2026:DHC:8190

$~10 & 11

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

\# **CNR No. DLHC010193492026**

\+ ARB.P. 803/2026

M/S BLINK FIX PRIVATE LIMITED .....Petitioner

Through: Mr. Anand Shankar Jha, Mr. Sachin Mintri and Mr. Shubank Sharma, Advs.

versus

MMR ENTERPRISES .....Respondent

Through: Ms. Esha Sharma, Adv. for R-1.

11

\# **CNR No. DLHC011024392025**

\+ O.M.P.(I) (COMM.) 512/2025

M/S BLINK FIX PRIVATE LIMITED .....Petitioner

Through: Mr. Anand Shankar Jha, Mr. Sachin Mintri and Mr. Shubank Sharma, Advs.

versus

M/S MMR ENTERPRISES & ORS .....Respondents

Through: Ms. Esha Sharma, Adv. for R-1. Mr. Gulshan Kumar Sachdev and Ms. Aayushi Singh, Advs. for R-3.

CORAM:
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT(ORAL)

% 16.09.2026

ARB.P. 803/2026

1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996[1] seeking appointment of a Sole Arbitrator to adjudicate the disputes which have arisen between the parties under the Letter of Engagement dated 01.04.2022.

www.taxcode.in

2. The Petitioner and the Respondent signed a Letter of Engagement dated 01.04.2022, whereby the Respondent was engaged to provide marketing, promotion, branding and business referral services to the Petitioner. In terms of the Clause 5 of the Agreement, the Respondent was required to indemnify the Petitioner against any loss, liability, claim or damages suffered on account of any breach or default attributable to the Respondent.

3. Pursuant to the aforesaid arrangement, the Respondent raised various invoices between July 2023 and December 2023 towards the services rendered. The Petitioner made payments aggregating to Rs.63,05,99,252.90/-, inclusive of GST upon receipt of the tax invoices raised by the Respondent and, accordingly, availed Input Tax Credit[2] under the GST regime.

4. The dispute arose when the State GST Department, Division-A, Gautam Buddh Nagar, Uttar Pradesh, issued a notice to the Petitioner alleging that the Respondent had failed to deposit the GST collected from the Petitioner with the Government and thereafter called upon the Petitioner to reverse the ITC together with applicable interest and penalty.

5. The case of the Petitioner is that although the GST amount had been duly paid to the Respondent, the Respondent failed to discharge its statutory obligation of depositing the same with the Government. As a consequence, the Petitioner's parent company was compelled to

[1] "Act" hereinafter
[2] "ITC" hereinafter

reverse a total amount of Rs.12,78,12,546/- towards GST, interest and penalty.

6. It is submitted that in view of the aforesaid disputes, the Petitioner issued a Notice dated 05.05.2025 invoking Clause 6 of the Letter of Engagement, which provides for resolution of disputes through arbitration and reads as follows:

> *"6. Miscellaneous Terms and Conditions*
> • *No Modification termination or amendment waiver of this Letter or any provision thereof shall be valid unless in writing signed by both the parties by way of exchange of letters*
> • *This letter contains all of the understandings of the parties with respect to the subject matter discussed herein. All prior agreements whether written or oral are merged herein and shall be no force or effect.*
> • *The relationship between the Parties under this Letter is on a principal -to principal basis.*
> • *Upon Client's request at all times or on termination of this Letter Service Provider shall promptly return or destroy (and certify destruction of all documents copies extracts marketing material and embodiments in whatever form all information in the possession or within the control of the Services Provider including but not limited to the information generated by Service Provider in the performance of the Services under this Agreement.*
> • ***In case of any disputes between the parties under this Letter. The Parties resolve to settle the disputes through mutual negotiation and discussions In the event that the said disputes are not settled within 30 days of the arising thereof, the same shall finally be settled and determined by arbitration in accordance with the Arbitration and Conciliation Act, 1996 or any amendment thereof. The language to use in the arbitral proceedings shall be English. The arbitrator will be selected by the joint approval of both the Parties Each Party shall hear its own cost of preparing and presenting its case and the arbitration proceedings. The counts of New Delhi India shall have exclusive jurisdiction for all disputes arising out this Letter."***

7. Learned Counsel appearing for the Respondent submits that the dispute is not arbitrable and falls beyond the arbitration clause, as it arises from the retrospective cancellation of GST registration and

reversal of ITC by the GST authorities which is an issue to be decided by the tax authorities.

8. Learned Counsel further submits that Clause 6 mandates prior mutual negotiation and discussions, which were not complied with by the Petitioner.

9. I have heard learned Counsel for both the parties.

10. It is well settled that, while exercising jurisdiction under Section 11 of the Act, the scope of enquiry is confined to examining the *prima facie* existence of an arbitration agreement[3].

