

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

ARBITRATION PETITION NO. 1098 OF 2018

INX News Pvt.Ltd.

...Petitioner

VS.

Hiren Rajendra Jain

...Respondent

Mr.Ashif Shaikh i/b. Amarendra Mishra for Petitioner.

Mr.Sheroo Kanuga for Respondent.

CORAM : S.C. GUPTE, J.

DATE : 3 OCTOBER 2019

P.C. :

Heard learned Counsel for the parties.

2 This arbitration petition challenges an award by a sole arbitrator on a reference arising out of a contract for transport services. The Respondent, who was a claimant before the arbitral tribunal, had provided vehicles to the Petitioner (original Respondent to the reference). Its claim pertained to vehicles provided during the period from 1 August 2012 to December 2012. The case of the Petitioner before the sole arbitrator was that the agreement for provision of vehicles between the parties was operative only till 31 July 2012. It was submitted that after 31 July 2012, there was neither an agreement between the parties nor was any provision of vehicles made by the Respondent. It was submitted before the arbitrator by the Petitioner herein that subsequent to the expiry of the original agreement period, i.e. after 31 July 2012, there were negotiations between the parties, but these negotiations did not fructify into any contract.

3 The learned arbitrator considered, in particular, the

following questions :

- (i) Whether the claimant could maintain a claim beyond 31 July 2012?
- (ii) Whether the claimant actually provided transport services to the Respondent between 1 August 2012 and till December 2012? and
- (iii) Whether the claimant was entitled to the amounts for the services provided by them on the basis of the invoices?

4 On the first question, the learned arbitrator came to a conclusion that the agreement could be renewed with mutual consent by giving 30 days advance notice by either party. After considering the correspondence between the parties post 31 July 2012, the learned arbitrator came to a conclusion that the correspondence did indicate that the Petitioner had requisitioned vehicles from the Respondent and that these documents indicated that the original agreement continued even beyond 31 July 2012. The learned arbitrator has also taken into account in this behalf the oral testimony of the claimant's witness (CW-1). Based on the questions and answers, which were quoted in the award, the learned arbitrator came to a conclusion that it had come on record that the arrangement after August 2012 was to continue on the same quotation as the quotation forming part of the original agreement. The learned arbitrator noted that the renewal clause in the original agreement provided for advance notice of renewal; it did not, however, provide for any particular format, which the parties had to invoke for continuation of the contract; the clause did not even require an advance written notice; it simply required a 30 days advance notice; such notice could always be given by email. The arbitrator was

of the view that the email correspondence referred to in the award did establish that the Petitioner had sought continuation of supply of vehicles from the Respondent even after 31 July 2012. After considering all these materials, the arbitrator was of the view that original agreement (Exhibit C-3) continued beyond 31 July 2012 by mutual consent of the parties and the Petitioner herein continued to requisition vehicles from the Respondent herein. The arbitrator took into account the particular invoices submitted in this behalf by the Respondent. The arbitrator considered the Petitioner's argument that some of these invoices did not have the Petitioner company's seal. The learned arbitrator noted that the alleged discrepancies in respect of various invoices, though generally referred to in the course of cross-examination of CW-1, were never pointed out during the final hearing and did not reflect even in the written submissions of the Petitioner herein. The arbitrator observed that the invoices raised by the Respondent were proved and except to the limited extent referred to in the award their contents or correctness (read with log sheet data) were not impeached by the Petitioner in the cross-examination.

5 Based on this analysis, the learned arbitrator answered all three questions referred to above in favour of the Respondent herein (i.e. the original claimant). There is no infirmity to be found in either the analysis of the learned arbitrator or the conclusions arrived at after such analysis within the parameters of the law of challenge to an arbitral award under Section 34 of the Arbitration and Conciliation Act, 1996. The arbitrator's views are supported by some evidence on record. The arbitrator, whilst arriving at such view/s, does not appear to have considered any irrelevant or non-germane material or disregarded any relevant or germane material or circumstance. The views expressed by the arbitrator are certainly possible views and not either impossible views or views, which no fair or judiciously minded

person may take of the material.

6 Accordingly, there is no merit in the challenge to the arbitral award. The arbitration petition is dismissed.

(S.C. GUPTE, J.)