



2025:DHC:10281



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **FAO 315/2025, CM APPL. 72382/2025 & CM APPL. 72383/2025**

**M/S ORCHID INTERNATIONAL** .....Appellant  
Through: **Mr. Bharatt Groverr and Mr. Charit  
Gagar, Advocates.**

versus

**M/S GOYAL AND GOEL STAINLESS STEEL & ANR.**  
.....Respondents  
Through:

***Date of Decision: 19<sup>th</sup> November, 2025***

**CORAM:  
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

### **J U D G E M E N T**

#### **TUSHAR RAO GEDELA, J: (ORAL)**

1. This is an appeal under Section 37(1)(c) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as '*the 1996 Act*') seeking setting aside of the order dated 28.07.2025 passed by the learned District Judge (Commercial) in the matter of '*M/s Orchid International vs. M/s Goyal and Goel Stainless Steel & Anr*' bearing Case No.OMP (COMM.) 90/2024 whereby the petition filed by the appellant under Section 34 of the 1996 Act was dismissed on the ground of being devoid of merits.

2. Mr. Bharatt Groverr, learned counsel for the appellant, while referring to the impugned judgment, particularly para 6, states that the issue regarding the disputes between the partners of the claimant/respondent no.1 was not considered. He further submits that the legal issue raised by the appellant, in



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that, the claimant/respondent no.1 is not a registered partnership firm and that it had no *locus standi* to file the claim was not at all considered. He also submits that the ledger along with the delivery proof were not placed before the arbitrator, and thus, the arbitrator could not have concluded that a sum of Rs.7,900,061/- as the principal amount, was due and payable to the claimant/respondent no.1 by the appellant.

3. He submits that apart from the aforesaid issue, the contention that appellant was incapacitated to pay the sum on account of the fact that the bank account of the claimant/respondent no.1 was frozen by orders of this Court due to the pending disputes *inter se* the partners of the claimant/respondent no.1 was also not considered.

4. Having heard learned counsel for the appellant and after perusing the records of the case, this Court is not inclined to entertain this appeal.

5. At the outset, this Court deems it apposite to consider the scope of the appeal under Section 37(1)(c) of the 1996 Act.

6. The Hon'ble Supreme Court in ***Punjab State Civil Supplies Corporation Ltd. & Anr. vs. M/s. Sanman Rice Mills & Ors.***; 2024 SCC ***OnLine SC 2632***, particularly in paragraphs 20 and 21 eruditely laid the principles governing the exercise of power under Section 37(1)(c) of the 1996 Act as under:

*“20. In view of the above position in law on the subject, the scope of the intervention of the court in arbitral matters is virtually prohibited, if not absolutely barred and that the interference is confined only to the extent envisaged under Section 34 of the Act. The appellate power of Section 37 of the Act is limited within the domain of Section 34 of the Act. It is exercisable only to find out if the court, exercising power under Section 34 of the Act, has acted within its limits as prescribed thereunder or has exceeded or failed to exercise the power so conferred. The Appellate Court has no authority of law to consider the matter in dispute before the arbitral tribunal on merits so as to find out as to whether the decision of the arbitral*



*tribunal is right or wrong upon reappraisal of evidence as if it is sitting in an ordinary court of appeal. It is only where the court exercising power under Section 34 has failed to exercise its jurisdiction vested in it by Section 34 or has travelled beyond its jurisdiction that the appellate court can step in and set aside the order passed under Section 34 of the Act. Its power is more akin to that superintendence as is vested in civil courts while exercising revisionary powers. The arbitral award is not liable to be interfered unless a case for interference as set out in the earlier part of the decision, is made out. It cannot be disturbed only for the reason that instead of the view taken by the arbitral tribunal, the other view which is also a possible view is a better view according to the appellate court.*

*21. It must also be remembered that proceedings under Section 34 of the Act are summary in nature and are not like a full-fledged regular civil suit. Therefore, the scope of Section 37 of the Act is much more summary in nature and not like an ordinary civil appeal. The award as such cannot be touched unless it is contrary to the substantive provision of law; any provision of the Act or the terms of the agreement.”*

7. The principles culled out by the Hon’ble Supreme Court in the aforesaid judgment clearly indicates that the powers of the appellate Court exercising jurisdiction under Section 37(1)(c) of the 1996 Act is highly circumscribed. It is not as if the Court exercising jurisdiction under Section 37 of the 1996 Act is sitting in exercise of its first appellate jurisdiction or even a jurisdiction akin to one stipulated in Section 100 of the Code of Civil Procedure, 1908. In fact, it is only to exercise a jurisdiction where it examines the judicial propriety of the impugned order assailed under Section 34 of the 1996 Act, which itself is very limited in its extent.

