

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

% **Judgment Reserved on: 2nd May, 2016**
Judgment Pronounced on: 18th May, 2016

+ **O.M.P.(Comm) No.151/2016**

AJANTA TRANSISTOR CLOCK MANUFACTURING CO. & ORS
..... Petitioners
Through Mr.Dharita Purvish Malkan, Adv.

versus

AJANTA LIMITED & ANR Respondents
Through Mr.Dushyant Dave, Sr. Adv. with
Mr.T. Sundar Ramanathan &
Ms.Geetanjali Sharma, Adv.

CORAM:
HON'BLE MR.JUSTICE MANMOHAN SINGH

MANMOHAN SINGH, J.

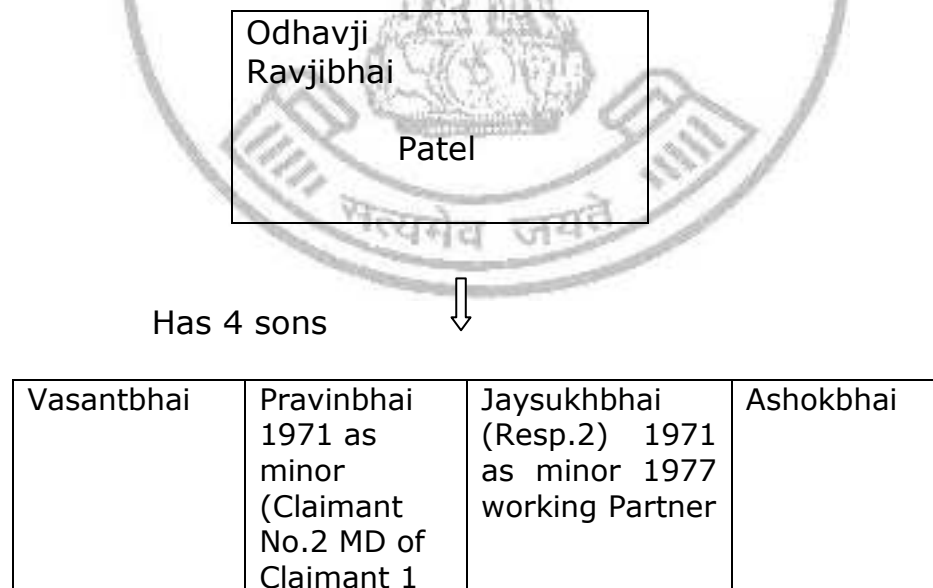
1. The petitioners have filed the present petition under Section 34 of the Arbitration and Conciliation Act, 1997 (hereinafter referred to as the 'Act') for setting aside the arbitral award dated 19th January, 2016 passed by learned Sole Arbitrator Justice R. C. Lahoti (former Chief Justice of India).
2. When the matter was listed before the Court on 2nd May, 2016, on limited point the arguments were addressed by the petitioners' counsel.
3. The said arguments were refuted by Mr.Dushyant Dave, learned Senior counsel appearing on behalf of respondents, who argued that none of the grounds is available to the petitioners to challenge the award in which each and every aspect of the matter

has been discussed. There is no scope of interference within the scheme of Section 34 of the Act. Since the award passed is detailed one, therefore, the order was reserved.

4. Facts of the case as per pleadings and evidence of the parties have been narrated by the learned sole Arbitrator in paras 2.1 to 2.46 which are undisputed and the same are reproduced here as under:

"2.1 Although there are companies, firms and individuals, arrayed as parties and also figuring in the pleadings and evidence (oral and documentary) brought on record by the parties but in substance the whole dispute is more or less in the nature of a family feud. It is, therefore, considered appropriate to set out a chart showing the relationship of the parties and concerned business entities. The same is done as under.

Family Tree and Structure for Respondent No.1 Firm



2.2 Aside from Respondent No.1 Firm three other companies had also started functioning:

Ellora Time Pvt. Ltd. 1989 renamed as Ajanta Ltd. (2006) (Claimant No.1.)	Ajanta Watch Ltd. Renamed as Ajanta India Ltd. (1992)	Ajanta Electronics Pvt. Ltd. (1994) Renamed as Ajanta Manufacturing Ltd. (2004) (Respondent No.5)
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2.3 Respondent No.1 Firm had 3 (three) groups of families:

Manubhai & Family	Raghavbhai & Family	Odhavjibhai & Family
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2.4 There is a history behind. The facts relating thereto do not call for any adjudication *strictosensu* in these proceedings. However, the historical facts have been brought before the Tribunal in very many details by both the parties. By and large the facts and events comprising this historical backdrop are not in dispute. Though there may be a little difference in approach of the contending parties in the manner in which they are put forth or narrated, the same are being set out in the succeeding paragraphs by way of introductory facts leading to the present litigation.

2.5 ATCMC, the Respondent No.1 firm was set up in 1971 by Mr. Odhavji Ravjibhai Patel along with his friends and relatives. The said firm started manufacturing wall clocks and time pieces using trademark "Ajanta", a name adopted from the famous Ajanta caves in Maharashtra. When the firm was constituted, claimant No.2 and Respondent No.2 were minors, admitted to the benefits of partnership. The Claimant No.2 attained majority on 28.12.1971 and became a partner in the firm. In 1971, the firm started manufacturing battery operated wall clocks

with around 10-15 employees and with monthly production capacity of around 100 pieces. In the year 1977, Respondent No.2 became a working partner of the firm. With passage of time, the turnover of Respondent No.1 comprising manufacturing wall clocks increased to approximately Rs.100 crores. Subsequently, due to disputes and differences, the business of the firm closed down somewhere in the year 2000. The Respondent No.1 surrendered their Central Excise Registration Certificate. Thereafter, the Claimants started manufacturing wall clocks and time pieces by the brand name of "Ajanta" and increased its valuation manifold. A copy of the surrendered Excise Registration Certificate of the Respondent No.1 dated 07.04.2003 is annexed with the SoC and marked as Annexure-1.

2.6 Mr. Odhavjibhai Ravjibhai Patel having started the business of manufacturing wall clocks in 1971, later entered into various other businesses such as manufacturing calculators, telephones, educational toys, multimeters, etc. and the family business was known as Ajanta Group which comprised in addition to Respondent No.1 firm, various entities. The Claimant No.1 company was incorporated as a part of the Ajanta Group under the name Ellora Time Private Limited on 04.12.1989.