11. In the present case, although several objections have been raised by the Respondents, the existence of the arbitration agreement contained in Clause 6 of the Letter of Engagement is not in dispute.

12. The principal objection of the Respondents is that the dispute is not arbitrable. However, the said objection cannot be adjudicated at this stage. In ***VGP Marine Kingdom (P) Ltd. v. Kay Ellen Arnold, (2023) 1 SCC 597***, the Supreme Court endorsed the view that the Arbitral Tribunal is the primary authority to decide the issue of arbitrability, unless the dispute is *ex facie* shown to be non-arbitrable, which is not the case herein, as the Petitioner's claim is based on the indemnity clause contained in the Letter of Engagement. Whether the claim falls within the scope of the said indemnity clause is a matter to be decided by the learned Arbitral Tribunal.

[3] **SBI General Insurance Co. Ltd. v. Krish Spinning 2024 SCC OnLine SC 1754**

13. Further, this Court finds no infirmity in the notice dated 05.05.2025 issued under Section 21 of the Act, which specifically refers to the arbitration clause and also proposes the name of the Arbitrator for consensus of the Respondent.

14. Therefore, this Court finds no impediment in appointing a Sole Arbitrator.

15. Accordingly, Mr. Alok Agarwal, former Additional District and Sessions Judge, Delhi (Mob. No. 9910384729) is appointed as a learned Sole Arbitrator to adjudicate the disputes arisen between the parties.

16. Before the learned Arbitrator will enter upon the reference, both parties are also at liberty to explore the possibility of an amicable settlement.

17. Four weeks' time is granted for exploring the possibility of settlement through negotiations.

18. The learned Sole Arbitrator shall enter upon the reference after six weeks from today if the dispute remains unresolved.

19. The learned Sole Arbitrator will proceed to the arbitration proceedings subject to furnishing requisite disclosures as required under Section 12(2) of the Act within two weeks of entering reference.

20. The arbitration shall be carried under the rules and aegis of Delhi International Arbitration Centre ("DIAC"). The learned Arbitrator shall be entitled to fees as per the Schedule of Fees

maintained by the DIAC.

21. The Respondents are at liberty to raise preliminary objections with respect to arbitrability/jurisdiction, if any, which shall be decided by the learned Sole Arbitrator.

22. It is clarified that the observations made herein are only for the purpose of deciding the present petition under Section 11(6) of the Act. The learned Sole Arbitrator shall adjudicate the disputes independently and on their own merits, uninfluenced by any observations contained in the present order.

23. The Registry is directed to send a receipt of this order to Mr. Alok Agarwal, learned Arbitrator through all permissible modes including email.

24. Accordingly, the present petition is disposed of in the above terms.

O.M.P.(I) (COMM.) 512/2025

25. By way of the present petition under Section 9 of the Act, the Petitioner seeks the following reliefs:

> *"a) Pass an order directing Respondent No.1 to deposit the entire sum of Rs. 12,78,12,546/- (Rupees Twelve Crores Seventy-Eight Lakhs Twelve Thousand Five Hundred and Forty-Six), along with interest @18% per annum from 13.11.2024 till actual payment, before this Hon'ble Court; AND*
> *b) Direct Respondent Nos.2 and 3 to freeze any Bank Account held in the name of Respondent No.1 including Account bearing No. 99997814200641 (HDFC) & No. 4347322146 (Kotak Mahindra), and mark a lien of Rs. 12,78,12,546/- (Rupees Twelve Crores Seventy-Eight Lakhs Twelve Thousand Five Hundred and*

Forty-Six), and to forward any such amounts to be deposited before this Hon'ble Court; AND

c) Pass an ex-parte order restraining Respondent No.1, its agents or representatives from alienating, encumbering, transferring or in any manner disposing of its movable or immovable assets including bank balances and receivables, pending final disposal of arbitration proceedings; AND

d) Pass an order directing Respondent No.1 to furnish complete details of its movable and immovable properties including Bank Accounts, Investments, and deposits; AND

e) Pass an ex parte ad interm order in terms of prayer (a), (b), (c), and (d); AND/ OR

f) Pass such further or other orders as this Hon'ble Court may deem just, fit and proper in the facts and circumstances of the case."

26. Since, this Court has referred the disputes between the parties to arbitration by appointing a learned Sole Arbitrator, the present petition under Section 9 shall be treated as an application under Section 17 of the Act.

27. Upon the learned Sole Arbitrator entering upon the reference, the application shall be considered and decided in accordance with law.

28. It shall be open to both parties to raise all their respective pleas, contentions and objections before the learned Sole Arbitrator, who shall adjudicate the same uninfluenced by any observations contained in this order.

29. The present petition is, accordingly, disposed of in the aforesaid terms.

OM PRAKASH SHUKLA, J

SEPTEMBER 16, 2026/*gunn*