



2026:DHC:5203-DB



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

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*Judgment reserved on: 16.03.2026**Judgment pronounced on: 01.07.2026**Judgment uploaded on: 01.07.2026*

+ FAO(OS)(COMM) 149/2022 & CM APPL. 27421/2022
MITSUI PRIME ADVANCED COMPOSITES INDIA
PRIVATE LIMITEDAppellant

Through: Mr. R. Jawahar Lal, Mr.
Sayyam Maheshwari, Advs.

versus

SHINE TRAVELS & CARGO PVT. LTD.Respondent

Through: Mr. A K Pandey, Ms. Aayushi
Pandey, Advs.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T

ANIL KSHETARPAL, J.

1. The issue which arises for consideration in the present Appeal is whether the learned Single Judge, in exercise of jurisdiction under Section 34 of the Act, was justified in setting aside the Arbitral Award by carving out a component of the claim which was neither specifically pleaded nor independently urged before the Arbitral Tribunal, and thereby permitting the Respondent to set up a case beyond its original claim, and whether such interference falls within the permissible contours of Sections 34 and 37 of the Act.

2. The present Appeal, filed by the Appellant under Section 37(1)(c) of the Arbitration and Conciliation Act, 1996 [hereinafter referred to as 'the Act'] read with Section 13(1A) of the Commercial Courts Act, 2015, assails the correctness of Judgment and Order dated



2026:DHC:5203-DB



18.02.2022 [hereinafter referred to as 'Impugned Order'] passed by the learned Single Judge in O.M.P.(COMM.) 470/2019, whereby the petition filed by the Respondent herein under Section 34 of the Act was partly allowed.

3. *Vide* the Impugned Order, the learned Single Judge set aside the arbitral award dated 06.08.2019 [hereinafter referred to as the 'Impugned Award'] to a limited extent, namely, insofar as the Arbitral Tribunal had rejected the Respondent's claim for an amount of Rs.11,49,547/- pertaining to services rendered prior to 31.08.2014. The findings of the Arbitral Tribunal in respect of the remaining claims were, however, sustained.

FACTUAL MATRIX

4. In order to appreciate the controversy involved in the present Appeal, the relevant facts, in brief, are required to be noticed.

5. The Appellant Company, which is engaged in the manufacture of polypropylene compounds, entered into a Service Agreement dated 09.08.2011 [hereinafter referred to as 'Service Agreement'] with the Respondent Company, which is engaged in the business of freight-forwarding with international & domestic airlines. By virtue of the Service Agreement, the Respondent agreed to provide logistics, warehousing and allied services in respect of the Appellant's manufacturing facility situated at Neemrana, Rajasthan. The Service Agreement was for a fixed tenure of three years, commencing from 01.09.2011 and expiring on 31.08.2014.

6. It is the case of the Respondent that even after 31.08.2014, i.e.,



2026:DHC:5203-DB



after the expiry of the Service Agreement, the Appellant continued to avail its services till 15.01.2015; however, no fresh agreement was executed between the parties for the said period. The Respondent raised a total of 27 invoices aggregating to Rs.1,25,03,633.58/-. According to the Respondent, out of the said amount, a sum of Rs.98,23,706.36/- was paid by the Appellant, leaving an alleged outstanding balance of Rs.26,79,927.22/-.

7. The Respondent further alleged that the Appellant had breached the confidentiality obligations under the Service Agreement by recruiting, or facilitating the recruitment of, the Respondent's trained employees through a newly appointed contractor at its Neemrana facility, which, according to the Respondent, resulted in substantial losses to its business.

8. On account of the aforesaid disputes, the Respondent invoked arbitration in terms of Clause 14 of the Service Agreement and raised, *inter alia*, the following claims before the Arbitral Tribunal:

- i. Claim A: recovery of Rs.26,79,927.22/- towards alleged outstanding dues for services rendered for the period from 01.09.2014 to 15.01.2015;
- ii. Claim B: interest thereon at the rate of 18% per annum;
- iii. Claim C: recovery of Rs.3,24,46,422/- towards alleged losses in respect of investments made in warehouses at various locations; and
- iv. Claim D: recovery of Rs.18,53,00,000/- towards alleged



loss and damages on account of breach of the confidentiality clause.

