



2026:DHC:1774



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

Date of decision: 23.02.2026

+ O.M.P. (COMM) 368/2016

MAHANAGAR TELEPHONE NIGAM LIMITED

.....Petitioner

Through: Mr. Saket Sikri, Mr. Vikalp
Mudgal, Mr. Arun Sanwal and
Mr. Aditya Mani Sharma,
Advocates.

versus

NOKIA SOLUTIONS & NETWORK INDIA PVT. LTD.

.....Respondent

Through: Mr. Abhishek Tewari & Mr.
Utkarsh Trivedi, Advocates.

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

% **JUDGEMENT (ORAL)**

HARISH VAIDYANATHAN SHANKAR, J.

1. The present Petition has been instituted under Section 34 of the **Arbitration and Conciliation Act, 1996¹**, assailing the **Arbitral Award dated 11.03.2016²**, *albeit* in a limited compass. The challenge is confined to a specific finding rendered by the learned Arbitrator and does not extend to the entirety of the Award.

2. It is pertinent to note that multiple claims and counterclaims were adjudicated by the learned Arbitrator. However, the present Petition is restricted solely to the rejection of Counter Claim No. 1

¹ Act

² Impugned Award



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preferred by the Petitioner, whereby the Petitioner had sought recovery of an alleged excess payment amounting to Rs. 66,25,499/-. The said counter-claim has been rejected on the ground that it is barred by limitation.

3. Learned counsel for the parties are *ad idem* that there appears to be an error in the manner in which the learned Arbitrator determined the commencement of limitation. This assumes significance in light of the categorical finding recorded in the Award that an excess payment had, in fact, been made to the Respondent.

4. The conclusion regarding excess payment is founded upon the reckoning of prices in terms of a letter dated 14.05.2002. In such circumstances, to hold that the Petitioner became entitled to recover the excess amount immediately upon completion of supplies on 10.07.1995 would be legally and logically untenable, as the basis for computing the excess itself emerged subsequently i.e. in 2002. The commencement of limitation, therefore, required examination in that context.

5. Now, turning to the question of severability of the Arbitral Award insofar as the present challenge pertains to counter Claim No. 1, leaving the remaining claims undisturbed, it becomes necessary to advert to the principles governing partial setting aside of arbitral awards. In this regard, reliance is placed on paragraphs 33, 34 and 35 of the decision of the Hon'ble Supreme Court in *Gayatri Balasamy v. M/s ISG Novasoft Technologies Limited*³, which elucidates the doctrine of severability. The said paragraphs are reproduced hereinunder for ready reference:

³ 2025 SCC OnLine SC 986



“33. We hold that the power conferred under the proviso to Section 34(2)(a)(iv) is clarificatory in nature. The authority to sever the “invalid” portion of an arbitral award from the “valid” portion, while remaining within the narrow confines of Section 34, is inherent in the court’s jurisdiction when setting aside an award.

34. To this extent, the doctrine of omne majus continet in se minus—the greater power includes the lesser—applies squarely. The authority to set aside an arbitral award necessarily encompasses the power to set it aside in part, rather than in its entirety. This interpretation is practical and pragmatic. It would be incongruous to hold that power to set aside would only mean power to set aside the award in its entirety and not in part. A contrary interpretation would not only be inconsistent with the statutory framework but may also result in valid determinations being unnecessarily nullified.

35. However, we must add a caveat that not all awards can be severed or segregated into separate silos. Partial setting aside may not be feasible when the “valid” and “invalid” portions are legally and practically inseparable. In simpler words, the “valid” and “invalid” portions must not be inter-dependent or intrinsically intertwined. If they are, the award cannot be set aside in part.”

6. In the aforesaid factual and legal backdrop, and bearing in mind the limited supervisory jurisdiction exercised by this Court under Section 34 of the A&C Act, this Court refrains from undertaking any re-appreciation of evidence or entering into a merits-based evaluation of the counter-claim.

7. The interference warranted in the present case is confined solely to the legally unsustainable determination of the commencement of limitation in respect of Counter Claim No. 1. The impugned finding on limitation, being predicated on a date anterior to the very basis upon which excess payment was computed, suffers from patent infirmity and cannot be sustained.

8. At the same time, the remaining findings and determinations rendered in the Award are independent, self-contained, and unaffected by the said error. The impugned portion is, therefore, clearly severable and does not form an inseparable or intrinsically intertwined part of



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the other adjudications.

9. In these circumstances, and in consonance with the doctrine of severability as recognised in *Gayatri Balasamy (supra)*, this Court deems it appropriate to set aside the Award only to the limited extent of the rejection of Counter Claim No. 1 on the ground of limitation.

10. The present Petition, along with pending application(s), is disposed of in the aforesaid terms.

HARISH VAIDYANATHAN SHANKAR, J.
FEBRUARY 23, 2026/nd/va