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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 1077/2024**
MICROMAX INFORMATICS LIMITED

.....Petitioner
Through: Ms. Apoorva Singh, Mr. Udit Bajpai,
Ms. Prachi Dhingra, Mr. Utkarsh
Vatsa, Advs.

versus

SR DISTRIBUTOR THROUGH ITS PROPRIETOR
.....Respondent
Through: Mr. Talha Abdul Rahman, Mr. M Shaz
Khan, Mr. Sudhanshu Tewari, Mr.
Rafid Akhter, Mr. Faizan Ahmed,
Advs.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
10.10.2025

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1. This is a petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator to adjudicate the disputes between the parties.
2. The brief facts are that the petitioner entered into a Micromax Product Distributor Agreement ("**Agreement**") dated 01.09.2014 with the respondent. Pursuant to the said Agreement the respondent was appointed as an Authorized Distributor of the petitioner, on non-exclusive basis, at the Location Lakhimpur District, UP for marketing and distributing the petitioner's products in the territory.



3. Since there were disputes with regard to the invoices of the year 2016, in 27.07.2018, the petitioner invoked Clause No. 26 of the Agreement and appointed an Arbitrator.
4. The Arbitrator ruled in favour of the petitioner. The respondent challenged the Award under Section 34 of the Arbitration and Conciliation Act, 1996 on the ground of unilateral appointment. The objections were upheld and the Award was set aside on 29.04.2024. Thereafter, the present petition has been filed.
5. Mr. Tewari, learned counsel for the respondent, places reliance on the judgment of **“Jaiprakash Associates Ltd. v. NPHC Ltd., (2025) 1 HCC (Del) 39”** and more particularly on paragraphs 24 and 25, which read as under:

“24. This Court is of the view that it is the duty of the Referral Court especially at the post award stage to protect the parties from being forced to arbitrate when the matter is demonstrably non-arbitrable. This is more so also from the perspective that one of the primary rationale behind the enactment of the Act of 1996 was speedy justice and bringing a finality to an ongoing dispute i.e. there be an end to litigation even though a party may remain dissatisfied with the verdict. The Statement of Objects and Reasons reveal that the legislative intent of enacting the Act of 1996 was to provide parties with an efficient alternative dispute resolution system which gives litigants an expedited resolution of disputes while reducing the burden on the courts. If this duty within the limited compass is not



exercised, and the Court becomes too reluctant to intervene, it may undermine the effectiveness of both, arbitration and the Court.

25. This Court cannot be expected to act mechanically merely to deliver a purported dispute raised by an applicant at the doors of an arbitrator, else in a situation such as the present one where an award has been set aside and the aggrieved party wants to initiate another round of arbitration only to take a second bite at the cherry, the process of the Court would be susceptible to abuse by parties to litigate endlessly which completely goes against the aim and objective of the Act of 1996. If this practice is encouraged, the finality to an Award would always be in a limbo.”

6. He further states that once an Arbitrator was appointed, and the Award was rendered, the present petition cannot be entertained.
7. I am unable to agree with the same.
8. Paragraphs 18, 19 and 20 of the judgment cited above, read as under:

“18. After quoting the aforesaid paragraphs, the learned Single Judge set aside the Award holding that while the Arbitrators noted that the Petitioner herein has not produced any material on the basis of which the claim could be awarded, which was originally more than Rs.300 crores, yet decided to award Rs.60 crores for which there is no basis or reasoning given. Paragraphs No.47 and 49 of the judgment of the learned Single Judge passed in O.M.P. (COMM)



482/2020 reads as under:-

"47. A perusal of the relevant portion of the Award shows that the Majority Tribunal clearly noted that the respondent failed to produce any material basis which the quantum of the award could be arrived at. In the absence of any material substantiating the claim of the respondent, which was originally of more than 300 crores, was decided to be fixed at 60 crores. This amount of compensation has been fixed despite there being a clear contradictory finding that the case put forward by the respondent herein was not established. At this juncture, this Court refers to the judgment passed by the Calcutta High Court in State of West Bengal vs. Tapas Kumar Hazara, AP 1036/2011 dated 25th August 2022, wherein it was found the arbitral tribunal had given award in contradiction to its findings and hence it was set aside for the same reason.

49. Certainly, there is nothing in the language of the Award which shows that any reasonable considerations to the claim have been given to the say that the respondent was entitled to a sum of Rs.60 crores. As per the mandate of law, by the plain reading of the Section 31 (3) of the Act and by the reference to judicial pronouncement reproduced above, it is evident that the case of the petitioner falls under the principle of no-evidence. The Arbitral Tribunal has failed to delineate and specify any reason for fixing the amount of



Rs.60 crores as additional cost in favour of the respondent and against the petitioner."

(emphasis supplied)

19. The learned Single Judge thereafter concluded that in the absence of an express agreement by the parties, the Tribunal could not have awarded any amount on the basis of equity and good conscience as it is specifically prohibited under Section 28(2) of the Act of 1996. The question therefore, that is posed before this Court is as to whether after such findings having been arrived at by the Tribunal that there is no evidence at all on the basis of which the claim can be granted, whether this Court should once again send the parties back for fresh adjudication or not.

20. A perusal of the Award which was set aside by the Learned Single Judge under Section 34 of the Act of 1996 is stated on the ground that the basis for granting of the claim is without any reason. Since, the Tribunal has carefully scrutinized the contentions and has come to the conclusion that there is no evidence or material for grant of such claim after having done that exercise once, this Court is of the opinion that referring the same issue back to the same Tribunal or to a new Tribunal would be re-agitating the same issue. The only reason why the claim of Rs.60 crores is rejected by the Learned Single Judge was that there was a positive discord between the two portions of the same award where at one side, the Tribunal held that there was no



material/evidence to award the compensation but on the other hand, a sum of Rs. 60 crores were granted, which did not find favour with the Learned Single Judge.”

9. A perusal of the above paragraphs shows that in the judgment of ***Jaiprakash Associates Limited (supra)***, the Award was set aside on merits by the learned Single Judge holding that there was no express Agreement between the parties and hence, the Tribunal could not have awarded any amounts based on equity and good conscience. This is not the case here.
10. In the present case, the Award was set aside due to unilateral appointment of the Arbitrator.
11. Mr. Tewari, learned counsel further states that the insurance company has already cleared the amounts due and payable, if any, due to the petitioner and hence, there is no arbitral dispute.
12. To my mind, the same is a question on merits and lies in the domain of the Arbitrator and not of the referral Court.
13. Mr. Tiwari, learned counsel also states that the respondent will not be able to pay the arbitral fee.
14. In view of the above, the petitioner, in the first instance, shall pay the arbitral fee and the same shall form part of costs in case the Arbitrator so decides.
15. For the said reasons, the petition is allowed and the following directions are issued:-
 - i. Mr. Prashant Mohan Mehta (Advocate) (Mob. No. 9999590003) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.



- ii. The arbitration will be held under the aegis and rules of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter, referred to as the 'DIAC').
 - iii. The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.
 - iv. The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
 - v. It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims/counter-claims and merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
 - vi. The parties shall approach the learned Arbitrator within two weeks from today.
16. The present petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

OCTOBER 10, 2025/sp