ARBITRAL PROCEEDINGS

9. Upon invocation of arbitration, disputes between the parties were referred to the adjudication of a Sole Arbitrator. The Respondent herein [Claimant before the Arbitral Tribunal] filed its Statement of Claims, which was contested by the Appellant [Respondent before the Arbitral Tribunal] by filing its Statement of Defence along with supporting documents.

10. The Arbitral Tribunal, upon completion of pleadings and after considering the documentary evidence as well as the oral evidence led by the parties, framed issues for adjudication, including, *inter alia*, issues relating to

- i. the arbitrability of Claims C (for Rs. 3,24,46,422/-) and D (for Rs.18,53,00,000/-),
- ii. the alleged breach of the confidentiality clause (clause 6) of the Service Agreement,
- iii. the entitlement of the Respondent to the Claims raised, and
- iv. the question of limitation in respect of Claim C in respect of warehouse at Delhi, Kolkata, Bangalore and Mumbai.

11. By way of the Impugned Award, the Arbitral Tribunal rejected all the claims raised by the Respondent. Insofar as Claim A is



2026:DHC:5203-DB



concerned, the Arbitral Tribunal held that the Service Agreement had admittedly expired on 31.08.2014 and, in the absence of any subsisting agreement between the parties, the Respondent was not entitled to claim enhanced rates as asserted. The Arbitral Tribunal further held that the Appellant had, in any event, cleared the invoices, including payments stated to have been made at an enhanced rate of 18% for the period from 01.11.2014 to 15.01.2015. It was also held that disputes pertaining to the period after 31.08.2014 fell outside the scope of the arbitration agreement and were, therefore, not arbitrable.

12. Insofar as Claim C is concerned, the Arbitral Tribunal held that the said claim, which pertained to alleged losses in respect of investments made by the Respondent in warehouses situated at Delhi, Kolkata, Bangalore and Mumbai, had no nexus with the Service Agreement. The Arbitral Tribunal observed that the documents relied upon by the Respondent in support of the said claim related to a period prior to the execution of the Service Agreement and that no evidence had been adduced to establish any connection between the alleged losses and the contractual relationship between the parties. The Arbitral Tribunal further held that the said claim did not fall within the scope of the arbitration agreement and was, in any event, barred by limitation.

13. With respect to Claim D, which pertained to alleged loss and damages on account of breach of the confidentiality clause, the Arbitral Tribunal held that the said claim was not substantiated either on facts or in law. The Arbitral Tribunal observed that the confidentiality clause, as contained in the Service Agreement, did not



prohibit recruitment of employees and that there was no material on record to establish that the Appellant had either employed the Respondent's employees or had induced them to leave the Respondent's services. It was further noted that no independent evidence had been adduced to substantiate the allegation that the Respondent had suffered any loss on account of the alleged departure of its employees.

14. On the aforesaid findings, the Arbitral Tribunal rejected all the claims raised by the Respondent and passed the Impugned Award dismissing Claims A, B, C and D, with the parties being left to bear their respective costs.

15. Aggrieved by the Impugned Award, the Respondent herein filed a petition under Section 34 of the Act before the learned Single Judge, being O.M.P. (COMM.) 470/2019. At the outset, the Respondent confined its challenge to the rejection of Claim A (and consequential Claim B) and Claim D, and did not assail the rejection of Claim C.

PROCEEDINGS BEFORE THE LEARNED SINGLE JUDGE

16. Insofar as Claim A is concerned, the learned Single Judge, upon an examination of the pleadings and the material placed on record, noted that although the Respondent had articulated Claim A as pertaining to the period from 01.09.2014 to 15.01.2015, the supporting documents, including the tabular statement annexed to the Statement of Claims, disclosed that the said claim comprised two distinct components. It was observed that out of the total claimed amount of Rs. 26,79,927.22/-, a sum of Rs. 11,49,547/- pertained to



2026:DHC:5203-DB



invoices for the period prior to 31.08.2014, i.e., during the subsistence of the Service Agreement, whereas the balance amount of Rs.15,30,382/- related to the period subsequent thereto.

17. The learned Single Judge held that the claim to the extent of Rs.11,49,547/- was, therefore, arbitrable, as it arose during the currency of the Service Agreement. It was further noted that a serious dispute had arisen between the parties with respect to the invoices pertaining to the said period, inasmuch as the Appellant had relied upon a set of invoices to contend that the payments had been duly made, whereas the Respondent had disputed the said invoices and alleged that they were forged.

