudicated by the private forum such as arbitral tribunal." Therefore, in view of this, I carefully examined the oral as well as documentary evidence of both the Parties and also written notes of arguments. After careful perusal of the Affidavit of

Evidence the witness of the Disputant- Bank, the Liquidator of the Bank, it is seen that in Para 37 on pg. 32 of his Affidavit of Evidence, he deposed on oath that “*I say that as stated in Para 4 hereinabove, I am not seeking enforcement of the said Mortgage Deed and therefore what is stated in Para 4 of the Written Statement is irrelevant and unjustified.*”. The Ld. Advocate Shri. Hakani for the Disputant- Bank also in his written notes of arguments on pg. 19 have specifically argued and stated that “*It is made clear that the Claimant is not seeking enforcement of the Mortgaged Deed. Hence, the issue raised is irrelevant. However, the Mortgage Deed has been relied upon as it contained Guarantee Agreement and admission of liability by the Respondents.*” Considering the said statement made on oath by the Liquidator of the Disputant-Bank and the written submissions as quoted above, of Ld. Advocate Shri Hakani, I find no substance and merit in the allegations of the Opponents, when they alleged that the Disputant is seeking enforcement of the mortgage deed. In this context, I also carefully examined the entire Dispute, especially the prayer clause of this Dispute, in light of the Pursis (Exh. 20)

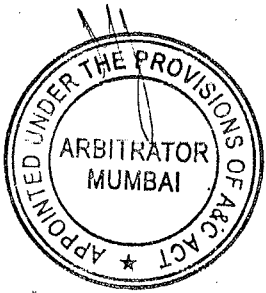


of the Disputant dated 2nd March, 2024 and it is seen that the Disputant- Bank has nowhere claimed enforcement of the said mortgage deed. Considering this factual position as quoted above, I firmly come to the conclusion that the Opponents have made false and frivolous allegations in their Written Statement as well as in their written notes of arguments that Disputant is seeking enforcement of the mortgage deed. In view of this, with due respect, the rulings i.e. judgment of the Hon'ble Supreme Court in the case of Booz Allen and Hamilton Inc. (2011) (5) SCC 532 is not helpful in any way and in any manner to the said case put up by the Opponents and accordingly, I hold that the Opponents have miserably failed to prove and establish that according to the judgment of Booz Allen and Hamilton Inc (2011) (5) SCC 532, the present Dispute is not maintainable and hence, I answer the Issue No. 2 in the Negative, as discussed.



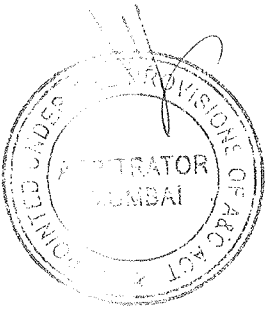
- (18) **Issue No. 3:** So far as this Issue is concerned, the Opponents have alleged in their Written Statement, especially in Para 3(p.) thereof, that “With respect to paragraph no. 28 of the Dispute, the Respondents stated that the appointment of the

Arbitrator was made unilaterally by the Claimant, the name of the Hon'ble Arbitrator was suggested by the Claimant bank itself." They also alleged that the said Appointment is made by the Disputant Bank without consent of the Opponents and hence, this Arbitrator has no jurisdiction to try and entertain the present Dispute. In view of these allegations of the Opponents, I carefully again examined this entire proceeding and also scrutinized the documents which are produced by the Disputant in supports of its claim in Dispute along with the list (Exh. 4). Admittedly, the documents which are produced along with list (Exh. 4) are referred and relied upon by the Disputant-Bank in Affidavit of Evidence of Shri. Khadke, Liquidator and hence, all these documents need to be exhibited as Exh. 4/1 to Exh. 4/10. After careful perusal of these documents, it is seen that in terms of Clause 12 of the Agreement for Further Extension of Advance Facilities dated 14th August, 2023 (Exh. 4/2), the Disputant invoked the arbitration and referred the Dispute and differences between the Disputant and the Opponents to this Hon'ble Arbitral Tribunal. The said Clause 12 reads as under:

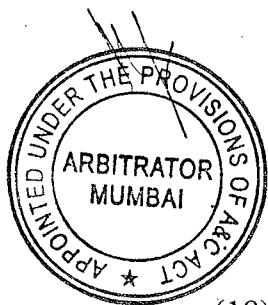


"12. It is agreed by and between the parties hereto that the Clause 24 of the Advance Facility Agreement dated 17th March, 2020 concerning the Arbitration shall be substituted by the following Arbitration clause:

"In the event of any dispute or differences, if any, that may arise between the Bank and the Borrowers and/ or the Bank and any of the Borrowers (i.e. whether the company, 1st Guarantor or 2nd Guarantor) concerning the interpretation and/or construction of this Agreement and/or documents mentioned in clause 2 above including their implementation thereof, non-payment/ dishonor of all or any of the cheques and/or also for enforcement/ realisation of security shall be referred to the Sole Arbitrator "Mr. Madhav R. Makhare (Former Member of the Maharashtra State Co-operative Appellant Court at Mumbai)" under the provisions of the Arbitration and Conciliation Act, 1996 as modified from time to time and his decision/ award shall be final, conclusive and the same shall be binding on the parties. It is also agreed and made clear that the seat of Arbitration shall be at Mumbai and/or Pune at the option of Learned Arbitrator and the language of the Arbitration shall be English."

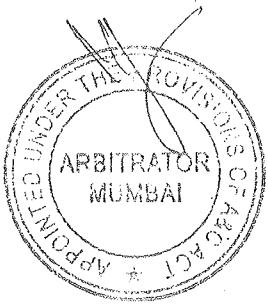


It is hereby recorded that the Parties hereto have agreed to the name of Mr. Madhav R. Makhare (Former Member of the Maharashtra State Co-operative Appellant Court at Mumbai) as Sole Arbitrator, which has been suggested by the Borrowers and consented/concurred by the Bank. It is agreed that the Arbitrator shall have power to appoint Receiver of the mortgaged properties and securities with direction to dispose-off and/or realise the mortgaged properties and securities during the pendency of the arbitral proceedings.”



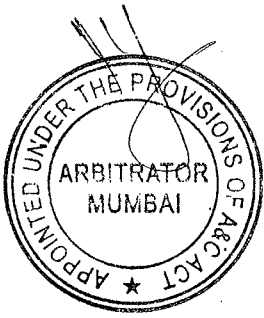
- (19) The said Agreement (Exh. 4/2) has been signed by the Liquidator of the Disputant- Bank as well as the Opponent No. 2 for himself and for the Opponent No. 1 as Authorised Signatory on dt. 14th August, 2022. Admittedly, since 14th August, 2022 till this date, these Opponents have nowhere challenged that the Liquidator of the Disputant- Bank has obtained their signatures on the said document by pressurizing them and that the said document is false and frivolous. Not only this, it is also clearly seen **that the appointment of the Ld. Arbitrator is by mutual consent and in fact, the Opponents have been participating in the present arbitral proceedings without any protest, as clear from filing of the Affidavit-in-**

Reply to the Interim Application, Written Statement, Affidavit of Evidence, payment of cost imposed by this Tribunal, etc. It is also clear from the above Arbitration Agreement that the dishonor of cheque is also treated as dispute. Thus, the Respondents have submitted to the jurisdiction of this Arbitral Tribunal. Thus, allegation of the Respondents regarding unilateral appointment of the Arbitrator is far from truth, misconceived and devoid of merits.



