

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

**COMMERCIAL ARBITRATION PETITION NO.325 OF 2024**

|                                         |                |
|-----------------------------------------|----------------|
| Srikrishna Polymer Industries Pvt. Ltd. | ....Petitioner |
| V/S                                     |                |
| Covestro (India) Pvt. Ltd.              | ....Respondent |

**WITH  
INTERIM APPLICATION NO.3431 OF 2024  
IN  
COMMERCIAL ARBITRATION PETITION NO.325 OF 2024**

|                                         |                |
|-----------------------------------------|----------------|
| Srikrishna Polymer Industries Pvt. Ltd. | ....Applicant  |
| V/S                                     |                |
| Covestro (India) Pvt. Ltd.              | ....Respondent |

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**Mr. Rajesh Shah** i/b Ms. Nilima V. Sanglikar *for the Petitioner.*  
**Mr. Dharan Gandhi** i/b Mr. Rajan Pillai *for Respondent.*

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**CORAM : SANDEEP V. MARNE, J.**  
**DATE : 19 NOVEMBER 2025.**

**P.C.:**

1. The Petition filed under provisions of Section 34 of the Arbitration and Conciliation Act, 1996 (**Arbitration Act**) seeks to challenge Award of the learned sole Arbitrator dated 20 March 2023. By the impugned Award, the learned Arbitrator has awarded a sum of Rs.1,06,12,111/- together with interest at the rate of 12% per annum in favour of the Respondent.

2. I have heard Mr. Shah, the learned counsel appearing for Petitioner and Mr. Gandhi, the learned counsel appearing for

Respondent. I have gone through the impugned Award as well as perused the documents filed alongwith the Petition.

3. Mr. Shah has raised essentially only two grounds for challenging the impugned Award viz. (i) the claim of the Respondent was barred by limitation, and (ii) the claim was filed by Covestro (India) Private Limited with whom there was no privity of contract by the Petitioner.

4. So far as the ground of limitation is concerned, the Arbitral Tribunal has held that the invoices are for the period from 31 October 2014 to 13 April 2015. The arbitration clause was invoked by notice dated 5 March 2016. This is how the objection of limitation is repelled by the learned Arbitrator. Mr. Shah would submit that even though the arbitration clause was invoked by the Respondent vide notice dated 5 March 2016, appointment of Arbitrator did not take place in pursuance of the said notice. He would submit that the Petitioner had a Counter Claim and accordingly filed Commercial Arbitration Application No.1 of 2017 under Section 11 of the Arbitration Act. He would invite my attention to order dated 28 November 2017 passed by this Court in Commercial Arbitration Application No.1 of 2017 in support of his contention that the Arbitral Tribunal was constituted to resolve disputes only in connection of one Invoice dated 31 October 2014. He would accordingly submit that the Arbitral Tribunal did not have jurisdiction. He would therefore submit that the letter of invocation dated 5 March 2016 is irrelevant for the purpose of deciding the issue of limitation. In my view, the above submission is clearly misconceived. The arbitration clause was invoked by notice dated 5 March 2016 in respect of all the concerned invoices. May be that Petitioner wanted to press Counter-

Claim in respect of only one invoice which was reflected in the order dated 28 November 2017. This did not mean that the Respondent was precluded from seeking resolution of disputes from the Arbitral Tribunal so constituted in respect of all the invoices. In my view, the finding that the claim was not barred by limitation therefore does not want any interference. It is another matter that the order dated 28 November 2017 was subsequently clarified by this Court by order dated 7 September 2022 by incorporating all the invoices for the purpose of constitution of the Arbitral Tribunal.

5. So far as the second issue of absence of privity of contract with Covestro (India) Private Limited sought to be raised on behalf of the Petitioner is concerned. The objection is premised on the contention that the purchase order was issued on an entity named Bayer Material Science Private Limited for supply of the concerned chemicals. It is contended that even goods are delivered by Bayer Material Science Private Limited. It is contended that Covestro (India) Private Limited had therefore no authority to raise any claim against the Petitioner. However, perusal of findings recorded by the learned Arbitrator in paragraph 22 concerning issue No.5 would indicate that during the course of cross-examination of the Respondent's witness, fresh certificate of incorporation dated 29 September 2004 was produced showing change of name from Bayer Industries Private Limited to Bayer Material Science Private Limited. The witness also produced copy of certificate of incorporation dated 26 August 2015 by which the name of Bayer Material Science Private Limited was further changed to M/s. Covestro (India) Private Limited. The learned Arbitrator has considered the above documents which are admitted in evidence and has held that the name of the entity Bayer

Material Science Private Limited on which purchase order was placed and which had delivered the goods is now changed as Covestro (India) Private Limited. Accordingly, even the second ground of challenge raised on behalf of the Petitioner is clearly misconceived.

6. Considering the above position, in my view, no case is made out for interference in the impugned Award. The Commercial Arbitration Petition is accordingly rejected.

7. In view of the disposal of the Commercial Arbitration Petition, the Interim Application would not survive and the same is also disposed of accordingly.

**(SANDEEP V. MARNE, J.)**

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signed by  
SUDARSHAN  
RAJALINGAM  
KATKAM  
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