2.7 As a part of Ajanta Group, another company named Ajanta Watch Limited was also incorporated in 1989. The same is now renamed as Ajanta India Limited. Initially, the Claimant No.2 and Mr. Odhavjibhai Ravjibhai Patel were the promoters of the said Ajanta India Limited. Subsequently, the two other sons of Mr. Odhavjibhai Patel, Respondent No.2 and Mr.Ashokbhai Patel were also inducted as directors of the said company. In 1994, as a part of Ajanta Group, Ajanta Electronics Private Limited, now renamed as Ajanta Manufacturing Ltd., the Respondent No.5 above named, was incorporated with the Claimant No.2, Mr. Odhavjibhai Ravjibhai Patel, Mr. M. U. Patel and Mr. Raghavjibhai

Bhanjibhai Patel as its Promoter Directors, later Respondent No.2 and Mr. Ashokbhai Odhavjibhai Patel were also inducted as Directors thereof.

2.8 The Claimant No.2, became a working partner of the Respondent No.1 firm in or around 1971. In late 1980s, the Claimant No.2, brought the Quartz Technology into India and the Respondent No.1 started manufacturing wall clocks with Quartz Technology. Such wall clocks were sold and marketed under trade mark "Ajanta".

2.9 On 02.01.1989, the Respondent No.1 firm, comprising of various partners, including Claimant No.2 and Respondent No.2, applied for registration of the mark 'Ajanta' in Class-14 under Application No.503244 in respect of watches, clocks and time pieces of all kinds and parts thereof included in Class-14. The said mark was registered on 29.07.1994 with effect from 02.01.1989 in the name of the partners of the firm trading as ATCMC.

2.10 All the said marks were registered with effect from the dates of their respective applications. The said registration was last renewed on 02.01.2003 and is valid and subsisting.

2.11 The Respondent No.1 also applied for registration of mark 'Ajanta' in various other Classes somewhere in 1990. The said marks were also registered in the name of the partners of firm trading as ATCMC.

2.12 The Respondent No.1 firm also applied for registration of the artistic work for the label 'Ajanta Quartz' in 1996. The copyright is accordingly registered in the name of the firm comprising Mr. Pravinbhai Odhavjibhai Patel, Mr. Jaysukhbhai Odhavjibhai Patel, Mr. M. U. Patel, Mr. R. B. Patel, Mr. N. B. Patel and Mr. A. V. Patel. A copy of the certificate of registration of the trademark 'Ajanta' bearing Application No.503244 in Class 14 dated

29.07.1994 is filed with the SoC and marked as Annexure 2. A copy of the certificate of registration of the trademark 'Ajanta' dated 06.08.1991 vide Application No.555947 to 555954 in Class 14 is annexed with SoC and marked as Annexure 3.

2.13 The Claimant No.1 company coined the mark 'ORPAT' from the name of group founder O.R. Patel. The mark ORPAT was seen as a flagship brand of the group to be used for all product lines and for this purpose the Claimant No.1 made applications for the registration of the mark 'ORPAT' in 34 Classes under the Trade Mark Classification. Large number of such applications are registered with effect from the date of application namely 29.05.1992. The details of the ORPAT marks registered in favour of the Claimant No.1 are given in para-6 of SoC. There is a wide range of products. Dates of application for registration range from 29.05.92 to 01.06.92.

2.14 The Claimant No.1 started using the mark 'ORPAT' somewhere in the year 1993. In the beginning the trade mark 'ORPAT' was used in respect of electronic calculator, time pieces, telephones and watches and later the use of the said mark was extended to other products namely electric fans, lamps, educational toys, electronics digital health scale, digital multimeter, digital clamp meter, electric kettle, hairdryer, juice extractor, hand-mixer, water heater, water dispenser, room heater, halogen heater, oil heater, hand blender emergency light, iron, mixer grinder, chapatti box, electronic oven, sandwich toaster, ice shaver and EPABX. Within a very short period, the said trade mark became extremely popular as a result of extensive and continuous use, sale and publicity.

2.15 While the mark 'ORPAT' was primarily used by the Claimant No.1 in respect of various products being manufactured and marketed in India, the Claimant No.1 permitted other family concerns namely Ajanta Watch Ltd. (now renamed as Ajanta

India Ltd.) and Ajanta Electronics Pvt. Ltd. (now renamed as Ajanta Manufacturing Ltd., Respondent No.5) to use the mark for certain products for exports till around 2002. A copy of the certificate of registration of the trademark 'ORPAT' is annexed with the SoC and marked as Annexure 4.

2.16 The constitution of the respondent No.1 firm after its formation on 24.06.1971 had undergone change from time to time. The Respondent No.1 firm had 11 partners in 1996. Apart from the Claimant No.2 and the Respondent No.2, there were 9 other partners not belonging to the direct family of Mr. Odhavjibhai Ravjibhai Patel. On 28.12.1996, Ms. Vanitaben Pravinbhai Patel, the wife of Claimant No.2, was inducted as a partner of the firm. The share of the Odhavjibhai Ravjibhai Patel's family comprising three partners namely the Claimant No.2, Ms. Vanitaben Pravinbhai Patel and Respondent No.2 in the partnership firm was 39%. Due to disputes and differences amongst the partners of the firm around the year 1995, the business of the partnership firm came to a grinding halt somewhere in 2000 and various suits were filed relating to the business of ATCMC and the litigation went up to the Supreme Court of India. On discontinuation of the manufacturing activity by the Respondent No.1, the Claimant No.1 started manufacturing Quartz Wall Clock and marketed the same under the trademarks "Rewa" and "ORPAT". The set of invoices showing sale of wall clocks under the mark "ORPAT" and "Rewa" from the year 2000 are annexed with the SoC and marked as Annexure 5.

2.17 During the pendency of the dispute, Mr. Ashokbhai Odhavjibhai Patel separated from the family in and around 2001, and gave away his share in the family properties and took Ajanta Watch Ltd. which is now renamed as Ajanta India Ltd. Mr. Pravinbhai Odhavjibhai Patel and his family and Mr. Jaysukhbhai Odhavjibhai Patel and his family transferred their shares in Ajanta Watch Ltd. to Mr.

Ashokbhai Odhavjibhai Patel & family and finally resigned from Ajanta Watch Ltd. In return, Mr. Ashokbhai Odhavjibhai Patel transferred his shares from M/s Ajanta Electronics Pvt. Ltd. (now Ajanta Manufacturing Ltd., Respondent No.5) and M/s Ellora Time Ltd. (now renamed as M/s Ajanta Limited, Claimant No.1) to Mr. Pravinbhai Odhavjibhai Patel and his family and Mr. Jaysukhbhai Odhavjibhai Patel and his family.

