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Arb.O.P (Com.Div.) No.225 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2025

CORAM

THE HON'BLE Mr. JUSTICE N. ANAND VENKATESH

Arb.O.P (Com.Div.) No.225 of 2023

1.M/s.Shlok Enterprises

2.Suhas Chaudhari

3.Kiran Keluskar

... Petitioners

Versus

TVS Motor Company Ltd.,
Regd. Office at Chaitanya

... Respondent

Prayer: Arbitration Original Petition (Commercial Division) filed under Section 34(2)(a) of the Arbitration and Conciliation Act, 1996 to set aside the award dated 14.12.2022 passed by the learned Sole Arbitrator, Mr.A.K.Kumarasamy, Senior Advocate and to direct the respondent to pay the costs.

For Petitioners : Ms.A.Rithika

For Respondent : Mr.Vishnu Mohan

ORDER



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This petition has been filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the Act), challenging the award passed by the Sole Arbitrator dated 14.12.2022.

2.The respondent is the claimant. The respondent, in the course of its business, appointed Dealers and Part Stockists for sale of their products for different regions in India. The respondent issued a letter of offer and the same was accepted by the petitioners. The dealers for sale of the products belonging to the respondent are classified as 'Authorised Main Dealers', 'Authorised Dealers' and 'Authorised Part Stockists'. The petitioners were the Authorised Part Stockists for the areas specified by the respondent. The letter of offer dated 27.09.2017 (Ex.C2) was accepted by the petitioners. The transactions commenced from 01.04.2017 and they ended on 31.03.2020.

3.According to the respondent/company, as on 21.06.2021, there was an outstanding amount of Rs.1,16,82,191.57 due and payable by the petitioners towards value of goods supplied. A notice dated 07.07.2020 was also issued to the petitioners calling upon them to clear the outstanding



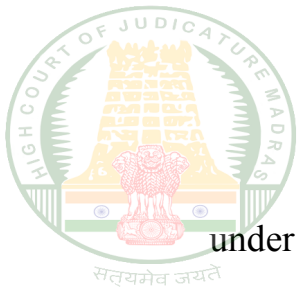
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amount. On receipt of the same, a reply was given. Ultimately, since the amount was not settled, the respondent raised the dispute before the learned Sole Arbitrator in line with Clause 26 of the letter of offer dated 27.09.2017.

4.The petitioners had broadly taken a defence that the respondent delivered the spare parts to the old address even after the petitioners had shifted the place of business and as a result, the petitioners sustained monetary loss and they sent back the excessive goods, which were sent by the respondent without any order being placed.

5.The other ground raised is that one of the agents, without the concurrence of the petitioners, had uploaded orders in DMS and the delivery has also been effected. The agreement only contemplated advance payment basis and it never contemplated supply of goods on credit basis and therefore, the claim that was made by the respondent cannot be sustained.

6.The other ground that was raised by the petitioners is that there was no agreement between the parties for distribution of oil and it was not covered under the agreement and whereas the respondent has sent the oil



under the threat of closing the business and the petitioners were forced to deal with the oil, which resulted in heavy loss to the petitioners.

7.The petitioners also made a counter claim for a sum of Rs.20,00,000/- from the respondent.

8.The learned Sole Arbitrator, on considering the claim and the defence taken by the petitioners and considering the claim made by the respondent along with the counter claim, framed the following issues insofar as the claim made by the respondent:

- '1. Whether relationship between the Claimant and Respondents is in the nature of Principal & agent or Seller & Purchaser?*
- 2. Whether the Respondent is liable to pay Rs.1,16,82,191.57/- along with the interest at rate of 18%?*
- 3. Whether the Respondents are liable to pay costs incurred in Arbitration proceedings and the Claimant is entitled to any other reliefs?'*



9. Insofar as the counter claim made by the petitioners, the following

additional issues were framed:

'4. Whether the Letter of Offer dated 27.09.2017 confers jurisdiction for the arbitrator to adjudicate upon claim for stocks sent on credit?

5. Whether the Claimant be directed to take back the unsold goods, materials in stockyard of the 1^a Respondent Company and give full credit to the same and also to the already returned goods?

