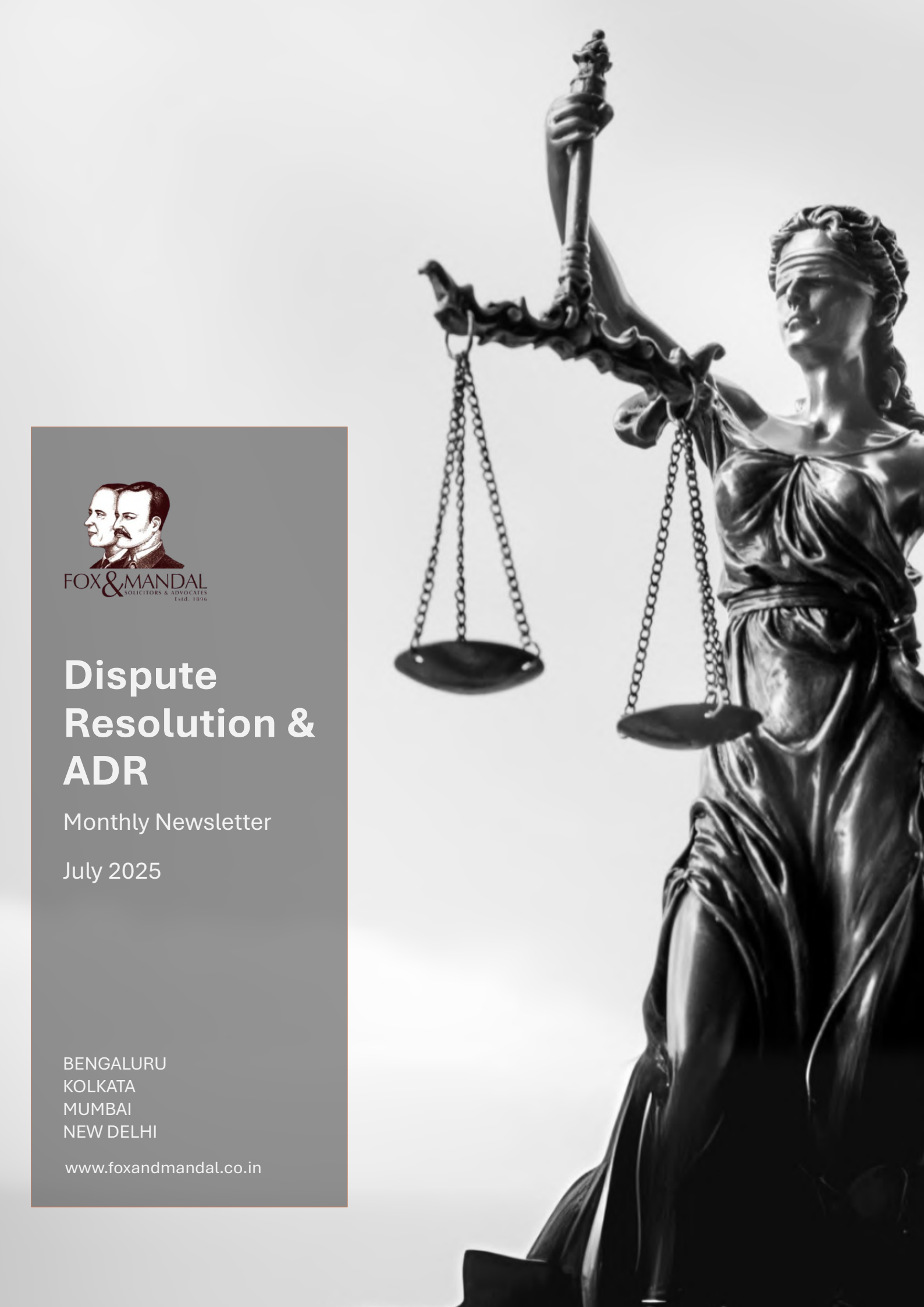

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One Person Company's sole shareholder cannot be held liable without sufficient grounds to pierce the corporate veil

Saravana Prasad v. Endemol India Pvt Ltd

Bombay High Court | Commercial Arbitration Petition (L) No. 22714 of 2024

In a dispute arising from an agreement entered into by a One Person Company (**OPC**), the Bombay High Court recently set aside the arbitral tribunal's interim order directing the OPC's sole shareholder to secure the disputed amount. The decision reaffirms that the concepts of separate legal personality and limited liability of a company are not lost in the case of an OPC, even when it may appear convenient and natural to extend the liability to its sole shareholder. The corporate veil cannot be pierced in a routine manner if the necessary conditions – such as fraud, collusion, evasion of taxes, etc – are not met. By upholding the rigours for piercing the corporate veil for an OPC, the decision affirms the special protection granted to entrepreneurs that enables them to ring-fence their assets from exposure to liability arising out of the conduct of business by the OPC. Entrepreneurs operating through OPCs should ensure strict separation between personal and corporate dealings to maintain the integrity of limited liability protection.