2.18 In the aforementioned manner, the family dispute was settled between the parties in the year 2002 by way of a family settlement. On 19.09.2002, pursuant to the family settlement, a Deed of Assignment was executed between (1) Mr. Manubhai Ukabhai Patel, (2) Mr. Pravinbhai Odhavjibhai Patel (Claimant No.2), (3) Mr. Raghavjibhai Bhanjibhai Patel, (4) Mr. Jaysukhbhai Odhavjibhai Patel (Respondent No.2), (5) Mr. Nandlal Valamji Patel, (6) Mr. Devendrakumar Chaturbhai Patel, (7) Mr. Ambaram Pranjivan Patel, (8) Mr. Maganlal Becharbhai Patel, (9) Mr. Sureshchandra Jethalal Patel, (10) Ms. Vanitaben Pranjivanbhai Patel, (11) Mr. Pravinkumar Ukabhai Patel, (12) Mr. Kiritkumar Valamjibhai Patel as partners of Respondent No.1 and as assignors on the one hand; and Ajanta India Limited - the assignee, having as its Directors, Mr. Ashokbhai Odhavjibhai Patel on the other hand, whereby the assignors transferred and assigned all their right, title and interest in the trademark "Ajanta" in the various Classes as listed in the Schedules to the Deed of Assignment including in Class-14, particularly for wrist watches (except for wall clocks and time pieces in Class-14) alongwith goodwill of the entire business to the assignee for a consideration of Rs.34 Lakhs.

2.19 According to the Claimants, with effect from the execution of the Deed of Assignment, the Respondent No.1 firm ceased to be the owner/proprietor of the trademark "Ajanta" except in respect of wall clocks and time pieces of all kinds and parts thereof falling

in Class-14. All the other trademarks then owned by the Respondent No.1 firm stood assigned to Ajanta India Limited, a company which pursuant to such family arrangement came to be controlled and managed by Mr. Ashokbhai Odhavjibhai Patel. A copy of the Deed of Assignment dated 19.09.2002 is annexed with SoC and marked as Annexure 6.

2.20 Pursuant to the above said family arrangement, an agreement was executed between (1) ATCMC-Respondent No.1, (2) Ajanta Electronic private Limited - (now renamed as Ajanta Manufacturing Ltd.) Respondent No.5, and (3) Ellora Time Limited - Claimant No.1, as the parties of First Part and Ajanta India Limited, as the party of Second Part on 20.09.2002. This agreement was entered into pursuant to the understanding reached while executing the Deed of Assignment; and all the parties to the agreement were controlled and managed by real brothers with a view to see that there may not be any mental disturbance, controversy or misunderstanding between the brothers. A copy of the said agreement dated 20.09.2002 is annexed with SoC and marked as Annexure 7.

2.21 Under the Deed of Assignment and the understanding reached between the parties, the two brothers namely the Claimant No.2 and Respondent No.2 and their respective families, who controlled the Claimant No.1 Company, the Respondent No.1 Company and the Respondent No.5 Company, were entitled to manufacture the items listed in clause 1 of the Agreement date 20.09.2002 and Mr. Ashokbhai Odhavjibhai Patel and the Company managed and controlled by him namely, Ajanta India Ltd., undertook not to manufacture or sell any such items in India in its name or in the name of anyone else. Similarly, Mr. Ashokbhai Odhavjibhai Patel and the Company managed and controlled by him namely, Ajanta India Ltd., was entitled to manufacture the items listed in Clause 2 of the Agreement dated 20.09.2002 and Claimant No.2 and Respondent No. 2

and their respective families, who controlled the Claimant No. 1 Company, the Respondent No.1 firm and the Respondent No.5 Company undertook not to manufacture or sell any such item in its name or in the name or in the name of anyone else in India. The Claimants, however, clarify that the companies managed and controlled by the Claimant No.2 and Respondent No.2 namely Claimant No.1 Company, the Respondent No.1 firm and the Respondent No.5 Company, were not entitled to manufacture any of the items mentioned in Clause 1 of the Agreement Dt.20.09.2002 except wall clocks and time pieces of all kinds and parts thereof under the trademark "Ajanta " or "Ajanta Quartz".

2.22 In view of the said family arrangement the Respondent No.1 firm was reconstituted with the retirement of all outside partners and the induction of the Respondent No.3 therein as a partner. A Retirement Deed was executed on 20.09.2002 of the Respondent No.1 partnership firm, which was even otherwise not carrying on any business since 2000 because of disputes and differences between the partners, and all the partner of the said firm other than the Claimant No.2, Ms. Vanitaben Pravinbhai Patel and the Respondent No.2 retired from the firm. The said Deed of Retirement categorically mentioned that the retiring partner will have no right, title or interest in any of the assets of the erstwhile partnership firm irrespective of the facts whether such assets were held in the name of the firm or any of its partners and the retiring partners will do all that is necessary to transfer such assets to the continuing firm. The accounts of the partnership were also settled and the retiring partners were paid the amounts due on settlement of accounts. On 20.09.2002, a new partnership deed was executed and the Respondent No.3, Ms. Mrudulaben Jaysukhbhai Patel was inducted as a partner in the Respondent No.1 firm. It would be pertinent to highlight that the share in profits in the Respondent No.1 firm of Claimant No.2 and Ms.Vanitaben

Pravinbhai Patel were 40% and 25%, while that of Respondent No.2 and 3 were 25% and 10% respectively. A copy of the Retirement Deed dated 20.09.2002 is annexed with SoC and marked as Annexure 8 and a copy of the Partnership Deed dated 20.09.2002 is annexed with SoC and marked as Annexure 9.

2.23 The Respondent No.1 firm continued to own the trademark "Ajanta" in respect of clocks and time pieces. According to the Claimants, after the above referred agreements were entered into, the Claimant No.1, which till then was manufacturing and marketing wall clocks and time pieces under the mark 'ORPAT' and 'Rewa', started manufacturing and marketing wall clocks and time pieces under the mark "Ajanta Quartz " continuously and uninterruptedly, and without any objection from Respondent No.1 firm. Moreover, the Claimant states that since 2002, Ajanta Clocks are only being manufactured by Claimant No.1 company and being marketed by it both in India and abroad and neither Ajanta India Limited nor the Respondents have manufactured or marketed wall clocks and time pieces. A compilation of the bills and invoices showing the sale and export of wall clocks by the Claimant No.1 between the years 2002 to 2012 has been filed with SoC and marked as Annexure 10 and Annexure 11 respectively.

2.24 The Claimants have further alleged that the Respondent No.1 partnership firm which had closed down the business in or around the year 2000, recommenced operations. The Respondent No.1 firm, however, confined its manufacturing and marketing operations limited to only CFL products which were marketed under the mark "ORPAT" owned by the Claimant No.1. The family arrangement resulted in retirement of outside partners and division of business amongst the members of the family such that the family of the Claimant No.2 and the Respondent No.2 continued to jointly carry on

business in various companies and partnership firms, particularly in Claimant No.1, Respondent No.1 and Respondent No.5, while the third brother Mr. Ashokbhai Odhavjibhai Patel separated and continued to carry on business under the mark 'Ajanta' for various products other than wall clocks and time pieces.