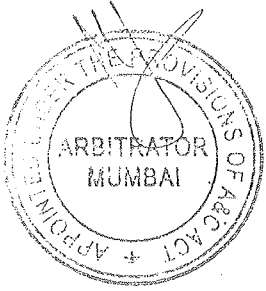
- (20) In this context, I place my reliance on the decision of the Bombay High Court, Aurangabad Bench in the case of Kashinath and Ors. Vs. Osman Baig Sandu Baig and Ors. [2016 (4) M.H.L.J. 538] wherein their Lordship have specifically observed and held in Para 17 thereof that *"Provisions of sections 101 and 102 of the Evidence Act show that when execution of document is proved, the burden shifts on the person, who is alleging that it was a forged document. These provisions show that such defendant has statutory right to send disputed handwriting or signature to expert to prove the defence of forgery. However, the Court can consider the circumstance*

like relevancy of document and necessity of consideration of the document for just decision of the case. This right of defendant is also a part of basic principles of justice and fairness.” Here in this case, the Opponents have fairly admitted the Agreement for Further Extension of Advance Facility dated 14th August, 2023 (Exh. 4/2) and therefore, these Opponents have no any legal right or authority to deny the said Agreement (Exh.4/2).



It is also an admitted position from the said documents (Exh.4/1 to 4/10) that all these Opponents have themselves executed and signed all these documents and hence, they are now estopped by their conduct to deny the said documents. In this context, I also place my reliance on the ruling of the Hon'ble Bombay High Court, Nagpur Bench in the case of **Smt. Prabhatai wd/o Shankarrao Bodhankar and Ors. Vs. M/s. Chimote & Sons and Ors.** [2017 (2) MH.L.J. 83] wherein their Lordships have very specifically observed and held that *“under Section 115 of the Evidence Act, principle of estoppel means a person shall not be allowed to show one thing at one time and opposite of it at another time. The rule is based on principles of equity and good conscience.”*

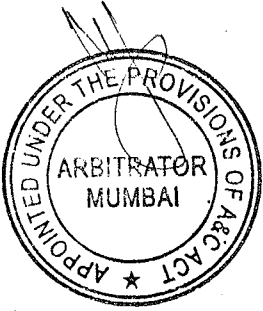
(21) For the reasons recorded hereinabove and considering the Clause 12 of the said Agreement dated 14th August, 2023 and in view of the above quoted rulings, the ruling of the Hon'ble Supreme Court in the case of Perkins Eastman Architects DPC and Anr. Vs/ HSCC (India) Ltd. [(2020) 20 SCC 760], with due respect is not anyway or in any manner helpful or useful to support the said allegations made by the Opponents in respect of the appointment of this Arbitrator.



(22) In view of these reasoning as quoted above, I do not find any substance and merit in the allegations of the Opponents that the appointment of the Arbitrator was made unilaterally by the Disputant and without consent of the Opponents, as the name of the Arbitrator was suggested by the Disputant- Bank itself and accordingly, I answer the Issue No.3 in the Negative, as discussed.

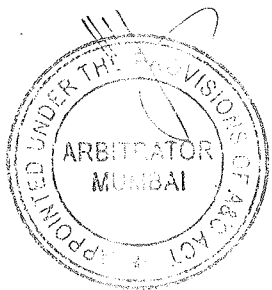
(23) Issue No. 4: So far as this issue is concerned, the Opponents in their Written Statement (Exh. 27) in Para 3(p) thereof have specifically alleged that “the Respondent further states that disclosure was also not given while appointing the

Arbitrator.” Admittedly, the said Statement/ Allegation of these Opponents are totally false and frivolous. It is a fact that this Tribunal has already given the disclosure as required under Section 12 of the Arbitration and Conciliation Act, 1996 to the concerned on date 27th September, 2022, the copy of which is on record at Exh. 22/1. This Tribunal has also delivered/ handed over the copy of the said disclosure (Exh. 22/1) to Ld. Advocate Shri. Adit Desai on dt 9th March, 2024. In view of this factual position as stated above, I do not find any merit and substance in the allegation/ statement of the Opponents when they say that the disclosure as required under the provisions of the Arbitration and Conciliation Act, 1996 was not given while appointing the Arbitrator and accordingly, I answer this Issue in the Negative, as discussed.



(24) Issue No.6: So far as this issue is concerned, I carefully gone through the entire proceeding especially the copy of the 3rd Agreement dated 14th August, 2023 which is on record at Exh. 4/2. After careful perusal of this Agreement which is styled as Agreement for Further Extension of Advance Facility dated 14th

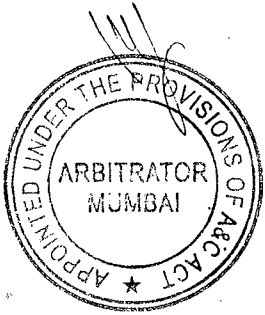
August, 2023, it is seen that the said Agreement/ Indenture is made and executed at Mumbai on date 14th August, 2023 between the Disputant- Bank through its Liquidator and the Opponents – 1. Mr. Srinivasan Pattamadaithapathy, 2. Mr. Ravi Ramchandrapuram Subramanian and 3. Silverline Technologies Ltd. wherein specifically in Paras 5 & 6 of the said Agreement it is stated that:



“5. It is agreed by the Bank to grant further extension to make repayment of outstanding amount upto 30th August, 2023 subject to further interest at the rate of 12.50 % p.a. to be calculated upto 30th August, 2023. In the event of failure to repay the outstanding amount or part thereof including dishonour of any cheque, the interest shall be charged @ 12.5% p.a. to be calculated from 31st August, 2023 till payment or realization on such outstanding amount. It is further made clear that no further extension will be applied for by the borrowers and granted by the Bank.

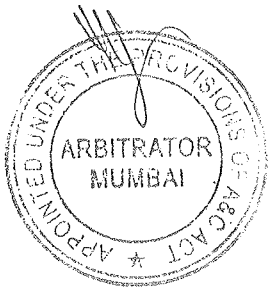
11. The Borrowers jointly and severally agree, admit and confirm that sum of Rs. 28,44,33,193/- (Rupees Twenty-Eight Crores Forty Four Lakhs Thirty Three Thousand One Hundred & Ninety Three Only) is due and payable by them to the Bank as on 30th August, 2023. The Borrowers agree, admit and confirm that they

are aware that the said sum of Rs. 28,44,33,193/- includes various charges and expenses debited to their Account in the Books of Account of the Bank and also interest on the outstanding sum calculated up to 30th August, 2023. The Borrowers further agree, admit and undertake that in the event of non-payment of outstanding amount or part thereof including dishonour of any cheque, the interest shall be charged @ 12.5% p.a. to be calculated from 31st August, 2023 till payment or realization on such outstanding amount. The Parties hereto agree and confirm that the documents mentioned in immediately preceding clause is legal, valid, subsisting and binding on them. The Borrower shall issue post-dated cheque of Rs.3,30,18,587/- in addition to the said 9 cheques of aggregate amount of Rs.25,14,14,606/- already issued. It is agreed and confirmed that the interpretation and construction of any terms and conditions recorded in the aforesaid documents made by the Liquidator of the Bank shall be final, conclusive and binding on the borrowers."