SUMMARY OF FACTS

Innovative Film Academy Pvt Ltd (Innovative), an OPC of Saravana Prasad (its sole shareholder), entered into an agreement with Endemol India Pvt Ltd (Endemol) for the production and launch of Masterchef Telugu.

Alleging default in payment, Endemol initiated arbitration proceedings against Innovative and Prasad.

The arbitral tribunal passed an interim order directing both Innovative and Prasad to create a fixed deposit equivalent to the due amount and to disclose their assets, Income Tax Returns (ITRs), details of companies in which they were shareholders/directors/partners, and details of all bank accounts held since 2019.

This order was challenged before the Bombay High Court under Section 37(2)(b) of the Arbitration and Conciliation Act, 1996.

DECISION OF THE COURT

The Bombay High Court elucidated that an OPC, a legal construct under the Companies Act, 2013, enables a sole shareholder to create a body corporate that embodies key features of a standard company, such as perpetual succession through mandatory nomination, a separate legal identity, and limited liability.

The Court rejected the argument that a director signing on behalf of the OPC is reason enough to disregard the statutory scheme of limited liability, which explicitly protects such a sole director/shareholder by limiting their liability, akin to any other company.

By directing both Innovative and Prasad to make the deposit and the disclosures, the arbitral tribunal placed them on the same pedestal in terms of their liability to Endemol without any justification and despite the absence of any contractual arrangement binding Prasad personally. The Court held that casting personal liability on Prasad was violative of the concept of OPC and against the fundamental policy of Indian law.

The High Court partially set aside the arbitral tribunal's order and upheld the direction for Innovative to create a fixed deposit, thereby balancing the interests of the parties and ensuring Innovative retains control over the money while securing the claims of Endemol.

Appointment of a sole arbitrator due to the other party's inaction is not invalid

St Frosso Shipping Corporation v. Eastern Multitrans Logistics Pvt Ltd

Telangana High Court | Execution Petition No. 4 of 2022

The Telangana High Court recently upheld the appointment of a sole arbitrator nominated by the party initiating arbitration, due to the counterparty's failure to nominate its arbitrator as per the contractually agreed procedure. The ruling affirms that mechanisms permitting arbitration by a party's nominated sole arbitrator are valid where the other party does not act within a stipulated timeframe, provided both parties were initially afforded an equal opportunity to participate. While providing much-needed clarity for commercial entities relying on standard arbitration clauses in international contracts, particularly in the shipping and logistics sectors where the Baltic and International Maritime Council (**BIMCO**) templates are common, the decision also reinforces the Indian judiciary's non-intrusive approach in arbitration. From a drafting perspective, contracting parties should increasingly consider adopting such self-executing default mechanisms in their arbitration clauses, as they help prevent undue delay and procedural deadlock.

SUMMARY OF FACTS

St Frosso Shipping Corporation (Frosso), a Liberian company and owner of a charter vessel, entered into a charter agreement with Eastern Multitrans Logistics Pvt Ltd (EML) for a 70-day voyage *via* India, Madagascar, and Mozambique.

Under the agreement, disputes would be resolved by arbitration under the BIMCO Dispute Resolution Clause, 2015, which provided for a 3-member tribunal and required the party initiating arbitration (claimant) to appoint its arbitrator and serve a notice on the other party to nominate its respective arbitrator within 14 days. If the other party failed to do so, the claimant's arbitrator would continue as the sole arbitrator.

Disputes arose between the parties, constraining Frosso to invoke arbitration. Frosso issued a notice nominating its arbitrator and requested EML to do the same. However, EML failed to nominate its arbitrator within the stipulated 14-day period. As such, Frosso's arbitrator continued as the sole arbitrator and an award was passed against EML (Award).