2.25 There are several pending litigations between the parties which do not have relevance to the proceedings. The only fact relevant for the present matter is that by an Order dated 02.09.2011 the Delhi High Court has in a pending suit, C.S.(O.S.) No.2012 of 2007 titled as M/s Ajanta India Limited Vs. M/s Ajanta Limited, directed the Claimant No.1 to affix the brand name ORPAT alongside Ajanta, which they have followed till date. It is pertinent to mention that the Respondent No.2 himself filed an Affidavit on behalf of the Claimant No.1 before the Delhi High Court in the afore-mentioned suit wherein he has said that the Claimant No.1 will affix the brand name ORPAT alongside AJANTA. A copy of order of the Delhi Court dated 02.09.2011 is C.S.(O.S.) No.2012 of 2007 is annexed with SoC and marked as Annexure 12.

2.26 Somewhere in 2003, there was a reconstitution of the Respondent No.1 firm and the Claimant No.2 and Respondent No.2 retired from the partnership firm. The said Retirement Deed was executed on 09.08.2003. immediately after the retirement of the said two partners, they were again admitted as partners of the said firm, but in the capacity of Karta of their respective Hindu Undivided Families. The said firm continued to carry on business of manufacturing and marketing CFL products under the mark "ORPAT". A copy of Partnership Deed of The Respondent No.1 dated 09.08.2003 is annexed with SoC and marked as Annexure-13.

2.27 As stated earlier, the above narration and chronology of events recedes in backdrop and what is

crucial are the events which happened thereafter and are narrated hereunder.

Emergence of disputes, subject matter of present proceedings

2.28 In or around the year 2004, disputes and differences arose between the Claimant No.2 and his family on the one hand and the Respondent No.2 and his family on the other. As a result of effort of the elders of the family and the family friends, a family arrangement was reached between the two families and it was decided that the Claimant No.1 company would come to the share of Claimant No.2 and his family along with rights to continue to manufacture wall clocks and time pieces and market the same under the mark 'ORPAT' and 'Ajanta' or otherwise and to continue to manufacture and market all other products which the Claimant No.1 was then manufacturing and marketing; and, that the Respondent No.1 firm and Respondent No.5 company would come to the share of Respondent no.2 and his family and they would continue to manufacture and market the products which they were manufacturing including CFL products, under the mark 'ORPAT' till then.

2.29 As a part of the family arrangement, the following documents came to be executed in or around July-August 2004:

- i. Memorandum of Understanding between Claimant No.1 (then Ellora Time Limited), the Respondent No.1 firm and the Respondent No.5 company.
- ii. Retirement Deed in respect of the respondent No.1 firm, whereby Claimant No.2 as Karta of his HUF and Ms. Vanitaben Pravinbhai Patel retired from the said firm

iii. New Partnership Deed of the Respondent No.1 firm which comprised of only two partner, namely, the Respondent No.2 as the Karta of his HUF and the Respondent No.3.

2.30 This apart, the family of Claimant No.2 transferred all the shares held by them in the Respondent No.5 Company to the members of the family of Respondent No.2 and the family of Respondent No.2 transferred all the shares held by them in the Claimant No.1 Company to the members of the family of Claimant No.2. By way of family arrangement a clear separation of businesses was effected between the two families, namely, that of the Claimant No.2 and the Respondent No.2. The terms of the family settlement dated 21.07.2004 provided for a use in perpetuity by the Claimant No.1 of the mark 'Ajanta' in respect of wall clocks and time pieces and by respondent No.1 of the mark 'ORPAT' respect of the products mentioned in Memorandum. The purpose was to avoid any dispute between the brothers and to settle all pending disputes once and for all. A copy of the Memorandum of Understanding between Claimant No.1, Respondent No.1 and Respondent No.4 dated 21.07.2004 and the New Partnership Agreement have been filed with SoC and marked as Annexure 14 & 14A. Copies of the invoices of the Claimant No.1 showing sale of wall clocks under the mark 'ORPAT' and 'Rewa' from the year 2000 are annexed with SoC and marked as Annexure 15.

2.31 The contents of the MOU are of vital significance to this dispute. They are set out in Para 2.41 hereunder (and hence are not being reproduced here at).

2.32 The family settlement reached between the two brothers culminating into execution of deeds of retirement, transfer of shares and the execution of Memorandum of Understanding clearly envisage that Claimant No.1 would only be manufacturing wall

clocks and time pieces and would have a perpetual right of use of the mark 'Ajanta' in respect of the same. It also envisages that the respondents would not be entitled to manufacture wall clocks and time pieces any time in future. The purpose, as identified in the MOU dated 21.07.2004, is to maintain unity between the brothers and to avoid rivalry and strife between the brothers.

2.33 The parties were aware at the time of executing the family settlement that the brand name AJANTA was with Respondent No.1 and there was an express understanding to part with the brand name to the Claimant No.1 as it was the only company since 2002 manufacturing and selling wall clocks and time pieces which were agreed to be taken over by the Claimant No.1. The Respondent Nos. 1 and 5 decided to engage in other new generation products like digital clocks, DVD, etc. in terms of the family settlement, Claimant No.2 and the members of his family, transferred the share held by them in Respondent No.5 to the family members of Respondent No.2. Furthermore, Claimant No.2 and Ms. Vanitaben Pravinbhai Patel retired from Respondent No.1 firm. Respondent No.1 and Respondent No.5 were given the right to use the mark 'ORPAT' in respect of the products mentioned in the Memorandum of Understanding and, in consideration of all the aforementioned, Claimant No.1 got all rights in and to the mark 'Ajanta' with respect to wall clocks and time pieces and the exclusive right to manufacture and sell wall clocks and time pieces. According to the Claimants, in view of the family settlement and the consequent documents executed, the Claimants after the execution of the said Memorandum of Understanding, are exclusively entitled to use the mark 'Ajanta' in respect of wall clocks and time pieces as well as exclusive right to manufacture and sell wall clocks and time pieces. The Claimants further submit that the Respondents are also estopped from manufacturing and marketing wall clocks and time pieces as per the undertaking given

by them in the Memorandum of Understanding reached pursuant to the family arrangement.