8. It is thus on this issue that the Hon’ble Supreme Court had taken a view that the Court exercising jurisdiction under Section 37 of the 1996 Act is limited within the domain of Section 34 of the 1996 Act, and it exercises a jurisdiction only to find out if the Court exercising the power under Section 34 of the Act has acted within its limits as prescribed thereunder or has exceeded or failed to exercise the powers so conferred.



9. Having observed as above, this Court has considered the arguments addressed by learned counsel appearing for the appellant and finds that the substratum of the arguments are predicated on facts, which have been dealt with, in one way or the other, by the arbitrator and thereafter by the Court exercising jurisdiction under Section 34 of the 1996 Act.

10. In particular, it would be apposite to extract the relevant portions of the impugned order, which would throw light on the objections raised by the appellant and dealt with by the learned District Judge (Commercial). The same reads as under:

*“15. Discussion on objections available under Section 34 Arbitration and Conciliation Act are discussed as under:*

***Some Incapacity***

*16. First objection available in the Section 34 of the Act is qua incapacity of the Objector. Ld. Counsel for petitioner submits that there was no incapacity with the objector.*

***Arbitration Agreement not valid under law***

*17. In so far as statutory clause under Section 18 MSMED Act was invoked, no question of invalidity of arbitration agreement is made out.*

***Not given proper notice of arbitration***

*18. There is no objection qua Petitioner herein not receiving the proper notice of appointment of arbitrator.*

***Dispute not arbitrable***

*19. It is not the case of the Objector that the dispute raised in the claim petition was not arbitrable. It is conceded that the dispute was arbitrable.*

***Tribunal not constituted as per agreement***

*20. There is nothing on record to show that the arbitral procedure was not in consonance with what is statutorily provided under MSMED Act.*

***Award in conflict with public policy and in contravention of fundamental policy of India***

*21. While opening his submissions in this regard Ld. Counsel for objector submits that the award in question deserves to be set aside for the following reasons:*

*1. Because no proof of delivery/supply of goods was shown by the*



claimant.

2. That complete ledger statement was not filed by the Claimant.

22. In case titled **Divyam Real Estate Private Ltd. Vs. M2K Entertainment Pvt. Ltd.**, 2024 SCC Online DEL 3786 Para 21.6 reads as under:

**“It is a settled law that where an Arbitrator has rendered no clear findings on a contentious issue and the conclusions drawn by an Arbitrator are in disregard of the evidence on record, the award is liable to be set-aside, as being perverse and patently illegal”.**

23. In case titled **I-Pay Clearing Services (P) Limited Vs. ICICI Bank Ltd.**, 2022 Latest Case law 4 SC, Hon’ble Supreme Court ruled as under:

**“Under the guise of additional reasons and filling up the gaps in the reasoning, no award can be remitted to the arbitrator, where there are no findings on the contentious issues in the award. If there are no findings on the contentious issues in the award or if any findings are recorded ignoring the material evidence on record, the same are acceptable grounds for setting aside the award itself. Under the guise of either additional reasons or filling up the gaps in the reasoning, the power conferred on the Court cannot be relegated to the arbitrator. In absence of any finding on contentious issue, no amount of reasons can cure the defect in the award.”**

*(Emphasis Supplied)*

24. In this regard it is submitted by Ld. counsel for objector that 7 invoices out of numerous invoices issued to the Objector, in the course of admitted business amongst them, namely 385, 364, 314, 309, 286, 283 and 281 filed and relied by the claimant were fake as per finding by the Arbitrator. In this regard as far as the first objected invoice i.e. 385 is concerned record reveals and the Arbitrator found that neither any invoice by this number was part of the Statement of Claim nor any copy thereof was filed and there is no reference of it in the ledger filed by the claimant. Upon being asked Ld. Counsel for the objector concedes that this invoice is a non-existent no. and the objector mistakenly referred to it in the Statement of Defence.

Ld. Counsel submits that he is not pressing his submission qua this invoice no. 385.

25. As regards the plea that the remaining 6 invoices were found to be fake by Ld. Arbitrator, attention of this Court is drawn to second para of the internal page 37 of the award. For ready reference the same is reproduced hereunder:

**“In view of the above, this question is answered in negative i.e. against the claimant and in the favour of the respondent by**



*holding that said six invoices bearing number 364, 314, 309, 286, 283, 281 raised on the respondent by claimant, are invalid and as such cannot be considered for payment by this tribunal. Therefore, the respondent(s) are not liable to pay the claimant towards these six bills in tune of Rs.1,08,506/-. But the respondent is liable to pay for the outstanding principle payment towards rest of the invoices.”*

26. *Plain reading of the above shows that there is no finding by the Tribunal that these 6 invoices were “Fake”. Just because the seller/claimant was unable to prove the delivery of goods under these 6 invoices, the only legal consequence is that the claimant would not get any payment under them. But this failure ipso facto does not mean that the invoices are fake as sought to be made by Ld. Counsel for the objector.*