18. In this regard, the learned Single Judge took note of the testimony of the Respondent's witness (CW-2), who had categorically denied having signed the invoices relied upon by the Appellant and had asserted that his signatures appearing thereon were forged. It was further observed that the Respondent had consistently maintained that the outstanding dues for the period prior to 31.08.2014 had been carried forward and remained unpaid.

19. Upon consideration of the aforesaid, the learned Single Judge proceeded to hold that the Arbitral Tribunal had failed to adjudicate the principal dispute between the parties insofar as the aforesaid component of Claim A was concerned. It was observed that the Arbitral Tribunal had neither adverted to the variance in the invoices relied upon by the parties nor returned any finding on the allegation of forgery or on the question whether any amount remained outstanding for the period prior to 31.08.2014. The failure to consider and



2026:DHC:5203-DB



adjudicate this material issue was held to vitiate the award to that extent.

20. In view of the aforesaid, the learned Single Judge concluded that the Impugned Award, to the extent it rejected the Respondent's claim for an amount of Rs.11,49,547/- pertaining to the period prior to 31.08.2014, was liable to be set aside to that extent.

21. Insofar as the Respondent's claim for the period subsequent to 31.08.2014, i.e., from 01.09.2014 to 15.01.2015, is concerned, the learned Single Judge concurred with the view taken by the Arbitral Tribunal that the said disputes did not fall within the scope of the arbitration agreement. It was observed that the Service Agreement had admittedly expired on 31.08.2014 and the arbitration clause was confined to disputes arising out of or in connection with the said Agreement. Accordingly, claims pertaining to services rendered thereafter were held to be beyond the jurisdiction of the Arbitral Tribunal.

22. The learned Single Judge further clarified that although an arbitration agreement may survive the termination or expiry of the underlying contract, the scope of such agreement remains governed by its terms and cannot be extended to encompass disputes which do not arise out of or in connection with the contract. On this reasoning, the findings of the Arbitral Tribunal declining jurisdiction over claims for the period after 31.08.2014 were upheld.

23. Insofar as Claim D is concerned, the learned Single Judge upheld the findings of the Arbitral Tribunal and held that no ground



for interference was made out. It was observed that the Arbitral Tribunal had returned findings to the effect that the confidentiality clause did not extend to recruitment of employees, that there was no material to establish that the Appellant had induced or recruited the Respondent's employees, and that the Respondent had failed to prove any loss. The learned Single Judge found no infirmity in the said findings warranting interference under Section 34 of the Act.

24. Accordingly, the learned Single Judge partly allowed the petition under Section 34 of the Act and set aside the Impugned Award only to the limited extent of the Respondent's claim for Rs.11,49,547/- pertaining to the period prior to 31.08.2014. The remaining findings of the Arbitral Tribunal were upheld.

25. The Appellant, aggrieved by the partial interference undertaken by the learned Single Judge with the Impugned Award, has preferred the present Appeal.

CONTENTIONS OF THE PARTIES

26. Contentions of the Appellant

26.1 Learned counsel appearing for the Appellant assailed the Impugned Order to the extent it interferes with the Arbitral Award in respect of Claim A, contending that the learned Single Judge has transgressed the limited scope of interference permissible under Section 34 of the Act.

26.2 It was submitted that the Arbitral Tribunal, upon appreciation of the material on record, had categorically found that no amount was



due and payable to the Respondent. In particular, the Tribunal had taken into consideration the invoices placed on record by the Appellant as well as the corresponding bank statements evidencing payment, and had concluded that all dues stood duly discharged.

26.3 It was further submitted that even insofar as the component of Rs.11,49,547/-, pertaining to the period prior to 31.08.2014, is concerned, the Arbitral Tribunal had, in substance, dealt with the issue. It was contended that the Tribunal had accepted the invoices relied upon by the Appellant as genuine and, on that basis, recorded a finding that payments had been made. Merely because the reasoning was not elaborate would not render the award vulnerable to challenge.