On EML's failure to comply with the Award, Frosso approached the Telangana High Court seeking its enforcement under Sections 47 and 48 of the Arbitration and Conciliation Act, 1996. EML objected, citing that the unilateral appointment of the arbitrator was contrary to the settled law, and hence, the Award was against the public policy of India.

DECISION OF THE COURT

The Telangana High Court held that the arbitration agreement provided both parties with an equal right of participation in the appointment procedure.

The appointment of the sole arbitrator to carry the arbitration forward was legitimised only on the second party's failure to appoint its arbitrator within 14 days, presuming its silence/inaction as deemed acceptance.

The failure of the second party to nominate its arbitrator within the stipulated timeframe was not an instance of unequal treatment but rather a reflection of the need to proceed with the arbitration without further delay.

As such, the appointment procedure was not unilateral (wherein one party is deprived of the right to participate or object to the appointment of arbitrators in the tribunal), but rather a mechanism for expediency.

Further, the said clause could be traced to Section 17(2) of the English Arbitration Act, 1996 (the applicable law), which explicitly permits the appointment of a sole arbitrator on the counterparty's failure to nominate its respective arbitrator within the stipulated timeframe.

The Court distinguished the Supreme Court's landmark decisions holding unilateral and one-sided appointment procedures to be invalid,[1] as the appointment procedures in such cases were starkly one-sided without giving any option to the other party to nominate its arbitrator.

[1] TRF Ltd v. Energo Engineering Projects Ltd, 2017 8 SCC 377; Perkins Eastman Architects DPC v. HSCC (India) Ltd, 2020 20 SCC 760; Central Organisation for Railway Electrification v. ECI SPIC SMO MCML (JV), 2024 SCC OnLine SC 3219

Likelihood of confusion is sufficient to protect a family of registered trademarks

Modi-Mundipharma Pvt Ltd v. Speciality Meditech Pvt Ltd

Delhi High Court | 2025 SCC OnLine Del 4627

In a recent decision, the Delhi High Court clarified that the family of marks doctrine is not confined to passing off claims (which require proof of actual confusion or loss of goodwill) and also extends to trademark infringement, where statutory protection for registered marks is available based on the likelihood of confusion arising from deceptive similarity. The judgment rightly eases the burden on trademark owners by recognising that consumers associate the common element of a trademark series with its proprietor, and a deceptively similar competing mark is likely to mislead the public and dilute the distinctiveness of the original family. The ruling has significant implications for businesses that have invested in building trademark series and can now rely on the collective goodwill of the entire family. The takeaway for brand owners is clear: develop your trademark portfolio with foresight, register key variations, maintain use records, and monitor competitors. Timely legal action against similar marks can prevent confusion and dilution of brand.

SUMMARY OF FACTS

Since the late 1980s, Modi Mundipharma Pvt Ltd (MMPL) has built an extensive portfolio of 32 trademarks pertaining to its pharmaceutical products, including 'ANGICONTIN', 'DILCONTIN', and 'THEOCONTIN', all having the common mark 'CONTIN', which acts as the source identifier for MMPL. It also owns a separate registration for 'FECONTIN F', an iron and folic acid tablet being marketed since 1993.

Speciality Meditech Pvt Ltd (SMPL) launched an iron supplement capsule with the mark 'FEMICONTIN'.

On coming across SMPL's product, MMPL issued a cease-and-desist notice followed by a suit alleging infringement of the marks 'CONTIN' and 'FECONTIN F', and the broader 'CONTIN' family of marks.

DECISION OF THE COURT

The Delhi High Court held that the family of marks doctrine applies not only in cases of passing off but also for infringement. The concept, though judicially created and developed, is merely a manifestation of the principles enshrined under the Trade Marks Act, 1999.

When an entity is the proprietor of several registered trademarks containing a common element, consumers associate the common element with the source of the product (the proprietor). A subsequent mark that incorporates the common element of a well-established trademark family is likely to confuse the public, particularly when used in the same class of goods.

As such, while the likelihood of confusion is required to be proved by establishing deceptive similarity between the marks, proof of actual confusion using empirical evidence is not required.

Although MMPL had not used the mark 'CONTIN' as a standalone trademark, it had built a substantial and recognisable family of marks incorporating the 'CONTIN' suffix, including 'FECONTIN-F', used consistently over decades in respect of pharmaceutical products.