27. *Another plea was raised that the plea of invoices being fake was not restricted to only 7 invoices. Ld. Counsel for objector invested substantial time on harping on this plea of all invoices being fake invoices even though in the **Section 34** petition under disposal no such objection /ground was even raised.*

28. *As regards the second plea citing mismatch in the ledger it is cited that no such ground/objection is taken in the **Section 34 Arbitration and Conciliation Act** petition. The bald plea that the claimant did not file the complete ledger is absolutely untenable since admittedly the Objector herein never moved any notice to the claimant under **Order 12 Rule 8 CPC** or for that matter **Order 11 Rule 5 CPC** as amended for commercial suits.*

#### ***Patent illegality appearing on the face of award***

29. *It is argued that the award does suffer from patent illegality in so far as objector herein was not allowed to place documents on record namely a judicial order of freezing of partnership bank account and objector’s ledger statement. In so far as these documents were filed alongwith the Statement of Defence they are available on the arbitral record. No order was passed that they shall not be accepted. The submission of Ld. Counsel for objector is found to be factually incorrect.*

30. *A plea is raised that these documents did not find mention in the arbitral award. Even this plea is found to be factually incorrect in so far as in internal page 5 of the impugned arbitral award not only these 2 documents have been duly mentioned but they have been referred to by their description and exhibit no. **Ex.R-1** and **Ex.R-2**.*

*The award even carries discussion about these two documents at internal page 7. As such it is found that Ld. Counsel for the objector is making misleading submissions before this Court.*



***Award in conflict with basic notions of morality and justice***

31. Upon being asked it is accepted that there is nothing in the impugned award which can be said to be in conflict with basic notions of morality and justice.

***Fraud and corruption***

32. Nothing has been filed on record or shown that the action of the Arbitrator during the course of proceedings were effected by fraud or corruption.

33. Nothing has been shown that any evidence or submission raised by the Objector in the Statement of Defence was not dealt with by the Ld. Arbitrator. The impugned arbitral award is found to be just and reasonable in so far as not only all factual pleas were duly discussed threadbare but also the fact that invoices objected to by the Objector herein on the ground of non-delivery of goods were removed from the claim petition and only partial claim was allowed. In the light of the above, I do not find any merits in this **Section 34 Arbitration and Conciliation Act, 1996 objection petition. Same is accordingly dismissed with cost of Rs.25,000/- to be paid to respondent.**”

Having perused the various parameters which have been examined by the learned District Judge (Commercial) as above, this Court does not find any reason muchless any cogent reason to interfere or interdict the impugned order passed under Section 34 of the 1996 Act. Moreover, this Court finds that the Court examining the petition under Section 34 of the 1996 Act has rightly considered all issues warranting no interference, given the mandate of Hon’ble Supreme Court in ***Punjab State Civil Supplies Corporation Ltd.*** (*supra*).

11. That apart, learned counsel for the appellant has argued the appeal on merits based on facts, which cannot be considered by this Court. For abundant precaution and to satisfy its judicial conscience, this Court has examined the arbitral award dated 02.05.2024. Apparently from the pleadings and submissions of the parties, the arbitral tribunal framed the following issues:



- a) Whether, the claim petition in view of non-impleadment of LRs of deceased partner of claimant partnership firm, is maintainable, or not ?
- b) Whether, the claim petition on account of claimant Partnership Firm not being registered under the provisions of The Partnership Act, 1932, is maintainable, or not ?
- c) Whether invoices/Bills Nos.385, 364, 314, 309, 286, 283, 281 raised by claimant on respondent, are valid/genuine, or not?

12. On the issue no.1 and 2, the arbitral tribunal after examining the law enunciated by the Hon'ble Supreme Court, concluded in favour of the claimant/respondent no.1. So far as issue no.3 is concerned, regarding 6 invoices/bills, after a thorough examination and evaluation of evidence, the arbitral tribunal concluded that the 6 invoices/bills were bogus, and fake, and that no payments were liable to be made on those invoices/bills. However, with respect to the remaining invoices/bills, keeping in view the admission of the appellant in respect of the invoices/bills, it had rightly concluded that the appellant/respondent would be liable to make the due payments. Another argument revolved around the incapacity of appellant to pay. The excuse that the bank account of respondent was frozen under the orders of this Court in a dispute *inter se* parties is lame. The incapacity envisaged is that of the debtor and not the creditor and there being no such proof, cannot be considered at all. Thus, having regard to the clear findings of the facts as also on the law, which were clearly observed, set out and considered by the learned District Judge (Commercial) in the impugned judgement, no interference whatsoever can be countenanced by this Court. The appellant appears to be attempting to re-argue the facts and law as conclusively decided by the arbitral tribunal.



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This is impermissible in law.

13. In that view of the matter, the aforesaid appeal *sans* merit, is dismissed accordingly. However, without any order as to costs.

14. Pending applications also stand disposed of.

**TUSHAR RAO GEDELA, J**

**NOVEMBER 19, 2025**

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