26.4 In this regard, reliance was placed on the judgment of the Hon'ble Supreme Court in *Dyna Technologies Pvt. Ltd. v. Crompton Greaves Ltd.*¹, to contend that an arbitral award cannot be set aside merely on the ground that the reasons are brief or not expressly articulated, so long as they are intelligible from a holistic reading of the award.

26.5 It was further contended that the learned Single Judge erred in reappreciating the evidence on record, including the invoices and the testimony of witnesses, which is impermissible in proceedings under Section 34 of the Act. The Appellant submitted that the Arbitral Tribunal is the final arbiter on facts, and its findings cannot be interfered with as if the Court were exercising appellate jurisdiction.

26.6 Learned counsel also emphasized that while the Respondent

¹ (2019) 20 SCC 1



2026:DHC:5203-DB



had not seriously disputed receipt of certain payments, its case rested on disputing the invoices relied upon by the Appellant as being forged. According to the Appellant, once the Tribunal accepted the Appellant's set of invoices and corresponding bank records, no further adjudication was warranted.

26.7 It was thus submitted that the finding of the learned Single Judge, that the Arbitral Tribunal had failed to adjudicate the dispute regarding genuineness of invoices, is erroneous and contrary to the record. The Impugned Order, to that extent, amounts to substitution of the Tribunal's view with that of the Court.

27. Contentions of the Respondent

27.1 *Per contra*, learned counsel appearing for the Respondent supported the Impugned Order and submitted that the learned Single Judge has rightly exercised jurisdiction under Section 34 of the Act in setting aside the Arbitral Award to a limited extent.

27.2 It was contended that the Arbitral Tribunal, while dealing with Claim A, has failed to adjudicate the principal dispute raised by the Respondent, namely, the issue regarding the genuineness of the invoices relied upon by the Appellant for the period prior to 31.08.2014. It was submitted that the Respondent had specifically pleaded before the Arbitral Tribunal that the invoices produced by the Appellant were forged. In support of the said plea, the Respondent had led evidence, including the testimony of CW-2 (Sh. Om Dutt Sharma), who had categorically denied having signed the invoices relied upon by the Appellant and had asserted that his signatures appearing



2026:DHC:5203-DB



thereon were forged.

27.3 It was submitted that despite the aforesaid specific pleadings and evidence, the Arbitral Tribunal failed to render any finding on the said issue. The Tribunal neither examined the variance between the invoices relied upon by the respective parties nor returned any conclusion as to whether the invoices produced by the Appellant were genuine or forged. It was further submitted that the Arbitral Tribunal, on the one hand, held that disputes pertaining to the period subsequent to 31.08.2014 were not arbitrable, and on the other hand, proceeded to record findings to the effect that the invoices for the said period had been cleared. According to the Respondent, this reflects a lack of proper adjudication of the issues arising for consideration.

27.4 It was contended that the learned Single Judge has, upon a detailed examination of the record, correctly noted that out of the total claim of Rs.26,79,927.22/-, a sum of Rs.11,49,547/- pertained to the period prior to 31.08.2014 and was, therefore, arbitrable.

27.5 It was submitted that the learned Single Judge has rightly held that the Arbitral Tribunal failed to consider the material evidence led by the Respondent, including the testimony of CW-2, and did not provide any reasons for rejecting the Respondent's contention regarding forgery of invoices. It was thus contended that the failure of the Arbitral Tribunal to adjudicate a material issue, which goes to the root of the claim, renders the award patently illegal and vitiates it to that extent. The interference by the learned Single Judge was, therefore, justified and in accordance with settled principles governing Section 34 of the Act.



2026:DHC:5203-DB



27.6 Reliance was placed on the decision of the Hon'ble Supreme Court in *Gayatri Balasamy v. ISG Novasoft Technologies Ltd.*, MANU/SC/0609/2025 to contend that partial setting aside of an arbitral award is permissible where the part set aside is severable and does not affect the remaining portions of the award.

27.7 It was also pointed out that the Respondent had placed on record additional material, including service tax returns for the financial year 2013-2014, though it was stated that certain records for the subsequent period were not traceable.

ISSUES FOR DETERMINATION

28. In view of the rival contentions urged and having regard to the scope of interference under Section 37 of the Act, the following issues arise for consideration before this Court:

I. Whether the learned Single Judge, in exercise of jurisdiction under Section 34 of the Act, travelled beyond the scope of the pleadings and claims as originally framed before the Arbitral Tribunal by carving out and adjudicating a component of Claim A pertaining to the period prior to 31.08.2014, thereby permitting the Respondent to set up a case not urged before the Arbitral Tribunal?