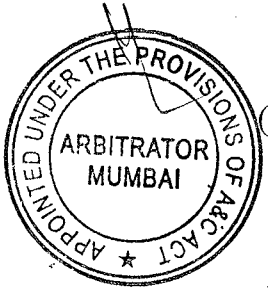


(25) Admittedly, the said Agreement is signed and executed by both the Parties namely the Liquidator for the Disputant- Bank and the Opponents on dt. 14th August, 2023. It is also seen from record that since 14th August, 2023 till this date, these

Opponents have not challenged any legality or validity of the said Agreement or never made any written complaint either to the Disputant- Bank or any other concerned authorities like a Police Station. Therefore, I find no substance and merit in the allegation of the Opponents when they allege that they were pressurized to enter into the 3rd Agreement dated 14th August, 2023 and they were compelled to pay interest @12.5% p.a. instead of 5.10% p.a., as alleged in their Written Statement. On the contrary, I find much substance in the Affidavit of Evidence of the Liquidator, witness of the Disputant when he deposed on oath that *"I say that there is no Dispute regarding the rate of interest because the Respondents have issued cheques towards principal and agreed rate of interest. I deny having use of any pressure on the Respondents to execute any document. I say that the documents mentioned in Statement of Claim were signed and executed by the Respondents at their free will and without any coercion. The allegation of pressuring the Respondents by me is first time made with ill-motive. Infact, the Respondents have acted upon the documents as evident from the dishonoured cheques."* I also find much substance



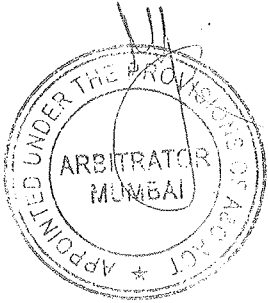
and merit in the arguments of the Ld. Advocate Shri. Hakani when he argued that the Respondents have neither denied nor disputed the contents and the execution of the said Agreement dated 14th August, 2023. The Opponents have also never challenged the revision of interest rate from 5.10% to 12.50% at compounding interest. These Opponents have for the first time in their Written Statement have raised these objections in respect of change in rate of interest.



(26) In view of these facts and circumstances, as quoted above, these Opponents are now estopped by their own conduct to deny the execution of the Agreement dated 14th August, 2023 wherein they have agreed to pay interest @ 12.5% in place of 5.10%. Therefore, for the reasons recorded hereinabove and the said Agreement dated 14th August, 2023 (Exh. 4/2) executed and signed by both the Parties, I firmly come to the conclusion that these Opponents have miserably failed to prove and establish that they were pressurized to enter into the 3rd Agreement dated 14th August, 2023 and they were compelled to pay interest @12.5% instead of 5.10%, as alleged in their Written Statement

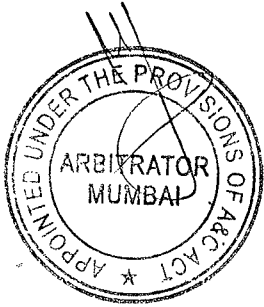
and accordingly, I answer the Issue No. 6 in the negative, as discussed.

- (27) Issue No. 7: So far as this issue is concerned, it is the allegation of the Opponents in their Written Statement in Para 3(I) thereof that the Liquidator of the Disputant- Bank promised and assured the Opponents that the project would be given to them and accordingly, he forced the Opponents to enter into an agreement and mortgage deeds. Admittedly, after careful scrutiny of this entire proceeding, it is seen that these Opponents, till filing of this Dispute or till filing of their Written Statement, have never made any single written complaint to the Liquidator of the Disputant- Bank that he has promised and assured them that the project would be given to them and accordingly, he forced them to enter into an agreement and mortgage deed. The witness of the Disputant in his Affidavit also stated on oath that *"I strongly deny the allegations made against me in Para 2. m. and put the Respondents to the strict proof thereof. The allegations against me in the Written Statement are far from truth, devoid of merits, ill-motivated, after-thought and made with an abortive attempt*



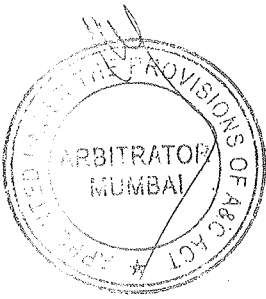
to escape from the legal liabilities. I deny having pressurize the Respondents to enter into an Agreement dated 14th August, 2023 as alleged. The allegation of pressuring to enter into an Agreement dated 14th August, 2023 or any other agreements is first time made and the same is after thought, ill motivated and far from truth. I deny the contents thereof." The Ld. Advocate

Shri. Hakani also in his written notes of arguments very specifically denied all these allegations made against the Liquidator of the Disputant Bank. He also submitted that all these allegations are made by the Opponents are after-thought and with ill motivation and hence, the same be rejected. Apart from this, it is clearly seen from these documents, especially the Advance Facility Agreement dated 17th March, 2020, Agreement for Further Extension of Advance Facilities dated 14th August, 2023 that these two Agreements are executed and signed by both the parties and there is no denial on the part of the Opponents. Not only this, these Opponents till this date did not challenge or question these Agreements in any court of Law. Therefore, I do not find any substance or merit in the said allegations of the Opponents that the Liquidator of the

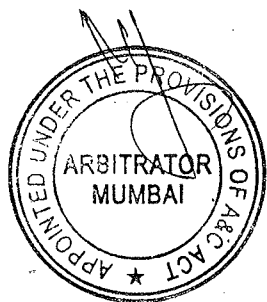


Disputant- Bank promised and assured them that the project would be given to them and accordingly, he forced the Opponents to enter into an agreement and mortgage deed. In view of this, I answer the Issue No. 7 in the negative, as discussed.

(28) **Issue No. 5:** So far as this issue is concerned, I carefully examined the Affidavit of Evidence of the witness of the Disputant, Shri. Khadke, Liquidator of the Bank (Exh. 28) and also scrutinized the documents annexed with List (Exh. 4) in the light of facts and averments raised in this Dispute pertaining to the advance facilities granted and disbursed to the Opponents, as well as the Affidavit of Evidence of Shri. Srinivas Pattamadai Sithapathy (Exh. 42). In this context, I also carefully gone through the written notes of arguments of both the Ld. Advocates. After careful perusal of this entire proceeding especially the Dispute and oral and documentary evidence of both the Parties, it is seen that the Disputant has filed this Dispute as against the Opponents to recover an amount of Rs.29,67,47,212/- along with future interest @12.5% p.a. thereon to be calculated at quarterly rest with effect from the

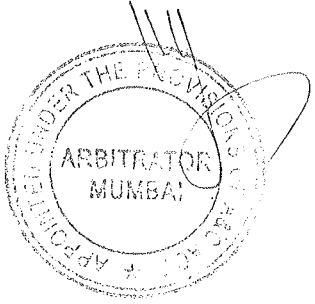


date of filing this Dispute i.e. with effect from 3rd January, 2024 till its complete realization thereof along with other prayers, as prayed in Prayer Clause (b.) to (g.) in the Dispute on the basis of facts and averments raised in the Dispute. The particulars of the claim are given under Exh. L which is annexed with the Dispute. After careful perusal of the said particulars (Exh. L), it is seen that the Disputant- Bank has disbursed an amount of Rs.18 crores as detailed in Para 5 of the Dispute, as per Advance Facility Agreement dated 17th March, 2020 out of sanctioned Advance Facility of Rs.25 crores, as per sanctioned letter dated 5th March, 2020. It is further seen that as per the said Advance Facility Agreement, the Opponents agreed to pay the said amount within 24 months from 31/03/2022 along with interest @ 5.10% p.a. It is further seen from the proceeding that as the Opponents failed to pay the said amount as agreed and as such as on date 31/03/2022 the Opponents were liable to pay sum of Rs.19,67,28,577/- inclusive of interest. It is also admitted position that the Opponents by their balance confirmation letter dated 12th January, 2022 confirmed their liability of Rs.19,67,28,577/-. It is also an admitted position that the Board