'FEMICONTIN' was held to be deceptively similar to 'FECONTIN-F', both visually and phonetically, and it catered to similar therapeutic uses. The High Court also rejected the argument that the marks were generic or descriptive (defences against infringement claims when the mark indicates the kind, quality, or intended purpose of the product).

While the High Court granted a permanent injunction in favour of MMPL, restraining SMPL from using 'FEMICONTIN' or any deceptively similar variant, it declined to grant MMPL a blanket injunction against all use of the word 'CONTIN', holding that such protection must be case-specific.

Provisional attachment under PMLA does not bar ongoing arbitration

Lata Yadav v. Shivakriti Agro Pvt Ltd

Delhi High Court | CM (M) No. 53 of 2025

The Delhi High Court recently clarified that arbitral proceedings may continue despite the provisional attachment of the underlying assets under the Prevention of Money Laundering Act, 2002 (**PMLA**). This enables civil disputes to reach a logical conclusion, preserving contractual remedies despite parallel regulatory action. While the ruling draws a clear line between civil and criminal proceedings, it also recognises that in the event of overlapping findings, PMLA will take precedence. However, further clarity may be warranted in light of recent rulings holding that attachment under the PMLA does not confer ownership rights but merely prevents alienation of assets,[2] and that *bona fide* purchasers may seek release of the attached property.[3] When extended to civil/arbitral outcomes, the primacy of PMLA proceedings may depend on whether the arbitral award upholds the rights of a *bona fide* party in respect of the attached assets. Transaction counterparties, resolution applicants, and investors must proactively account for potential *post facto* proceedings – particularly under the PMLA – that may complicate the transaction/enforcement, by incorporating enhanced due diligence and protective measures such as escrow arrangements or fallback securities.

SUMMARY OF FACTS

Respondent No. 3 (R3) and Respondent No. 1 (R1) entered into an agreement to use R1's rice processing/storage facilities at Bahalgarh and Amritsar (Facilities).

R3 underwent insolvency, and Respondent No. 4 (R4), who emerged as the SRA, undertook financial assistance of INR 130 crore from R1 for the execution of R3's resolution plan (Agreement), as R1 was desirous of purchasing the Facilities.

R4 attempted to create a charge over the Facilities in violation of the Agreement, and disputes arose between the parties, leading to arbitration.

Meanwhile, in separate proceedings under the PMLA, representatives of R1 and R4 were arrested by the Enforcement Directorate (ED) and the Facilities were provisionally attached.

In view of PMLA proceedings, R4 sought termination of the arbitral proceedings, contending that the Agreement is a sham instrument vitiated by serious fraud as the money advanced by R1 was proceeds of crime.

DECISION OF THE COURT

The Court held that the ED's provisional attachment of the Facilities, i.e. the subject matter of the arbitration, did not oust the arbitral tribunal's jurisdiction.

Further, since a transaction or incident can give rise to both civil and criminal proceedings, the arbitral proceedings may proceed in parallel to the PMLA proceedings.

Despite the commonality of subject matter and facts, Sections 41 (ousting the jurisdiction of Civil Courts) and 71 (overriding effect of PMLA) were not applicable since the arbitrator was not presiding over the criminal allegations but was only concerned with the validity of the Agreement.

In case of any eventual overlap in the findings recorded in the proceedings, PMLA would take precedence, in which case the arbitral award may be challenged.

[2] Rajiv Chakraborty RP of EIEL v. Directorate of Enforcement, 2022 SCC OnLine Del 3703
[3] Directorate of Enforcement v. Axis Bank, 2019 SCC OnLine Del 7854

ITC cannot be denied on the supplier's default in depositing tax

RT Infotech v. Additional Commissioner Grade II

Allahabad High Court | Writ Tax No. 1330 of 2022

The Allahabad High Court recently held that a tax-paying assessee cannot be denied the benefit of Input Tax Credit (**ITC**) due to the supplier's default in depositing the tax with the Goods and Services Tax (**GST**) Authority. The ruling reinforces that *bona fide* purchasers, who maintain proper records, transact through banking channels, and exercise due diligence, cannot be penalised for a seller's default, and shifts the onus back onto tax authorities to act fairly and proportionately. In a regulatory climate where ITC denial has gradually become an instrument of enforcement rather than a measure of genuine non-compliance, this decision is likely to provide much-awaited relief to assesses engaged in *bona fide* transactions. Businesses should prioritise meticulous documentation, timely compliance, and readiness to legally contest ITC reversals, as these elements can prove decisive in safeguarding credit claims during disputes.