II. Whether the interference with the Arbitral Award is sustainable in law in the absence of any finding that the award suffers from patent illegality, perversity or contravention of the fundamental policy of Indian law, as contemplated under Section 34(2) of the Act?



III. Whether the findings recorded by the Arbitral Tribunal in paragraphs 28 and 29 of the Impugned Award, to the effect that the invoices stood duly paid and no amount remained outstanding, warranted any interference under Section 34 of the Act?

ANALYSIS & FINDINGS

29. This Court has considered the submissions advanced on behalf of the parties and perused the material on record. Before advertent to the rival submissions, it is necessary to examine the nature and scope of Claim A as originally urged before the Arbitral Tribunal. The correctness of the approach adopted by the learned Single Judge must necessarily be tested with reference to the pleadings and claims as framed before the Arbitral Tribunal, and not on the basis of a case subsequently sought to be made out.

ISSUES NOs. I & II

30. Scope of Interference under Sections 34 and 37 of the Act - At the outset, it is necessary to reiterate the well-settled principles governing interference with arbitral awards. The jurisdiction of a Court under Section 34 of the Act is extremely limited, and does not entail a reappraisal of evidence or a review on merits. The Court does not sit in appeal over the findings of the Arbitral Tribunal. The scope of interference under Section 37 of the Act is even narrower, inasmuch as the Appellate Court examines the correctness of the order passed under Section 34 within the confines of the statutory limitations governing such proceedings.



31. At this stage, it would be apposite to reproduce paragraph 38 of the Statement of Claims, wherein Claim A has been articulated. The same reads as under:

“Claim A

Recovery of amount of Rs 26,79,927.22 (Rs. Twenty Six Lacs Seventy Nine Thousand Nine Hundred Twenty Seven and Paise Twenty Two Only). This amount is towards the service rendered from 01st September 2014 to 15th January 2015.”

A perusal of Claim A indicates that the Respondent had specifically claimed an amount of Rs.26,79,927.22/- towards alleged outstanding dues for the period 01.09.2014 to 15.01.2015, i.e., for services rendered after the expiry of the Service Agreement on 31.08.2014. Notably, no claim was raised in respect of any invoices pertaining to the period prior to 31.08.2014.

32. In this backdrop, the approach adopted by the learned Single Judge in segregating a component of Rs.11,49,547/- as pertaining to the period prior to 31.08.2014 and treating the same as an independent and arbitrable claim, is required to be scrutinised. Such bifurcation does not emanate from the pleadings before the Arbitral Tribunal and effectively results in permitting the Respondent to set up a case which was never urged before the Tribunal.

33. It is well settled that proceedings under Section 34 of the Act are confined to examining the validity of the arbitral award on the basis of the material and pleadings as were placed before the Arbitral Tribunal. The Court cannot travel beyond the scope of the claims as originally framed, nor can it carve out a new case for a party which was not the subject matter of adjudication before the Tribunal.



2026:DHC:5203-DB



34. The submission advanced on behalf of the Respondent, founded upon the details of alleged outstanding payments placed before the Arbitral Tribunal and the averments contained in paragraph 13 of the Appellant's reply to the Statement of Claims, also does not advance the Respondent's case. A claimant is required to specifically plead and establish the claim sought to be adjudicated. As already noticed hereinabove, Claim A, as articulated in paragraph 38 of the Statement of Claims, was confined to alleged outstanding dues for the period from 01.09.2014 to 15.01.2015. Claims B, C and D were distinct and independent claims, none of which pertained to alleged outstanding payments for services rendered prior to 01.09.2014.

35. It is equally well settled that adjudicatory proceedings are required to be determined on the basis of the issues framed. In the present case, insofar as Claim A is concerned, the Arbitral Tribunal framed Issue No.5, which did not concern any alleged dues pertaining to services rendered prior to 01.09.2014. In such circumstances, the learned Single Judge, while exercising jurisdiction under Section 34 of the Act, could not have expanded the scope of the Respondent's claim before the Arbitral Tribunal merely on the basis of details of outstanding payments annexed by the Respondent or the pleadings contained in the Appellant's statement of defence, particularly in the absence of any foundational pleading by the Respondent raising such a claim before the Tribunal.