2.34 The Claimant No.1 started manufacturing wall clocks in or around the year 2000 under the mark 'ORPAT' and 'Rewa' and with effect from September 2002, the Claimant No.1 has been manufacturing and marketing wall clocks under the mark 'AJANTA QUARTZ' continuously. The Claimants further submit that the Claimant No.1 is even now manufacturing and marketing wall clocks and markets the same under the mark 'AJANTA QUARTZ' and has a turnover for the year ending 2011 of Rs.119 crores in wall clocks alone and the number of wall clocks sold by the Claimant No.1 in the year 2011 are 94,58,150 pieces. Furthermore, it is submitted that the Claimants are exporting wall clocks under the mark 'AJANTA' to various countries such as UAE, Egypt, Iraq, Myanmar, Yemen, Kuwait, Ukraine, Bangladesh, Nigeria, Mauritius, Sri Lanka, Moldova, Uganda etc. and its earnings from the export of the said wall clocks are running around Rs.10 crore.

2.35 The Respondent No.1 has been manufacturing and marketing CFL, Products under the trade mark 'ORPAT' since 2002. The Respondent No.1 continued to do so after the Memorandum of Understanding executed in July-August 2004. However it appears that somewhere in 2006-2007 they stopped marketing such products under the mark 'ORPAT' but stated marketing it under the mark 'Oreva'. It also appears that they again marketed the said product under the mark 'ORPAT' in 2011. The Claimants say that under the Memorandum of Understanding the Respondents were entitled to manufacture LED, LCD, Clocks and for the said purpose, they were entitled to use the mark 'ORPAT'. The Claimants say that the Respondents had categorically accepted under the Memorandum of Understanding the Claimant No.1's ownership of the trade mark 'ORPAT'. The Respondent No.1, however, was permitted to use the

mark 'ORPAT' in respect of power saver lamps, such as CFL under the MOU dated 21.07.2004.

2.36 In or around the year 2004 is the time when the events took turn and are of significant relevance for the dispute which is for adjudication in the present arbitration. The Claimants say that the Respondent No.2, knowing fully well that the trade mark "ORPAT" was owned and registered by the Claimant No.1, applied for a word mark (label mark) "ORPAT Power Saver Better Light More Saving" under Class 9 by Application No.1342931 dated 07.03.2005. the said mark has been granted registration. A copy of Application No.13429131 for Class 9 for registration of the mark 'ORPAT-Power Saver Better Lights More Saving " held by Respondent No.2 is annexed with SoC and marked as Annexure-16.

2.37 Respondent No.2 has claimed that they are using the mark since 03.05.2003. As per the Claimants, it was the understanding of the Claimants and the Respondents under the MOU dated 21.07.2004 that the Respondents could manufacture products under the mark "ORPAT" which was assigned to them just as the Claimants could exclusively manufacture and market wall clocks and time pieces under the brand name "Ajanta". It will be essential to note that in this way the Respondent No.2 and the Claimant No.2 acted pursuant to the family settlement arrived at in the MOU dated 21.07.2004 and did not raise any objection for more than 7 years. It is submitted by the Claimants that there was no need for the same as for all means and purposes the MOU was and is permanent in nature.

2.38 The Claimants received a letter dated 22.11.2011 from the Respondent No.1 purporting to cancel the Memorandum of Understanding dated 21.07.2004 and asking the Claimant No.1 to stop manufacturing and marketing products with trade mark 'Ajanta' and not to use the trade mark 'Ajanta' in any form or any manner on products, brochure,

catalog, publicity materials, etc. The Claimant No.1 duly responded to the said letter by its reply dated 03.01.2012 pointing out the contents of the MOU and its binding nature thereof and requested the Respondent No.1 to withdraw the letter dated 22.11.2011. In addition, the Claimant No.1 requested Respondent No.1 to withdraw their letters considering the blood relationship of their and the MOU. It was additionally pointed out that as an elder brother Claimant no.2 had shared and given the best to Respondent No.2 and his families and yet Respondents were acting incorrectly.

2.39 Instead of withdrawing the letter, the Respondent No.1 addressed another letter dated 21.01.2012 falsely alleging that the Claimant No.1 was permitted to use the mark 'Ajanta' purely on a temporary basis. The Respondent No.1 also falsely alleged that the Claimant No.1 was never permitted to use 'Ajanta Quartz' (artistic work). On the basis of the said allegations, the Respondent No.1 called upon the Claimant No.1 to stop the usage; otherwise, the Respondent No.1 would be entitled to claim damages at the rate of 15% of the turnover. The Respondent No.1 also reserved its right to claim 10% of the turnover from 2004 for the alleged unauthorized use of the goodwill of the Respondent No.1

2.40 The Claimant No.1 replied to the said letter refuting the allegations of Respondents No.1. The Claimant No.1 also highlighted that the Claimant No.1 has adopted that mark 'AJANTA QUARTZ' and Respondent No.1 is wrongly using both 'AJANTA' and 'AJANTA QUARTZ'

MOU Dated 21.07.2004

2.41 The most important document is the MOU Dated 21.07.2004 on the contents and binding legal efficacy of the MOU would by and large depend the decision of the dispute before the Tribunal. Hence, the MOU is reproduced hereunder.

MEMORANDUM OF UNDERSTANDING

The Memorandum of Understanding which is explanatory of the Brand Name of the Company and its use among the Director-Partners of M/s Ellora Time Ltd. Morbi, M/s Ajanta Transistor Clock Manufacturing Co. Morbi and M/s Ajanta Manufacturing Co. of Kutch and is duly executed witness as under :-

(1) "ORPAT" - It is admitted that M/s Ellora Time Ltd. is the owner of the Brand Name.

(2) "AJANTA" - It is admitted that M/s Ajanta Transistor Clock Mfg. Co. Morbi is the owner of the Brand Name.

The understanding in this behalf is arrived at between both the parties-brothers which is binding to the Owner, Director-Partners' of the concerned Companies - partnership firms and the same shall be binding to their respective heirs, assignees transferees and successors of any nature.

UNDERSTANDING

(1) M/s Ellora Time Ltd. can make use of the Brand Name "AJANTA" only for its own products - wall clocks and time pieces and it cannot make its use for its any other product.

(2) The partnership firm of M/s Ajanta Transistor Clock Mfg. Co. will be entitled to make use of the Brand Name "ORPAT" for its own products - "Energy Saver, Lamps, DVDs, VCD, Wrist Watch, LCD and LED Clock, Digital Camera, all types of Ceramics tiles and all its products of the same nature and it cannot make its use for its any other products.

It is understood and agreed that the above two parties are the owners of the respective brand names

mentioned above and each of the party gives permission to the other party to use its brand name as mentioned above.

(3) The above items which are manufactured by either Company - firm shall not be manufactured by the other Company - firm.