SUMMARY OF FACTS

RT Infotech procured mobile recharge services from Bharti Airtel Ltd (BAL) during FY 2017-18.

These transactions were backed by tax invoices and were recorded in the books of accounts as per the required accounting policy. Based on these tax invoices, RT Infotech claimed the applicable ITC; however, the State GST Department objected, alleging a mismatch due to non-deposit of tax by BAL.

Eventually, despite evidence of payment, a show-cause notice was issued under Section 73 of the GST Act, 2016 against RT Infotech, demanding the disputed ITC amount, along with penalty and interest.

Aggrieved, RT Infotech approached the Allahabad High Court.

DECISION OF THE COURT

The Allahabad High Court held that the purchaser, who has paid tax in full to the supplier and has fulfilled all its duties under the GST law, cannot be held liable for the seller's non-compliance, alluding to the principle that no person shall suffer due to the non-compliance of another person.

The proper authority under the GST Act, 2016, is responsible for taking due action against the defaulting supplier without shifting the burden towards the assessee, a law-abiding purchaser.

The show-cause notice was quashed, and the matter was then remanded for fresh adjudication, with a specific direction to consider the purchaser's compliance.

WhatsApp and email correspondence may constitute an arbitration agreement

Belvedere Resources DMCC v. OCL Iron and Steel Ltd

Delhi High Court | OMP (I) (Comm) No. 397 of 2024

In a recent decision, the Delhi High Court confirmed that contracts formed through WhatsApp and email exchanges constitute a valid arbitration agreement if the core terms are agreed upon. Even in the absence of signatures, Courts will examine the substance of the parties' conduct and correspondence to determine contractual intent. This is indicative of a welcome and pragmatic shift toward aligning the law with the realities of modern commercial transactions, where business is increasingly conducted over informal and digital channels. The Court's recognition that the absence of a signed document does not negate the existence of an arbitration agreement provides clarity and legal certainty to parties who proceed based on documented negotiations and conduct. The decision will be particularly reassuring for international suppliers, tech-enabled businesses, and startups, which may not always formalise contracts through traditional, signed instruments. Businesses are advised to retain and preserve all commercial communications, whether *via* email, messaging platforms, or digital document exchanges, as they may constitute enforceable agreements or be used to establish consent to arbitration.

SUMMARY OF FACTS

Belvedere Resources DMCC (Belvedere), a UAE-based coal supplier, entered into a binding contract with SM Niryat Pvt Ltd (SMN) in October 2022 through WhatsApp and email exchanges. SMN subsequently merged into OCL Iron and Steel (OCL).

To formalise the contract between the parties, Belvedere shared a Standard Coal Trading Agreement (ScoTA) *via* email, incorporating the supply and payment terms, and providing for dispute resolution through arbitration under the Singapore International Arbitration Centre (SIAC) Rules.

After the proposed amendments were accepted, Belvedere shared the 'final contract' to SMN for signing and, upon SMN's request, nominated the shipping vessel.

By November 15, 2022, although SMN had neither signed the contract nor paid the advance, Belvedere completed all shipping formalities, and the vessel arrived at the loading port as scheduled. However, SMN then unilaterally cancelled the contract.

Aggrieved, Belvedere initiated arbitration in Singapore, seeking damages for wrongful termination and approached the Delhi High Court seeking interim protection to secure its claim.

DECISION OF THE COURT

The Delhi High Court reaffirmed that a concluded contract is not necessary, as the existence of a valid arbitration agreement can be inferred from various documents and communication between the parties.

To ascertain the existence of a valid arbitration agreement, the Court examined the parties' WhatsApp and email correspondences and noted that:

- Belvedere had duly shared the final version of the ScoTA, which contained an arbitration clause.
- SMN had assured that it would sign and stamp the ScoTA.
- SMN had knowledge of Belvedere's shipment and repeatedly enquired about Belvedere's Estimated Time of Berthing.

As such, the email and WhatsApp exchanges between the parties constituted a valid and binding arbitration agreement under the Arbitration and Conciliation Act, 1996.

However, the Court declined to grant relief due to the absence of territorial jurisdiction, as no part of the cause of action had arisen in Delhi, and as Belvedere's claim for unliquidated damages was not substantiated with evidence to suggest that SMN/OCL was attempting to dispose of assets to defeat a future award.

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