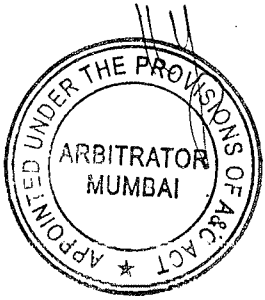
of Directors of the Opponent No. 1 in their meeting held on 4th April, 2022 admitted the said liability of Rs.19,67,28,577/- and issued 6 cheques in favour of the Disputant drawn on ICICI Bank, Chembur Branch towards the repayment of the said amount of Rs.19,67,28,577/-. The copy of the said resolution is also on record along with list (Exh. 4) is at Exh. 4/5. It is also seen from the proceeding that these Opponents by their letter dated 5th April, 2022 informed the Disputant to grant time for repayment by depositing of the said 6 cheques amounting to Rs.19,67,28,577/- on or before 21st June, 2022. The copy of the said letter is on record at Exh. 4/6. It is also seen from proceeding that as the Opponents failed to pay the said amount of Rs.19,67,28,577/-, as per Advance Facility Agreement, again entered into an Agreement styled as Agreement for Further Extension of Advance Facilities on date 14th August, 2023. The copy of the said Agreement is on record which is at Exh. 4/7. The important terms and conditions of the said Advance Facility Extension Agreement, as modified are as under:

“3. FACILITY/ SERVICE ADVANCE FACILITY



This will remain the same as mentioned in the Advance Facility Agreement entered between the Parties on 17/03/2020, besides the following: -

- a) *The tenure is being extended by additional 75 days to push the repayment due-date from 31/03/2022 to 14/06/2022; and*
- b) *Although the Original sanction was to the tune of Rs. 25.00 Crores (Rupees Twenty Five Crores Only), the disbursement was freeze at Rs.18.00 Crores (Rupees Eighteen Crores Only), for which there is no dispute between the Parties to this Agreement. Guarantors specifically have no grievances for the disbursement of Rs. 18.00 Crores out of the total sanction of Rs. 25.00 Crores; and they undertake not to challenge the same before any authority. It is being emphasized that unless the end-use of funds was provided, the disbursement could not have been made to the fullest. The Company and the Guarantors appreciate that over 75% of the total sanctioned amount was disbursed during the COVID19 pandemic period.*



5. REFERRAL FEES/ PROCESSING CHARGES / OTHER CHARGES

This will remain the same as mentioned in the Advance Facility Agreement entered between the Parties on 17/03/2020, subject to the additional / modified terms as under: -

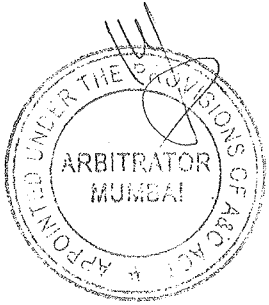
- a) *1.50% of the disbursed amount is being debited and recovered at the end of the tenure as per the terms of the Original Advance Facility Agreement;*

- b) Another 1.50% of the disbursed amount shall be debited recovered at the end of the tenure as per the terms of this Extended Agreement, which shall be carried out on 14/06/2022;
- c) The GST levied or leviable by our Consultants / Advisors, etc. (by whatever name called) shall be levied on actual, which shall be in the form of Reimbursements.

6. REPAYMENT / REFUND

- (a) The Company alongwith its Guarantor(s) agrees and undertakes to make the repayment / refund of the Facility within the further extended Tenure of 75 (Seventy Five) days from the end of 31st March 2022, which is being freezed at 14/06/2022;
- (b) The interest rate of 5.10% per annum is being replaced with interest rate of 12.50% per annum compounded quarterly, which shall be effected and calculated after 31/03/2022 on a sum of Rs. 19,99,14,606/- as stated in sub-clause (c) hereunder. This is in view of the expressions provided in Clause 10 of this Extended Agreement;
- c) The Compounded value as on 31/03/2022 shall be a sum of following values: -

a. Principal Amount	Rs. 18,00,00,000/-
b. Interest Accrued	Rs. 1,67,28,606/-
c. Processing Fees	Rs. 27,00,000/-
d. GST Reimbursements	Rs. 4,86,000/-
Total	Rs. 19,99,14,606



- (d) *Additional Cheques to be procured from the Company towards interest for the period 01/04/2022 to 14/06/2022, and for Processing Fees towards Original "Advance Facility Agreement" as well as "Advance Facility Extended Agreement";*
- (e) *The Parties to the Original & the present Extended Agreement shall not create any dispute in relation to the arrangements agreed to as above;*

7. DISBURSEMENT OF FACILITY AMOUNT

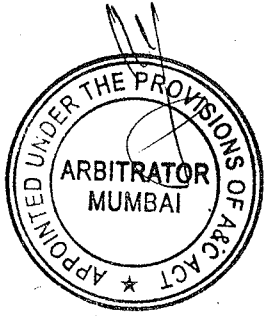
This will remain the same as mentioned in the Advance Facility Agreement entered between the Parties on 17/03/2020, subject to the fact that a sum of Rs. 18.00 Crores (Rupees Eighteen Crores Only) were disbursed against the total sanction to the tune of Rs. 25.00 Crores (Rupees Twenty Five Crores), for which the Party of the Second Part and Party of the Third Part has no grievance, as agreed under Clause 3(b) stated supra.

8. INTEREST ON ADVANCES IN THE EVENT OF DEFAULT

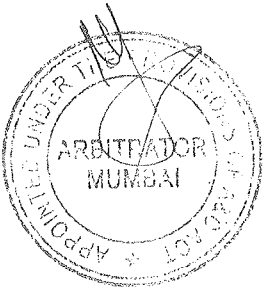
This will remain the same as mentioned in the Advance Facility Agreement entered between the Parties on 17/03/2020, and that the interest shall be applied at 12.50% per annum compounded quarterly starting from 01/04/2022.

19. COSTS AND EXPENSES

This will remain the same as mentioned in the Advance Facility Agreement entered between the Parties on 17/03/2020, subject to additional / modified terms as under: -

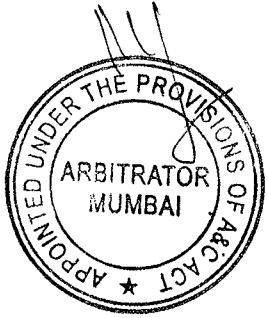


- a) *That AUCBL shall debit all costs, legal expenses and other expenses in the event of non-completion of the assignment as at the extended cut-off date of 14/06/2022 without any reference to the Company and the Guarantor(s);*
- b) *The Company shall indemnify and keep indemnified AUCBL at all times in relation to non-compliance of the Company;*
- c) *The Interest and Processing Fees alongwith GST reimbursable shall be recovered from the Company;*
- d) *Any other costs incurred by AUCBL on account of affairs of the Company for protecting the interests of AUCBL shall be recovered from the assets of the Company alongwith its Directors / Guarantors."*



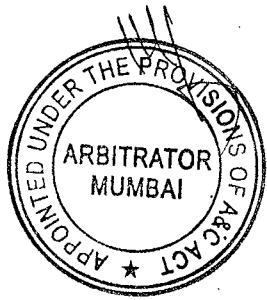
(29) In view of these terms and conditions of the said Agreement for Further Extension of Advance Facilities dated 14th August, 2023, the Opponents have very fairly admitted their liability to pay Rs.19,99,14,606/- inclusive of interest and processing fees to the Disputant. It is further seen from proceeding that considering the request of these Opponents, the Disputant-Bank granted further period of 75 days for repayment of the said outstanding amount of Advance Facility from 1st April, 2022 to 14th June, 2022. The Opponents by the said Advance Facility