6. Whether the Respondents are entitled for the charges incurred in supply of goods at wrong address by the Claimant?

7. Whether the Respondents are entitled for the overhead expenditure of rent incurred?

8. Whether the Claimants supplied goods over and above the requirement unilaterally?

9. Whether the counter claim of Respondents for Rs.10,00,000/- is to be allowed and the claim be dismissed in toto?

10. Whether the Claimant is liable to compensate the Respondents in respect of short supply of goods?



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11. *Whether the Respondents are entitled for return of Rs.1,00,000/- as refund of security deposit?*

12. *Whether the Respondents are entitled to costs of counter claim and the Respondents are entitled to any other reliefs?'*

10.The respondent had examined CW1 and marked Exs.C1 to C16.

No one was examined on the side of the petitioners and Exs.R1 to R29 were marked on the side of the petitioners. The learned Sole Arbitrator came to a conclusion that the respondent is entitled for the following reliefs:

1.	2W Spare Part	Rs. 67,76,136.17
2.	TRU4 Lubricants	Rs. 11,12,930.46
3.	Interest on overdue payments	Rs. 36,96,069.94
4.	Total	Rs.1,15,85,136.57

The Sole Arbitrator has held that the petitioners are entitled for the counter claim in the following manner:

1.	Credit for returned parts	Rs.3,10,699.22
2.	Orders placed under Inventory funding (ZSIF) and paid by TATA Capital	Rs.2,07,383.15
3.	Security Deposit Rs.1,00,000/- with 9% interest per annum from 27.09.2017 till the date of claim 03.07.2021	Rs.1,33,928.76
4.	Total	Rs.6,52,011.13



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11.The learned Sole Arbitrator by setting off the counter claim made in favour of the petitioners, awarded a total sum of Rs.1,09,33,125/- to the respondent along with interest at the rate of 18% per annum from the date of claim till the date of realisation.

12.Learned counsel for the petitioners broadly raised three issues and they are:

a)The award given in favour of the respondent insofar as TRU4 lubricants to the tune of Rs.11,12,930.46, is beyond the scope of the agreement and the agreement never contemplated supply of TRU4 lubricants;

b)The agreement only contemplated advance payment basis and both the parties never intended supply of goods on credit basis and therefore, the claim made by the respondent was beyond the scope of the agreement;

c)There was an un-authorised punching of invoices by the official, belonging to the respondent company, which was complained by the



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petitioners and as a result of which the goods were virtually dumped by the respondent and this issue was not properly considered by the learned Sole Arbitrator on the materials that were available.

13.In view of the above, the learned counsel for the petitioners submitted that the award is liable to be interfered under Section 34(2)(b)(ii) and 34(2-A) of the Act.

14.Per contra, the learned counsel for the respondent submitted that the learned Sole Arbitrator has dealt with each and every issue that was raised by the learned counsel for the petitioners and has provided reasons and those reasons does not suffer from any perversity or manifest illegality. Learned counsel further submitted that the view taken by the learned Sole Arbitrator is a possible view and the same was based on the evidence relied upon and therefore, this Court cannot sit on appeal against the view taken by the Sole Arbitrator. Learned counsel for the respondent sought for dismissal of this petition.

15.This Court carefully considered the submissions made on either



side and the materials available on record.

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16.The first issue that has been raised on the side of the petitioners is that the agreement does not cover TRU4 lubricants and the agreement also does not cover supply of goods on credit basis. Therefore, those issues, that were decided by the Sole Arbitrator, are beyond the scope of the agreement. The learned Sole Arbitrator has dealt with those issues elaborately. The learned Sole Arbitrator has rendered a finding that on 28.04.2020, the respondent had sent an arbitral notice, which was marked as Ex.C5 and for which the petitioners issued a reply dated 07.07.2020 (C7), wherein the petitioners never disputed the arbitrability of the dispute. Even in the counter statement and in the counter claim filed by the petitioners, the said issues have not been raised. It was only in the re-joinder statement, the petitioners had raised those issues.

17.Insofar as the first issue, regarding the claim made for the supply of TRU4 lubricants is concerned, the learned Sole Arbitrator has rendered a finding that totally 6 invoices were raised towards TRU4 lubricants and the petitioners, at no point of time, had disputed the veracity of invoices and



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also the ledger entries. The only ground that has been taken by the petitioners is that at some point of time, they were forced to take the lubricant oil with the threat of closing down the business. This issue was raised for the first time before the learned Sole Arbitrator at the time of filing the re-joinder statement. In view of the same, the learned Sole Arbitrator has concluded that the petitioners have not disputed the invoices that were raised and they have also not disputed the ledger entries that were made and hence, the petitioners cannot be permitted to raise a dispute for the supply of oil when they have not even lifted their little finger when the invoices were raised.