35A. Once the Respondent itself confined Claim A to alleged outstanding dues for the period from 01.09.2014 to 15.01.2015, the Arbitral Tribunal was required to adjudicate the claim as framed. The



Tribunal could not be faulted for failing to return findings on an alleged claim relating to the period prior to 31.08.2014 when no such claim had been independently pleaded, quantified or pressed before it. Consequently, the premise on which the learned Single Judge proceeded, namely that the Tribunal omitted to adjudicate such claim, is itself unsustainable.

36. A perusal of paragraphs 28 and 29 of the Impugned Award indicates that the Arbitral Tribunal, while dealing with Claim A, has recorded a specific finding that 12 invoices pertaining to the period 01.09.2014 to 31.10.2014 were placed on record along with supporting documents, and that the Appellant had also produced bank account statements evidencing payment in respect thereof. The Tribunal has, on this basis, recorded a finding that the invoices stood cleared and that payment thereof stood established from the bank statements placed on record. The Tribunal has further observed that the claim for enhanced rates was not sustainable in the absence of a subsisting agreement and that, in any event, the invoices raised had been honoured.

37. For convenience, paragraphs 28 and 29 of the Impugned Award are reproduced as under:

“28. Claim No.A relates to the alleged short payment of Rs.26,79,927.00 which pertains to the period from 1.9.2014 to 15.1.2015 wherein services were rendered by the Claimant to the Respondent. The Respondent states that it had cleared the invoices for the period from 1.9.2014 to 31.10.2014 at the rates/prices in the Service Agreement dated 9.8.2011 and the invoices for the period from 1.11.2014 to 15.1.2015 at an enhanced rate of 18% over and above the price of services fixed under the Service Agreement dated 9.8.2011. Undisputedly, the period of Service Agreement dated 9.8.2011 expired on 31.8.2014. The Respondent has filed 12 invoices



received from the Claimant alongwith the additional documents filed by it which are in page 88, pages 124 to 126, 164, 199, 237 in Vol.II and in pages 174, 314, 354, 438 and 453 Vol.III. The Respondent it is seen has cleared all the 12 invoices. The Respondent has also filed a bank account statement pages 751-884 of the Respondent's documents Vol.II of the Standard Chartered Bank, New Delhi, which establishes the receipt of payment for the said period by the Claimant.

29. The Claimant contended it was entitled to an enhancement rate by 30% for the period 1.9.2014 to 15.1.2015. The Tribunal is of the view there is no basis in that claim because admittedly the period of the service Agreement expired on 31.8.2014. In the absence of the any Agreement between the parties, the claim for enhanced rate by 30% for the services rendered by the Claimant, cannot be sustained. Facts would indicate even then the Respondent had honoured the invoices for the period from 1.11.2014 to 15.1.2015 at an enhanced rate of 18% over and above the price and services fixed under the Service Agreement dated 9.8.2011. the Respondent in its email dated 7.2.2015 clearly indicated to the Claimant that it would clear the invoices for the month of September 2014 and October 2014 at the rates/prices agreed in the Service agreement dated 9.8.2011 and November 2014 to 15.1.2015 at an enhanced rate of 18% over the rates I prices agreed in the Service Agreement dated 9.8.2011. When we look at the Claimant's emails dated 8.2.2015 and 17.2.2015 it would be evident that the Claimant had even accepted the stand of the Respondent. That being the factual position, in our view, the Respondent had honoured all the invoices raised during the currency of the Agreement as well as after the expiry of the Service Agreement for the period from 1.9.2014 to 15.1.2015 which is evident from the emails dated 7.2.2015, 8.2.2015 and 17.2.2015 (Page 885-889) of the. Respondent's documents Vol.V and page 32-34 of the Claimant's additional documents."

38. The aforesaid findings make it evident that the Arbitral Tribunal has duly considered Claim A as framed and has returned a clear conclusion, based on documentary evidence, that the invoices pertaining to the relevant period stood paid. The Tribunal has, thus, adjudicated the claim on the basis of the material placed before it and has recorded findings which are neither shown to be perverse nor suffering from any patent illegality.