(4) M/s Ellora Time Ltd. shall not manufacture the Energy Saver Lamps manufactured at present by M/s Ajanta Transistor Clock Mfg. Co. and its new developments, such as LED, LCD, Clocks, DVD, Wrist Watch, Digital Camera and also its products of manufacturing Granite tiles, which has come to the share of M/s Ajanta Mfg. Ltd.

In the same way, M/s Ajanta Transistor Clock Manufacturing Co.; or M/s Ajanta Manufacturing Co; I shall not manufacture any of the products of M/s Ellora Time Ltd. such as Clock, time piece, Calculator, telephone and home appliances which are manufactured by it at present.

As well as in the future also, any Company shall not manufacture any product which is manufactured by the other Company or Companies so that there may not be any rivalry between the brothers and unity may be maintained between them. At the one time, either party is free to develop, in own way, to manufacture new products, and the same shall not be manufactured by the other party. Information in its behalf is to be conveyed by either party to the other party in advance.

Both the parties have come to this understanding as stated above which both agree to abide by it and no default is to be made in this regard. Both the parties give undertaking and promise in this regard to the other party. In case any dispute, misunderstanding or objection arises in future between the parties, the same will be settled by mutual understanding amicably inter se if the same is not so settled then

are settled by a good arbitrator. Both the parties give full trust and assurance in this regard to each other and in token thereof this memorandum of understanding are done.

It is read over by partners and directors of the companies and signed hereunder and attested by witnesses.

Sd/- P. O. Patel
Managing Director
M/s Ellora Time Ltd.

(1) Sd/- G. B. Bhalodia

(2) Sd/- B. S. Mehta

Sd/- J.O. Patel
M/s Ajanta Mfg. Co.

Sd/- J.O. Patel
M/s Ajanta Transistor Clock Mfg. Co.
21.07.2004

The original MOU is in Gujarati. English translation thereof has been placed on record by both the parties. In this Award the English translation has been reproduced as contained in the Tribunal's Order u/s 17 A & C Act Dt.03.10.2012, as, during the course of hearing it was agreed to by both the sides that it was a correct translation.

Defense

2.42 As already stated earlier, so far as the background facts are concerned, culled out from the pleadings and set out hereinabove, there is not much dispute; only the manner of looking at the events differs narrowly. However, those background facts are lot in issue in the present case and it is not necessary to express any opinion either way on those facts. The real dispute between the parties, and on which depends the resolution of issues before the Tribunal, looking at the manner of contest in the

present proceedings and the manner in which the Ld. Sr. Counsel for parties have made their submissions, begins with the MoU dt. 21-07-2004. Hence here at, the contentions raised by the Respondents in their statement of Defense (SoD), in particular as to the MoU, are noticed.

2.43 In the submission of the Respondent:

- i) The MoU dt. 21-07-2004 is contrary to certain principles of law hence void and cannot be relied upon;
- ii) The MoU was a commercial contact between claimant No. 1 and Respondent Nos. 1 & 5 capable of being terminated by the Respondents;
- iii) That the MoU was meant to be used only temporarily and that too by way of an interim arrangement arrived at between the claimant No. 1 and Respondent No. 1 & 5.
- iv) That the Claimant No. 1 was allowed to use the mark 'AJANTA' for their wall clocks and time pieces Respondent No. 1 was permitted to use 'ORPAT'. Such permission was in the nature of a license for a limited Period and accordingly the Respondent stopped using 'ORPAT' from 2006-07, but the claimants have continued to use 'AJANTA' thereafter without payment of any license fee;
- v) That it is the deed of Retirement from the partnership Respondent No. 1 which is final and binding and supersedes the MoU dt. 21-07-2004.

2.44 It is further the case of the Respondent that the Respondent No. 1 commenced manufacturing AJANTA QUARTZ digital clocks, energy saving lamps since 2005-06 onwards. CFL products, vitrified tiles, Aluminium composite panel (ACP) and electronic bikes are being manufactured by Ajanta

Manufacturing Ltd. and marketed under its own brand 'OREVA'.

2.45 The Claimants who were allowed to use the Respondent's mark 'Ajanta' for wall clocks and time pieces have been including in illegal action so as to dilute the mark of the Respondents. The Claimants have been using 'AJANTA' and 'ORPAT' two distinct and separate marks for wall clocks and time pieces which they were permitted to manufacture. The Claimants are attempting to confuse the consumers that the marks 'ORPAT' and 'AJANTA' have the same source of origin.

2.46 The Respondents have also preferred a Counter-Claim wherein they have pleaded that the trade mark 'AJANTA' is owned and used by them and therefore, the Claimants be restrained by permanent injunction from directly or indirectly offering goods, more specially wall clocks and time pieces under the trade mark 'AJANTA' or any other mark deceptively similar to the said mark amounting to infringement of the trade mark of Counter Claimants. The Counter Claimants have also sought for the relief of rendition of accounts from 2005-06 of profits earned by the Claimants on the sales of 'AJANTA' wall clocks and time pieces along with the relief of delivery up of all the infringing goods and materials."

5. The only submission of the petitioners addressed by the counsel is that the Arbitral Tribunal while allowing the claim of the respondents has restrained the petitioners from directly or indirectly marketing, selling, advertising or dealing with wall clocks and timepieces by using brand name AJANTA with all its variants including AJANTA QUARTZ, although the respondents' original claim was to seek *inter alia* permanent injunction restraining the petitioners herein (original respondents) from manufacturing, marketing, and/or selling the products under the brand name

"AJANTA" in specific performance of the Memorandum of Understanding dated 21st July, 2004 (hereinafter referred to as "MOU") for wall clocks, time pieces and other products mentioned in prayer clause of the claim statement. The relief granted to the respondents by the learned Arbitrator while rejecting the counter claim of the petitioners which was confined to AJANTA QUARTZ is not correct as in the counter-claim filed by the petitioners before the learned Arbitrator, it was the case of the petitioners that trademark "AJANTA" and "AJANTA QUARTZ" are separate and distinct. Despite of fact that as per the MOU, the trademark "AJANTA" was permitted to be used for a limited period of time, but the respondents with malafide intention took benefit of the MOU and started using trademark/copyright "Ajanta Quartz" on wall clocks and other products illegally. The learned sole Arbitrator has wrongly interpreted the clauses of MOU who failed to notice that even as per the MOU, the petitioners had only permitted to use trademark "AJANTA" for wall clocks and time pieces. If it is a valid assignment as per MOU, under no circumstances, the respondents should have allowed to use the expression "Quartz".

6. Counsel for the petitioners in support of his submission has referred letters of admissions of the respondents in support of his arguments i.e. letter dated 14th October, 2011 written by the counsel for the respondents to Ajanta India Limited and letter dated 6th February, 2012 written by respondent No.1 to petitioner No.1.