Extension Agreement jointly and severally admitted and confirmed the liability of Rs.19,99,14,606/- as on 31st March, 2022. It is further seen from proceeding that the Opponent No.1 issued 6 cheques, as mentioned in Para. 7 of the Dispute which were dishonoured by the ICICI Bank, Chembur Branch on the ground of funds insufficient and hence, the Disputant- Bank issued demand notice to the Opponents on dt 22/07/2022 and called upon them to pay the said amount but in vain. Therefore, the Disputant filed a criminal complaint No. 4101 of 2022 against the Opponents under Section 138 r.w. 141 of the Negotiable Instruments Act, 1881 which is pending in the court of Metropolitan Magistrate, 33rd Court, Mumbai. It is further seen from the proceeding that considering the request of the Opponents, the Disputant- Bank again granted further facilities of Rs.3,25,00,000/- out of balance sanctioned limit of Advance Facility of Rs.25 crores, thereby making total outstanding Advance Facility amount of Rs.23,24,14,606/- along with interest at the rate of 12.5% with quarterly rests. In lieu of this Advance Facility, the Opponent No. 3 (now deceased) had admittedly, mortgaged his two immovable properties by



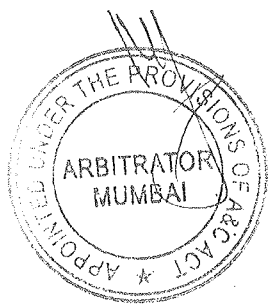
executing registered Deed of Simple Mortgage cum Memorandum of Recording Deposit of the Title Deed dated 29th November, 2022 in favour of the Disputant, which was registered under Document No. 23050/2022 in the Office of the Sub Registrar Kurla-5, Mumbai. As per the said mortgage deed, the repayment period of the said Advance Facility was further extended upto 30th June, 2023. The copy of the said mortgage deed is on record at Exh. 4/7. It is further seen from proceeding that the said Mortgage Deed was executed for a sum of Rs.23,24,14,606/-. It is also seen that the deceased Opponent No.3 had executed registered Power of Attorney on date 05/09/2023 in favour of the Liquidator of the Disputant- Bank. The copy of the said Power of Attorney is on record at Exh. 4/8. It is also seen that the Opponents have executed the Indemnity Bond cum Declaration on date 3rd December, 2022 but they have violated the said Indemnity Bond by not returning the two Share Certificate Nos. 7 & 14 in respect of the said Mortgaged Properties. The copy of the said Indemnity Bond cum Declaration dated 3rd December, 2022 is on record and at Exh. 4/9. It is also seen from the oral and documentary evidence



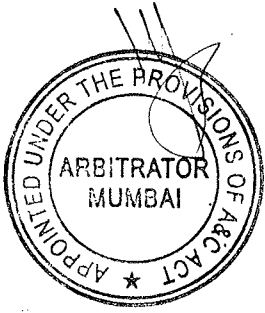


that these Opponents in the repayment of the said due amount under the said Agreement read with the Mortgage Deed, the Opponent No. 1 issued 9 cheques for aggregated sum of Rs.25,14,14,606/- (due as on 31st December, 2022 including interest and expenses) all dated 26th June, 2023 drawn on State Bank of India, Malad West Branch, Mumbai. The details of the said cheques are given in Para 18 of the Dispute. Admittedly, all these cheques are issued by the Opponent No. 1 under the signature by the Opponent No. 2 – Shri. Srinivasan Pattamadai Sithapathy, as the Managing Director and Authorised signatory of the Opponent No.1. It is also seen that the 6 cheques out of the said 9 cheques were in lieu of and in addition to the earlier dishonoured cheque nos. 000516, 000517, 000519, 000520, 000521 and 000522 all drawn on ICICI Bank, Chembur Branch, Mumbai which are in fact the subject matter of the Criminal Complaint No. 4101 of 2022 under Section 138 and 141 of the Negotiable Instruments Act, 1881 and pending on the file of the Metropolitan Magistrate, 33rd Court, Mumbai. It is further seen from the evidence of the Disputant- Bank that the Opponent No. 1 vide his email dated 30th June, 2023 requested the Disputant

not to deposit cheques, as the Opponents were in process of raising funds to completely discharge the liability and requested extension upto 15th July, 2023 and then upto 30th August, 2023 for the said repayment. It is also seen that the Opponent No.3 (now deceased) has voluntarily handed over to the Liquidator the peaceful physical possession of the said Mortgaged Properties, described in the 1st Schedule and 2nd Schedule of the said Mortgage Deed assured to the Liquidator to get his title to the said Mortgaged Properties perfected by getting two Share Certificates transferred in his name as per the said Indemnity Bond cum Declaration (Exh.4/9). However, these Opponents deliberately failed to return the said two Share Certificates, as per the said undertaking (Exh.4/9) and thus, committed breach of the said Agreement. It is further seen from the evidence that these Opponents have recorded and confirmed having issued and handed over to the post-dated cheque of Rs.3,30,18,587/- bearing No. 613563 dated 30th August, 2023 drawn on the Company's Bank Account with the State Bank of India, Malad West Branch, Mumbai under the signature of the Respondent No. 2 as Managing Director and Authorized



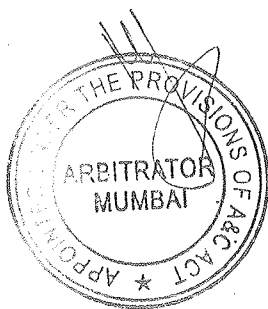
signatory. As per the Clause Nos. 8 to 11 of the said Last Agreement dated 14th August, 2023 (Exh.4/2). The said Clause 8 to 11 are as under:



"8. It agreed by and between the Parties that in event of dishonour of all or any of the cheques mentioned at Sr. No. (i) to (vi) hereinabove, the Bank shall have liberty to continue with the said pending Criminal Complaint No. 4101 of 2022 without prejudice to having recourse for filing fresh and independent criminal complaint(s). Similarly, the Banks shall have liberty to file complaint under Section 138 / 141 of the Negotiable Instrument Act against Borrowers or any of them in event of dishonor of all or any of the cheques not mentioned at Serial No.(i) to (vii) mentioned in Clause 3 above and also as mentioned in Clause 7 hereinabove.

9. The Borrowers jointly and severally declare, confirm and undertake that the above-referred cheques including the further cheque/s that may be issued hereafter shall be good for payment and same shall be honored by their Bank i.e. State Bank of India on its presentation any time after 30th August, 2023. It is agreed and confirmed by the Borrowers in the event of dishonor and/or non-payment of all or any aforesaid cheques including any cheques that may be issued

hereafter, the Bank shall have liberty to take action under Section 138 and Section 141 of the Negotiable Instruments Act without prejudice to and in addition to any other legal remedies including criminal action as well as Arbitration provided herein. The Notice of the demand (that may be issued in consequence of dishonor) be served on e-mail to the Company at silverlinetechnologies13@gmail.com and receipt of such Notice on any of the borrower shall be deemed to be receipt by all the borrowers.

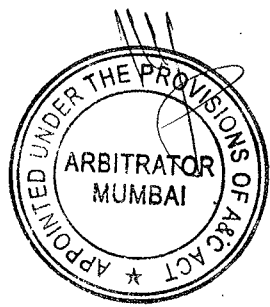


10. The 2nd Guarantor hereby admits and confirms having handed over to the Liquidator of the Bank the physical possession of the Mortgaged Property (more particularly described in 1st Schedule and 2nd Schedule written hereunder).