18.Insofar as the other ground raised by the petitioners to the effect that the agreement is only for cash and carry transaction, the learned Sole Arbitrator has taken into account clause 26 of the letter of offer and concluded that the said clause does not restrict its applicability to the cash and carry transaction and that it covers all the disputes that may arise in the course of business between the parties. The preliminary objection that was raised by the petitioners, was answered by the Sole Arbitrator by assigning reasons and the same does not suffer from any perversity and manifest



illegality.

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19.The other issue that has been raised on the side of the petitioners to the effect that un-authorised punching of invoices is concerned, this issue was dealt with in issue No.8 by the learned Sole Arbitrator. The learned Sole Arbitrator has taken into consideration Ex.R4, which was marked on the side of the petitioners to the effect that goods were supplied without the knowledge of the petitioners, based on the order that was placed by one Anirvan. The petitioners have sought for taking back those goods after adjusting with the stocks already in their possession. However, the learned Sole Arbitrator found that the petitioners, through their subsequent communications, were seeking to despatch the goods that were stopped by the respondent/company. The learned Sole Arbitrator found that the petitioners, at no point of time, had protested the so called dumping of goods and instead they were only requesting the respondent/company to despatch the goods under the inventory funding. This was done to bring down the dues by virtue of the meeting conducted on 11.01.2019 to reconcile the issues between the parties and and this meeting was conducted mutually to bring down the dues and the Minutes of meeting was also marked as Ex.C5.



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The learned Sole Arbitrator by placing reliance upon the Minutes of meeting has given a finding that the issue of supply of goods was not even agitated in the meeting. Therefore, if really there are differences arising out of the business transaction and the parties had agreed to resolve the dispute, the same should have been raised in the meeting and that there is no evidence let in on the side of the petitioners to show that the goods were dumped. The learned Sole Arbitrator has also rendered a finding that there is no evidence let in by the petitioners regarding the supply of goods over and above the requirement of the petitioners.

20.In view of the above, this Court finds that the grounds that have been raised on the side of the petitioners have been dealt with by the learned Sole Arbitrator and the reasons have been assigned and those reasons does not certainly suffer from any perversity or manifest illegality.

21.Learned Sole Arbitrator has also considered the counter claim made by the petitioners and has awarded a sum of Rs.6,52,011.13, for which reasons have been assigned from paragraph Nos.64 to 69 of the award. The award passed by the Sole Arbitrator cannot be interfered with on the grounds which are not envisaged under Section 34 (2) or even (3) of the Act. There



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can be no interference with the factual findings of the Arbitral Tribunal, unless they are perverse. A possible view taken by the Arbitrator, on the facts, has to be respected.

22.It is now well settled that the Arbitrator is the ultimate master of the quantity and quality of evidence to be relied upon. The Hon'ble Apex Court had an occasion to deal with the scope of the term 'patent illegality' in a recent judgment in ***OPG Power Generation Private Limited v. Enxio Power Cooling Solutions India Private Limited and another reported in 2025 (2) SCC 417***. Paragraph No.73 of the said judgment is extracted hereunder:

"73. In a recent three-Judge Bench decision of this Court in DMRC Ltd. v. Delhi Airport Metro Express (P) Ltd. [(2024) 6 SCC 357], the ground of patent illegality/perversity was delineated in the following terms:

"39. In essence, the ground of patent illegality is available for setting aside a domestic award, if the decision of the arbitrator is found to be perverse, or so irrational that no reasonable person would have arrived at it; or the construction of the contract is such that no fair or reasonable person would take; or, that the view of the arbitrator is not even a possible view. A finding based on no evidence at all or an award which ignores vital evidence in arriving at its decision would be perverse and liable to be set aside under the head of "patent illegality". An award without reasons



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would suffer from patent illegality. The arbitrator commits a patent illegality by deciding a matter not within its jurisdiction or violating a fundamental principle of natural justice."

23.This Court finds that none of the above requirements has been satisfied in this case. The learned Sole Arbitrator has considered every ground and has rendered finding based on the facts and the evidence that was let in and this Court cannot sit on appeal and interfere with the same. This Court does not find any ground to interfere with the award passed by the learned Sole Arbitrator. Accordingly, this petition stands dismissed with costs of a sum of Rs.1,50,000/- payable by the petitioners to the respondent.

09.10.2025

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N. ANAND VENKATESH, J.
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