7. Before dealing with the single submission made by the counsel which is pressed, let me refer to paras 4.22 to 4.28 of the award, the same read as under:

"4.22 Mr. Dushyant Dave, Ld. Sr. Advocate for the Claimant submitted that the brand name 'AJANTA' would include various forms and combination of words wherein the brand name 'AJANTA' dominates. The Respondent cannot be permitted to use AJANTA or AJANTA QUARTZ trademarks or brand names. This is clearly supported by the widely worded language of the MoU which reads (vide Para 4) - "4 as well as in the future also, any company shall not manufacture any product which is being manufactured by the other Company or companies so that there may not be any rivalry between the brothers and unity may be maintained between them. At the same time, either party is free to develop new products in their own way and the same products shall not be manufactured by the other party. Information in this behalf is to be conveyed by either party to the other party in advance".

4.23 The MoU expressly grants all rights in respect of the trademark AJANTA, which is also the trademark registered in the name of the Claimants, in respect of wall clocks and time pieces. The Respondent/Counter Claimants are not permitted by the MoU to manufacture and sell wall clocks and time pieces, the two products where in manufacturing and marketing rights qua the Respondents have been expressly and unequivocally given to the Claimants. The Respondents have been given right to manufacture and sell the other 9 products mentioned in the MoU. They are to use the brand name ORPAT.

4.24 'QUARTZ' is a hard mineral, often in crystal form, that is used to make very accurate clocks and watches. 'QUARTZ' affixed to 'AJANTA' would mean wall clocks and time pieces carrying the trade name of 'AJANTA' but using a hard mineral often in crystal form which ensures accuracy in time display of such

clocks and time pieces. Just as 'QUARTZ' can be suffixed with 'AJANTA', it can as well be suffixed with any other brand or trade name. In short, 'AJANTA QUARTZ' cannot be trade name, trade mark of a brand different from 'Ajanta'. Any view taken otherwise would result in creating confusion and deception.

4.25 A reading of the MoU shows that it not only gave the rights, but also imposed restrictions on the parties thereto. Not only the wall clocks and timepieces were given to the claimants. The respondents were prohibited from manufacturing wall clocks and time pieces the question of respondents manufacturing and marketing wall clocks and time pieces and acquiring good will and reputation, therefore, under a different brand would not arise as per the MoU. On the other hand, as para 4 of the MoU shows Energy Saver Lamps, LED, LCD Clocks, DVD and wrist Watches, Digital Camera were being manufactured and marketed by ATCMC, the Respondent No.1. GRANITO tiles had gone to the share of Ajanta Manufacturing Ltd., the Respondent No.5. By the MoU, the Claimants were prohibited from manufacturing these products. The same Clause 4 also mentions products such as clocks, time pieces, calculators, telephone and home appliances which were on the date of MoU being manufactured by the Claimants and the Respondents were prohibited from manufacturing these products.

4.26 The MoU spelled out the above prohibition not only in present but also for future. Any product manufactured by one company should not be manufactured by the other. The salutary object for selling out such division and prohibition is also spelled out in the MoU which is - "so that there may not be any rivalry between the brothers and unity may be

maintained between them". The MoU, expanding the width of settlement also took into consideration the possibility of the members of the MoU embarking upon some other business activity. Therefore, it also provided that either party was free to develop new products in its own way and the same product would not be manufactured by the other party subject to the information in this regard being conveyed by that party to the other party in advance of development of such new product.

4.27 AJANTA QUARTZ was always marketed by the Claimants without any objection by the Respondents. (See Q & A No.11 of Jaisukhbhai, quoted in Para 3.3 above). The certificate of registration for trademark "AJANTA" under Class 14 Dt.06.08.1991 being Nos.503244, 555947, 555948, 555949, 555950, 555953 and 555954 expressly contained "AJANTA QUARTZ" in regional languages. AJANTA QUARTZ was therefore always considered an integral part of 'AJANTA' (See Volume CD-1, page8-26). AJANTA QUARTZ always sailed with AJANTA as a singular possibility and convenience. This would further become clear in light of the documents filed by the Respondents/Counter Claimants to show that they manufactured wall clocks and time pieces using "AJANTA QUARTZ" from the 1989 till the year 1995 (See Vol. RD-1, page 7-18). It is also not disputed that in the year 1995, all production by the Respondent No.1 stopped due to family disputes and deadlock. As a result, the Claimant No.1 started manufacturing and selling wall clocks in the year 2000 and has been selling the same till date (See VolumeCD-1, pages 125-128). It also cannot be disputed that the Respondents did not manufacture wall clocks or time pieces from 1995 till 2012 as the same were launched for the first time in May 2012 (See Volume CD-1, page 353). The question of

AJANTA QUARTZ having been actually used by the Respondents for any length of time does not arise.

4.28 Even the trademark certificate for "AJANTA QUARTZ" that has been granted to the Respondent/Counter Claimant on 23.09.2014 contains a specific restriction that the same must be used only in relation to the certificates Nos.503244, 555947, 555948, 555949, 555950, 555953 and 555954 which were given to the Claimant under the MoU. The wall clocks have been sold as "AJANTA QUARTZ" by the claimant ever since 2002 and this has been never objected to. At pg. 21 of the SoD, the Respondents have stated – "The Claimant no.1 & 2 are also creating confusion in the market as regards the two separate and distinct brands AJANTA and ORPAT. Their products carry the mark AJANTA QUARTZ whereas the packaging carries the mark "ORPAT". Apart from the documents, from the pleadings itself it appears that it is more or less an admitted case that the user of AJANTA and AJANTA QUARTZ has been by the Claimants; though the Respondents have qualified their admission by alleging that such use by the Claimants was under the license given by the Respondents through MoU and sometimes alleging that such use by the Claimants was unauthorized."

8. During the cross-examination of Mr. Jaysukhbhai Patel. RW-1, the question No.11 and 37 are relevant in order to decide the limited issue raised by the petitioners. The said questions and answers are reproduced as under:

"11 Q Did you take any legal steps before 2012 to prevent Ajanta Ltd. and Pravinbhai from using trade mark 'Ajanta' or 'Ajanta Quartz'?

A. No. I wish to add that I wanted the matter to be resolved informally within the family with the help of

relatives. For this purpose letters were written and telephonic conversations were held. Meetings were also held.

37 QIs it correct to say that Ajanta Ltd. was selling its wall clocks under the trade name 'Ajanta Quartz' during 2004 to 2012?

A The Claimants used different brand names including 'Ajanta Quartz' and 'ORPAT', sometimes individually and sometimes both."

9. When the findings of the learned Arbitral Tribunal and cross examination of the petitioners were confronted, counsel for the petitioners submits that atleast, the respondents be restrained from using the expression "Quartz" in the same script.