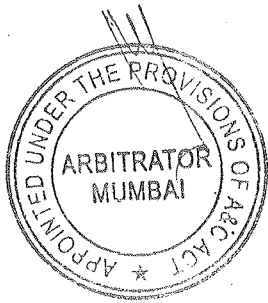
11. It is agreed by the Borrowers that in event of dishonor of all or any of the aforesaid cheques, they will not take defense that the amount due and payable under the cheques are secured by the Mortgaged Property now in possession and custody of the Liquidator of the Bank."

It is further seen from the proceeding, the Disputant- Bank through its Advocate issued 2 demand notices on date 10th

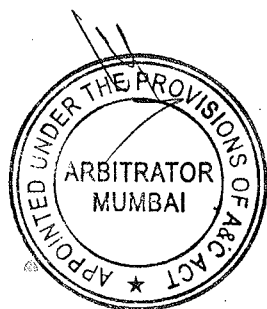
October, 2023 to the Opponents and informed them that the said 10 (ten) cheques as stated in Para 18 of the Dispute were dishonoured and returned unpaid by the State Bank of India, Malad West Branch, Mumbai. As the Opponents failed to repay and satisfy the said dues of Rs.19,67,28,577/- of 6 cheques and Rs.8,77,04,616/- of 4 cheques, as stated in Para 22 and 23 of the Dispute, totaling to Rs.28,44,33,193/- as per the demand made in both the Notices, the Disputant- Bank filed two separate Criminal Complaints being Summary Case No. 506730 of 2023 and Summary Case No.506731 of 2023 in the Court of the Ld. Metropolitan Magistrate, 33rd Court, Ballard Pier at Mazgaon, Mumbai against the Opponents u/s 138/141 of the Negotiable Instrument Act, 1881, which are pending before the said Court. It is further seen from the oral and documentary evidence of the parties that as the Opponents committed breach of all the Agreements, their undertakings and assurance and as they failed to complete and get perfected their title to the said mortgage properties and also committed various breaches and non-compliances of the said Agreement, Mortgage Deed, Indemnity Bond, etc., the Disputants issued final notice through its



Advocate to the Opponents on date 30th November, 2023 and demanded the outstanding sum of Rs.28,44,33,193/- along with further interest @ 12.5% thereon with effect from 1st September, 2023. The copy of the said notice dated 30th November, 2023 is on record at Exh.4/10. However, it is seen from record that in spite of receipt of the said Notice dated 30th November, 2023 (Exh.4/10), the Opponents failed and neglected to repay the said dues. It is also seen from the record that as the Opponents failed to repay the dues as per Notice dated 30th November, 2023 (Exh.4/10), the Arbitration Agreement automatically stood invoked in terms of the said Notice and hence, the Disputant appointed and referred the present matter to this Hon'ble Tribunal vide its Letter dated 18th December, 2023. Thus, I hold that the Opponents are liable to pay to the Disputant- Bank an amount of Rs.28,44,33,193/- along with further interest @ 12.5% thereon as on 31st August, 2023 and therefore, as on 01/01/2024, the Opponents are liable to pay an amount of Rs.29,67,47,212/- to the Disputant- Bank as per the particulars given under Exh. L along with interest thereon @ 12.5% with effect from 01/01/2024 till its entire realization. In view of this,

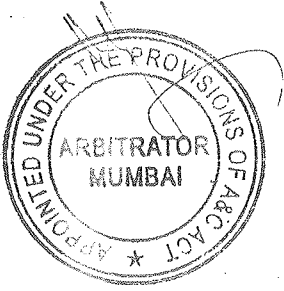


I find much substance in the arguments of Ld. Advocate Shri. Hakani when he says that the Disputant- Bank in view of the documents produced along with List Exh. 4 which are exhibited as Exh. 4/1 to 4/10 proved beyond doubt that the revision of rate of interest from 5.10% to compounding rate of interest @12.5% at quarterly rest is legal and proper, execution of Mortgage Deed is legal and proper and issuance of cheque by force, as alleged by the Opponents is totally false and frivolous. I also find much substance when he says that the Opponents by issuing several cheques towards repayment of dues in dispute is sufficient to prove that the Opponents have obtained the Advance Facilities as stated in the Dispute and enjoyed the same and without force or coercion. I also find much substance and merit in the oral evidence of the witness of the Disputant-Bank as well as the oral submissions of the Ld. Advocate Shri. Hakani when they say that the Disputant- Bank has never sought or prayed any enforcement of the Mortgage Deed, as alleged by the Opponents. For the reasons recorded hereinabove, I hold that the Disputant- Bank has proved its claim in Dispute of Rs.29,67,47,212/- as against the Opponents



along with future interest thereon @ 12.5% from the date of filing of this Dispute i.e. with effect from 03/01/2024 till its complete realization from all the Opponents jointly and severally.

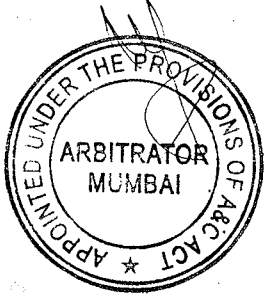
(30) So far as the cost of this Dispute is concerned, it is seen from proceeding that it is proved beyond doubt that the Opponents though sought several concessions and extensions to repay the dues in dispute, failed to pay the said dues to the Disputant-Bank and thus, compelled the Disputant- Bank to initiate this proceeding as per the terms and conditions of the Arbitration Agreement contained in Clause 12 of the Last Agreement for Further Extension of Advance Facility dated 14th August, 2023 (Exh.4/2) to initiate this Dispute to recover its legal dues in Dispute from them and hence, the Opponents need to be held liable and responsible to pay the cost of this Dispute, as detailed below to the Disputant- Bank.



The particulars of the cost:

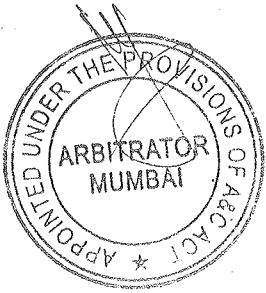
Sr. no.	Particulars	Amount

a)	Fees of the Arbitrator as per the Fourth Schedule of the Arbitration and Conciliation Act, 1996 (paid by the Disputant on behalf of itself and on behalf of the Opponents as the Opponents failed to pay their share)	31,00,000/-
b)	Legal fees of the learned Advocate for the Disputant- Bank	18,00,000/-
c)	Cost which are ordered by this Tribunal but not paid by the Opponents	5,000/-
d)	Other charges i.e. xeroxing, printing, scanning, conveyance, courier, stenographer, clerkage, etc.	2,00,000/-
e)	Total	51,05,000/-



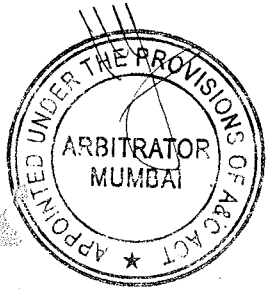
The Opponents are need to be directed in the above quoted circumstances to bear their own cost. Thus, I answer the Issue No. 5 in the affirmative, as discussed.