39. The Tribunal has further dealt with the remaining invoices



2026:DHC:5203-DB



pertaining to the period 01.11.2014 to 15.01.2015, and has recorded that payments were made even at an enhanced rate of 18% over and above the agreed contractual rates. This finding is founded upon contemporaneous correspondence exchanged between the parties, including emails dated 07.02.2015, 08.02.2015 and 17.02.2015, which, according to the Tribunal, demonstrate that the Respondent had accepted the Appellant's stand regarding the applicable rates.

40. The aforesaid analysis further led the Arbitral Tribunal to conclude that no amount remained outstanding under Claim A and that the Respondent's claim for enhanced rates was unsustainable. These conclusions are founded on appreciation of documentary evidence and contemporaneous correspondence, and do not disclose any infirmity in the nature of patent illegality or perversity.

41. The premise on which the learned Single Judge proceeded, namely, that the Arbitral Tribunal failed to adjudicate a dispute relating to invoices for the period prior to 31.08.2014, is fundamentally flawed. Such a claim was neither pleaded nor formed part of Claim A before the Arbitral Tribunal. Consequently, the question of the Tribunal adjudicating the same did not arise, and the said premise does not find support either from the pleadings or from the findings recorded in the Impugned Award.

42. In the considered view of this Court, the learned Single Judge has exceeded the limited jurisdiction available under Section 34 of the Act by permitting the Respondent to urge a claim which was not the subject matter of adjudication before the Arbitral Tribunal.



43. The interference with the arbitral award is not traceable to any of the grounds contemplated under Section 34(2) of the Act. There is no finding that the award suffers from patent illegality appearing on the face of the award, is contrary to the fundamental policy of Indian law, or is vitiated by perversity. In the absence of such findings, the setting aside of the award to any extent was unwarranted.

44. The learned Single Judge has, in effect, restructured the claim and undertaken an exercise which falls outside the limited scope of judicial review under Section 34. Such an approach is impermissible in law.

ISSUE No. III

45. In view of the findings returned hereinabove, particularly that the learned Single Judge travelled beyond the scope of the pleadings and interfered with the award on a ground not arising from the claims before the Arbitral Tribunal, the question as to whether the findings recorded by the Arbitral Tribunal in paragraphs 28 and 29 warranted interference stands answered in the negative. The said findings are based on appreciation of evidence and do not suffer from any infirmity falling within the ambit of Section 34(2) of the Act. Accordingly, Issue No. III is answered in favour of the Appellant.

46. With respect to the Respondent's claim for services rendered after 31.08.2014, the learned Single Judge, in paragraph 33 of the Impugned Order, upheld the view taken by the Arbitral Tribunal and observed that such claim fell outside the scope of the Service Agreement and was, therefore, not arbitrable. However, in the latter



2026:DHC:5203-DB



part of paragraph 43 of the Impugned Order, the learned Single Judge proceeded to set aside the findings of the Arbitral Tribunal on the premise that the Tribunal had also rendered findings on the merits of Shine's claim for the period subsequent to 31.08.2014. Such an approach is not borne out from the Award. Once the Arbitral Tribunal concluded that Shine's claim for the period after 31.08.2014 was not arbitrable and fell outside the scope of the arbitration agreement, it did not proceed to adjudicate the said claim on merits. In fact, the Arbitral Tribunal has not returned any finding on the merits of Shine's claim pertaining to the period subsequent to 31.08.2014. Consequently, the observation contained in paragraph 43 of the Impugned Order, that the findings of the Arbitral Tribunal on the merits of Shine's claim for the period after 31.08.2014 were liable to be set aside, does not appear to be sustainable.

CONCLUSION

47. In view of the foregoing discussion, this Court is of the considered opinion that the Impugned Order passed by the learned Single Judge cannot be sustained. The interference with the arbitral award is beyond the permissible scope of Section 34 of the Act and is founded on a case not urged before the Arbitral Tribunal.

48. Accordingly, the present Appeal is allowed. The Impugned Order dated 18.02.2022 passed by the learned Single Judge is set aside.

49. Consequently, the arbitral award dated 06.08.2019 stands restored; it being held that the same does not suffer from any infirmity



2026:DHC:5203-DB



warranting interference under Section 34 of the Act.

50. The pending application also stands disposed of.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

JULY 01, 2026
sp/s.godara/pal