10. From the admission made on behalf of the petitioners which has come in evidence that the respondents had used different brand name including Ajanta Quartz during 2004 to 2012, it is clear that the respondents were using the expression since 2004 within the knowledge of the petitioners. As per terms of the family settlement dated 21st July, 2004 it provided the mark AJANTA in respect of clocks and time pieces to the respondents. In case the petitioners had to use the expression QUARTZ, it could have been clarified in the MOU. The advantage of copyright registration does not help the case of the petitioners as even no protection under the copyright is granted for titles of the mark. It is the opinion of the Court that once the mark is given in compliance of MOU and the respondents were using the expression since 2004, the petitioners are not entitled to seek injunction against the respondents who would otherwise be entitled to take the benefit of concurrent user as the

said user was within the knowledge of the petitioners from the very beginning.

11. With regard to challenge by the petitioners to MOU executed between the parties, the learned sole Arbitrator after hearing has discussed the said arguments of the petitioners in paras 4.47 to 4.53 of the award. The same read as under:

"4.47 In my opinion, the primary purpose of the parties to the MoU as is spelled out by itself was to settle their disputes relating to the brand name (trademark) of their products for which the family had been exerting hard since times. In their zeal to clearly lay down the dividing line for use of the brand names (trademarks) for future, they in their zeal went on to the extent of dividing also the area of the products which the parties were manufacturing or were likely to manufacture in future so that they never cross each other's path in their activity of manufacturing and marketing the products, in present or in future.

4.48 In my opinion, the MoU so far as it restrains the Respondents from manufacturing the clocks and timepieces is void as being hit by Section 27 of the Contract Act. Manufacturing clocks and timepieces is a lawful activity. By contract such lawful activity being restrained is a restraint violative of Section 27 of the Contract Act. Moreover, I see no fun in the Claimants seeking a restraint on the Respondents alone when the whole world is free to manufacture wall clock and timepieces. Just at the Claimants would be facing competition from others, they can also face competition from the Respondents. What is a matter or real concern to the Claimants is the user of the same brand name and same trade name by the Respondents. That is violative of the Intellectual property law. Moreover, it is amusing¹ to learn the manner in which the Respondents have obtained copyright of AJANTA QUARTZ. The document brought on record by the Respondents itself goes show that Ajanta Quartz has been written designed in a

deceptive way. The word AJANTA is written prominently in big letter; with it is written 'Quartz' in small and subdued letter. From a distance, an unwary customer would read AJANTA and ignore Quartz. This fact situation added with the knowledge that Quartz is a name of technique rather than of a product', 'AJANTA Quartz' if permitted to be used by the Respondents would certainly cause confusion and result in deception to the customers for Ajanta products. Thus, the MoU to the extent to which it prevents the Respondents from manufacturing certain products is void. It is valid and binding to the extent to which it restrains the Respondents from using the brand name and trademark Ajanta with all its variations.

4.49 Before constructing the relief which deserves to be granted to the Claimants against the Respondents, I would like to sum up even at the risk of repetition, the findings arrived at and which are pertinent.

- i. The MoU Dt.21.07.2004 is a family settlement legal and valid, voluntarily executed by the parties thereof in the interest of settling all the family disputes and buying peace and harmony and good relationship.
- ii. The said MoU is a document with a perennial effect. It is neither a temporary document nor a document which is determinable by either party thereto.
- iii. The family settlement incorporated in the MoU has been acted upon by the parties and thereby the arrangement brought into force by the MoU has become irreversible and irrevocable.
- iv. The distribution and consequent allotment of the brand names owned by the parties thereto, as made by the MoU is final and none of the parties thereto can be permitted to make a departure there from.

4.50 Though, I have formed an unhesitating opinion on the point that such of the provisions of the MoU ascertain any party thereto from manufacturing any products which are commonly manufactured in the business or trade carried on by the family are violative of Section 27 of the Contract Act and therefore, are not enforceable in law yet I hope and expect the parties to honor even this term of the MoU as a gentleman's word in the interest of their close relationship and avoiding any scope for conflict. The parties must remember that there is a history of litigation behind, and the settlement incorporated in the MoU has been brought about by the intervention of their family, friends and well-wishers.

4.51 In view of the finding arrived at hereinabove, the parties must be held bound to the terms of the MoU and there from the reliefs to be granted to the parties have to flow. According to the Clauses 2, 3 & 4 of the MoU:

(a) M/s Ajanta Transistor Clock Manufacturing Company, the Respondent No.1 is entitled to make use of the brand name ORPAT for its own products namely; (i) Energy Saver Lamps, (ii) DVDs, (iii) VCD, (iv) Wrist Watch, (v) LCD, (vi) LED Clock, (vii) Digital Camera, (viii) all types of ceramic tiles, and (ix) all its products of the same nature; but not for any other products.

(b) The Respondent No.1 is the owner of brand name (trademark) ORPAT in respect of the above products.

(c) The Claimants can make use of the brand name (trademark) AJANTA only for wall clocks and time pieces manufactured by them and not for any other products.

4.52 The MoU restrains, for all times to come, manufacturing by the Claimants of such products as were, on the date of the MoU, being manufactured by the Respondents; and also restrains manufacturing

by the Respondent of such products as were, on the date of the MoU, being manufactured by the Claimants. (Clause 3). The MoU vide Clause 4, specifically restrains the Claimants from manufacturing for all times to come the 9 items referred to in para 3.51 (a) above. In the same way, the MoU specifically restrains the Respondents No.1 & 5 from manufacturing for all times to come clocks, time pieces, calculators, telephone and home appliances which, on the date of the MoU, were being manufactured by the Claimant No.1 these restraints are not qualified by any term as to the duration of restraint or the geographical area to which the restraint would apply. A sweeping restraint such as the above is violative of Section 27 of the Contract Act and hence is void.

4.53 So far as the Counter Claim (as amended) is concerned, it is confined to 'AJANTA Quartz' only. In view of the finding that AJANTA Quartz was developed by the Claimants and they have been using it while the Respondents have failed in substantiating their plea of user of AJANTA Quartz by them, they are not entitled to the relief against the Claimants as prayed for."

12. For the reasons given above, I am of the considered opinion that the learned sole Arbitrator has examined each and every aspect of the matter who after hearing both the parties and considering evidence has given his findings which are reasonable, logical and in unbiased manner. Once it is found that the Arbitral Tribunal's approach is not arbitrary, the chances of interference are very bleak. In the present case, the award does not suffer from any infirmity. The objections are accordingly dismissed.

(MANMOHAN SINGH)
JUDGE

MAY 18, 2016