(31) **Issue No. 8:** so far as this issue is concerned, the Disputant-Bank has claimed reliefs in terms of Prayer Clause (a) to (g) of the Dispute. So far as Prayer Clause (b) of the Dispute is concerned, it is seen that the Disputant has claimed and prayed that the deceased Opponent No.3 i.e. his legal heirs being the Opponent Nos. 3(a) to 3(c) be directed to hand over the Share Certificate Nos. 7 & 14 described in the said Mortgage Deed (Exh.4/7A) to the Disputant- Bank. After careful perusal of the oral and documentary evidence of the Disputant, it is seen that the Opponent No.3 (now deceased) has violated the terms and conditions of the Indemnity Bond cum Declaration dated 3rd December, 2022 and failed to return the said two Share Certificate Nos. 7 & 14 concerning the mortgaged properties as per the Mortgage Deed (Exh.4/7A) to the Disputant- Bank and hence, the said prayer needs to be granted as neither deceased Opponent No.3 during his life time disputed the said Mortgage Deed (Exh.4/7A) nor returned the said two Share Certificates Nos. 7 & 14, as agreed and hence, the said prayer seems to be reasonable and needs to be allowed. Hence, the Opponent No.3(a) to 3(c) or any other person on behalf of them who are

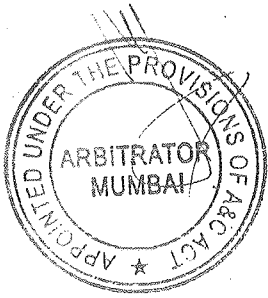


in possession of these two Share Certificates Nos. 7 & 14 needs to be directed to hand over the said Share Certificates Nos. 7 & 14 to the Disputant- Bank forthwith. In view of Pursis Exh. 20 dated 2nd March, 2024 and Order passed thereon and for the reasons recorded hereinabove, I answer the Issue No. 8 in the Affirmative, as discussed, to the extent of Prayer Clause (b) only.

- (32) So far the liabilities of the legal heirs of the deceased Opponent No.3 i.e. the Opponent Nos.3(a), 3(b) and 3(c) are concerned, admittedly, these Opponent No.3(a) to 3(c) were brought on record after death of the original Opponent No.3 by an order of this Tribunal passed on Application (Exh.36) on dt. 26/04/2024. It is also seen from record that these Opponent Nos. 3(a) to (c) though properly served with notice - Exh.38 to 41, did neither appear before this Tribunal nor answer the Dispute though judicious opportunity was given to them. As these Opponent Nos. 3(a) to 3(c) did neither appear before this Tribunal nor answer the Dispute by way of their written statement stating therein that they are not the legal heirs of the deceased Opponent No.3 nor that they have not inherited the estate/



properties of the deceased Opponent No.3. Therefore, I firmly come to the conclusion that they are the legal heirs of the deceased Opponent No.3 and they have inherited the movable and immovable properties of the deceased Opponent No.3 and hence, they are also liable to pay the dues in Dispute as per this Award to the Disputant- Bank along with the Opponent Nos. 1 & 2.



- (33) Issue No. 9: For the reasons recorded hereinabove, in respect of Issuc Nos.1 to 8, I hold that the Disputant- Bank has proved its claim of Rs.29,67,47,212/- along with future interest thereon @12.5% p.a. from the date of filing the Dispute till its complete and entire realization along with cost of this Dispute as quoted above and also further hold that the Disputant- Bank is entitled to claim reliefs as claimed in Prayer Clause (b) to (g) as discussed above from the Opponents and accordingly, I am inclined to pass following Award:

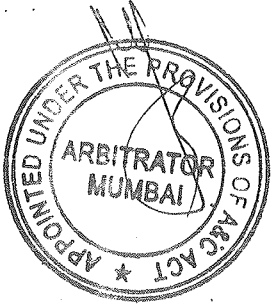
AWARD

- (a) The Disputant- Bank shall recover a sum of Rs.29,67,47,212/- (Rupees twenty-nine crores sixty-seven

lakhs forty-seven thousand two hundred twelve only) from the Opponent No. 1, the Opponent No. 2, the Opponent No.3(a), the Opponent No.3(b) and the Opponent No. 3(c) jointly and severally along with future interest thereon @12.5% p.a. to be calculated at quarterly rest with effect from the date of filing of the Claim i.e. 3rd January, 2024 till its complete realization;

(b) The Opponent No.1, the Opponent No. 2, the Opponent No.3(a), the Opponent No.3(b) and the Opponent No. 3(c) shall pay the cost of this Dispute of Rs.51,05,000/- (Rupees Fifty One Lakhs Five Thousand Only) as detailed in particulars of cost to the Disputant- Bank and bear their own;

(c) The Opponent Nos.3(a), 3(b) and 3(c) or any other person on behalf of them who are in possession of the said two Share Certificates Nos. 7 & 14 are hereby directed to hand over the said Share Certificates Nos. 7 & 14 to the Disputant- Bank forthwith, failing which the Disputant- Bank shall recover the same from the Opponent No.3(a) to

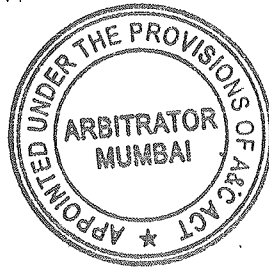


3(c) or any other person on behalf of them who are in possession of the said two Share Certificates Nos. 7 & 14 by following due procedure of law;

(34) Thus, the present Dispute stands disposed off as Awarded.

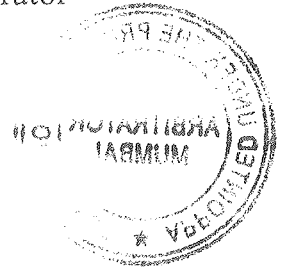
Date: 21st day of June, 2024

Place: Fort, Mumbai

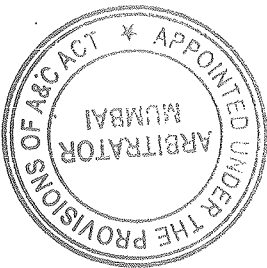


(M. R. Makhare)

Sole Arbitrator



CERTIFIED TRUE COPY



M. R. MAKHARE
ARBITRATOR

Self-Declaration of the Prospective Arbitrator

(To be made under Sec.12(1) (a) and (b) and Sixth Schedule of Arbitration and Reconciliation Act. 1996)

1. Name : Madhav Ramchandra Makhare
2. Contact details : 9890533495, 9284779125
3. Prior experience : I worked as an Arbitrator since the year 2014/15.
(including experience with Arbitration)
4. Number of on-going Arbitration : 3 Multi State Co-Operative Banks
Name of the Bank on which : Appex Urban Co-Operative Bank of Maharashtra and Goa Ltd. Mumbai
appointment is consented (Multi State)
5. Circumstances disclosing any past or present relationship with or interest in any of the parties or in relation to the subject matter in dispute, whether Financial, Business, Professional or other kind, which is likely to give rise to justifiable doubts as to your Independence or Impartiality (List out)

Answer : Absolutely No

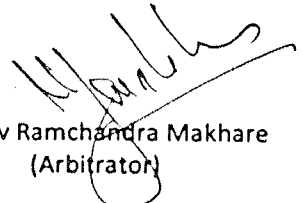
6. Circumstances which are likely to affect your ability to devote sufficient time to the arbitration and in particular your ability to finish the entire arbitration within twelve month (List out)

Answer : Ability to devote sufficient time to the Arbitration and ability to finish the entire Arbitration within twelve month.

I, hereby solemnly affirm that, the aforementioned information is true and correct to the best of my knowledge.

Date : 27/09/2022

Place : Pune


Madhav Ramchandra Makhare
(Arbitrator)

Panel 113 108

Fort/Mumbai
07/06/2024

Direction

To,

All the Concerned,

The Arbitration proceeding is closed for passing award.

The Claimant and Respondent are hereby directed to submit details of expenses and costs with proof of actual payment made concerning Arbitration i.e. to say actual payment of Arbitration fees, Advocate fees & other expenses if any. It is further directed to comply with direction on or before 10/06/2024 without fail so that same may be considered while Awarding the costs of Arbitration.

Given under my Signature & seal of this Tribunal today i.e. on 7th June, 2024.

Fort

07/06/2024



M. R. Makhare
M. R. MAKHARE
ARBITRATOR

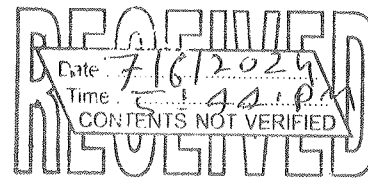
Arbitrator

To,

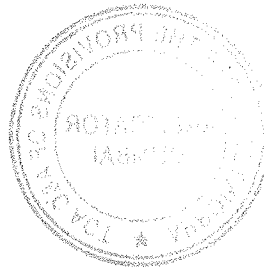
1 Kirit J. Hakani, Advocate
Apex Urban Co-op Bank
of Maharashtra & Goa Ltd. (Claimant)

2 Alatheia Law LLP,
Advocate for M/S Silverline technologies Ltd. & others,
Respondent,

ALATHEA LAW LLP.



M. R. MAKHARE
ARBITRATOR



BY COURIER/ EMAIL**WITHOUT PREJUDICE****Dated: September 06, 2024, Friday****Ref: PJ/MT/MUM/09-24/LN****M/s. Silverline Technologies Limited**

Unit 121, SDF IV, SEEPZ,

Andheri East,

Mumbai- 400096.

4VFG+CG9, Seepz, Andheri East,

Mumbai, Maharashtra 400096

Sub: "Legal Notice: Proposed Issuance of Equity Shares**Ref: Advance Facility Extension Agreement dated 31st March 2022.**

Dear Sir,

We are concerned for our Client, Apex Urban Cooperative Bank of Maharashtra and Goa Limited, having its registered address at Sharda Sadan, 02nd Floor, 11, Syed Abdulla Brelvi Road, Fort, Mumbai- 400001, thereby serve you with the following notice for your immediate attention and necessary action;

1. That an Advance Facility Extension Agreement ("Agreement") dated 31st March 2022 was entered between Apex Urban Cooperative Bank of Maharashtra and Goa Limited (hereinafter referred to as "AUCBL") and M/s. Silverline Technologies Limited (hereinafter referred to as "Company"), along with its Directors and Key Managerial Personnel (KMP).
2. Mr. Srinivasan Pattamadai Sithapathy (PAN - AQNPS6676B & Aadhaar - 397587884837), Managing Director alongwith the said Company, M/s. Silverline Technologies Limited (STL) have committed default against the Advance Facility

Agreement entered between you and your company on the one part and our Apex Bank, on the other;

3. We have gone through your letter dated 27/08/24 directed to Bombay Stock Exchange (BSE) pertaining to outcome of the meeting of board of directors under Regulation 30 of SEBI (LODR) Regulations, 2015 held on 27/08/24. In the said connection, we would like to point out that you have defaulted on repayment of the amount (alongwith enhancement) as per Advance Facility Agreement entered on 17/03/2020;
4. The default in repayment of loan was intentional as you did not pay up any amount against the facilities offered to your company. You alongwith your other guarantor director (now deceased) and the company did not show any intention to make repayment of the defaulted dues lying to the debit of your company in the books of AUCBL. Despite repeated reminders, you failed to initiate any payment till the date of this Notice;
5. The Arbitration was initiated as per mutual agreement between AUCBL and your Company. The said Learned Arbitrator initiated the Arbitration which was attended by your Advocate / Solicitor / Representative and after appropriate proceedings, an Arbitral Award was issued by the Learned Arbitrator on 21/06/24;
6. The said default of dues to the Apex Bank alongwith Criminal Case(s) filed U/s. 138 of The Negotiable Instruments Act 1881 (Read with S141 of the said Act) alongwith the fact that an adverse Arbitral Award was issued against your company was not informed to the BSE / related Exchange. The said default violates the provisions of the regulations issued by SEBI under Securities and Exchange Board of India (Listing Obligations & Disclosure Requirements) Regulations 2015 (last amended on 10/07/24);
7. Your attention is invited over "Part B – Disclosure of Information having bearing on Performance / Operation of listed entity and / or price sensitive information: Non-Convertible Securities" under Item A-14, which has been reproduced for your kind reference: -

A. The listed entity shall promptly inform the stock exchange(s) of all information which shall have bearing on performance/operation of the

listed entity or is price sensitive or shall affect payment of interest or dividend or redemption payment] of non-convertible securities including :

11. any instance(s) of default/delay in timely repayment of interests or principal obligations or both in respect of the debt securities including, any proposal for re-scheduling or postponement of the repayment programmes of the dues/debts of the listed entity with any investor(s)/lender(s).

8. Considering the above, it is apparent that you have not disclosed the aforesaid crucial facts to BSE alongwith other violations of terms comprised in Advance Facility Agreement as referred above, one of which pertains to non-appointment of Nominee Director incase of default which was already decided, agreed upon and entered at the time of extension granted for repayment of dues promised by your company in writing to AUCBL;
9. You are well aware of the fact that Exchange can forcibly remove a company's stock if it doesn't meet listing requirements, one of which is the regulatory compliance as detailed in Clause 6 above. By not disclosing the defaults in repayment of dues to AUCBL by you and your company to the Exchange, you have violated the provisions contained in SEBI (LODR) Regulations 2015 as far as the regulatory compliances are concerned;
10. That the authorities must appreciate that, an issuer shall not be eligible to make a preferential issue if any of its promoters or directors is a economic offender.
11. Further, as per Regulation 163 (1) of **SECURITIES AND EXCHANGE BOARD OF INDIA (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2018**, if at all the company is doing the preferential issue, the object of the issue must be specified.
12. The company should have mentioned that one of the object of the preferential issue by the company is to repay the secured debt of AUCBL with respect to the payment of amount specified in the Arbitral Award. The said disclosure shall form part of the

explanatory statement to the notice for the general meeting proposed for passing the special resolution.

13. In connection with what has been stated above, you are hereby required to respond within 03 days of receipt of the Notice, as to why legal action should not be taken against you and your company for violations in relation to regulatory compliances as described above. You are required to provide your written response as to why the said information should not be provided to Exchange and SEBI for permanent delisting of your stock from the Exchange besides disqualification of the Director involved therein. The non-compliance of the regulations / rules issued by SEBI / SEBI (LODR) / Exchange calls for levy of exemplary penalties besides any other action within the purview of law;
14. Considering the above, it is being reiterated that if we do not get written response to this Notice from your Company within the prescribed period as above, we shall be constrained to take appropriate legal steps to stay Promoter re-classification and appointment of Additional Director (pending appointment of Nominee Director on behalf of Apex Bank) as informed by you to BSE on the outcome of Board Meeting of STL dated 27/08/24. We shall also take suitable steps to ensure that the proposed preferential issue does not materialize and moreover, your company is compulsorily delisted as per the provisions of the Act and Regulations mentioned in this Notice.

Sincerely,



Singhania & Co. LLP
Advocates for Apex Urban Cooperative Bank of
Maharashtra and Goa Limited

CC: Srinivasan Sithapathy Pattamadai

(Present Managing Director of M/s Silverline Technologies Limited)