



\$-

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

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

+ O.M.P.(I) (COMM.) 429/2025, I.A.25528/2025 & I.A.28873/2025

ARIAT INTERNATIONAL INC.

ACTING THROUGH ITS AUTHORIZED SIGNATORY

MR. PANKAJ GUPTA

HAVING ITS REGISTERED OFFICE AT:

1500, ALVARADO STREET

SUITE 100

SAN LEANDRO CALIFORNIA 94577

UNITED STATES OF AMERICA

....PETITIONER

(Through: Mr. Mandeep Singh Vainik with Ms. Anjali Sharma, Mr. S.K. Sagar, Mr. Gaikhanlung and Ms. Vatsita Verma, Advocates.)

versus

SUNGLASS PALACE INDIA PVT LTD

WITH ITS OFFICE AT :

705, PRIME TOWER

OKHLA PHASE 1

NEW DELHI - 110020

....RESPONDENT

(Through: Mr. P. S. Bindra, Sr. Advocate with Mr. Naunidh S. Arora and Mr. Mike Desai, Advocates.)

Signature Not Verified

Signed By:AMIT KUMAR
SHARMA
Signing Date:22.12.2025
10:30:48



Signature Not Verified

Signed
By:PURUSHAINDRA
KUMAR KAURAV





%

Reserved on: 16.12.2025

Pronounced on: 20.12.2025

JUDGMENT

The present petition is filed under Section 9 of the Arbitration and Conciliation Act, 1996, (*hereinafter referred to as 'the Act'*) pertaining to disputes that have arisen out of the International Distribution Agreement dated 01.01.2025

2 The petitioner-Company claims to be a designer, marketer, manufacturer, distributor, seller and licensor of high-quality footwear, apparel, bags, accessories, etc. It is an entity incorporated under the relevant laws of the USA and the State of California. On the other hand, the respondent claims to be an Indian entity specialising in marketing and distribution of premium international brands.

3 The parties entered into an International Distribution Agreement on 01.01.2025 (*hereinafter referred to as 'the Agreement'*), whereby, the petitioner-Company appointed the respondent as the non-exclusive distributor for the distribution, marketing and reselling of footwear, apparels and accessories bearing the trademark of the petitioner-Company, within the territory of India.

4 It is the case of the petitioner-Company that during the subsistence of the Agreement, in the month of August 2025, the petitioner-Company came to know that some of its products were spotted in the United States at a non-authorised retail location. Various correspondences were, thereafter, exchanged between the parties, and it is the case of the petitioner that the

Signature Not Verified

Signed By:AMIT KUMAR
SHARMA
Signing Date:22.12.2025
10:30:48

Signature Not Verified

Signed
By:PURUSHAINDRA
KUMAR KAURAV



respondent had sold the petitioner's products to Flipkart, an Indian entity owned by Walmart. Consequently, the petitioner-Company's premium products, involving goods worth approximately USD 2.26 million, appeared at a non- authorised retail store by the name of 'Sam's Club' in the United States, which is also owned by Walmart.

5 Aggrieved by the alleged breach of trust, the petitioner- Company, has approached this Court and prayed for the following reliefs: -

- “a. pass urgent ex parte orders restraining the respondent from retailing or selling the products sourced from the petitioner unless expressly approved by the petitioner in writing with respect to each transaction of sale, until completion of adjudication of the disputes that have arisen; and*
- b. pass ex parte directions to the effect that during the pendency of arbitration proceedings, the respondent and all its agents, employees and persons in its management shall seek express written approval of the petitioner's management before selling or disposing off any goods sourced from the petitioner ; and*
- c. issue a peremptory direction that the respondent allow the petitioner's authorized personnel to audit its records and warehouses to satisfy themselves with respect to sale in accordance the terms of the International Distribution Agreement.”*

6 On 14.10.2025, the petition was first called out and learned counsel appearing for the respondent submitted that the respondent had already sold the articles/goods of the petitioner-Company, received pursuant to the Agreement. In response to the aforesaid statement, Mr. Mandeep Singh Vinaik, learned counsel appearing for the petitioner-Company, reformulated the prayer for the interim relief to the extent of directing the respondent to produce a list of the concerns/ entities to which the respondent has supplied the articles in question.

7 In view of the submission made by Mr. Vinaik on the even date, the



Court has directed the respondent to explain as to why the reformulated relief should not be granted. Furthermore, the Court also directed the respondent to file a reply.

8 Pursuant thereto, the reply, opposing the contents of the petition, has been filed by the respondent. In reply, with respect to the violation of the Agreement, the following averments have been made:

- a) The respondent has denied any export or unauthorised sale of the articles outside India, and it is stated that there is no evidence linking the respondent to the articles allegedly found in the USA.
- b) The emails dated 05.08.2025, 08.08.2025 and 09.08.2025 sent by the petitioner-Company, themselves admit that it was only “*Alleged Products*” in the process of checking retailers and had no concrete or substantiated evidence of any illegal distribution.
- c) The allegations were raised only after the respondent sought a refund of the advance payment by emails dated 28.07.2025, 06.08.2025, 08.08.2025, 12.08.2025 and 15.08.2025, clearly as an afterthought.
- d) No stock remains with the respondent, leaving no subject matter for relief under Section 9 of the Act, and the audit demanded is an attempt to seek a specific performance of the Agreement.

9 During the course of submissions, it emerged that the appointment of the Arbitrator has to take place in consonance with the provisions of Section 11(9) of the Act, as the dispute falls within the ambit of an international commercial arbitration, for which the power of appointment vests exclusively with the Supreme Court.

10 In the *interregnum*, the relief which is pressed is only to the



reformulated extent noted hereinabove.

11 In response thereto, Mr. P.S. Bindra, learned senior counsel appearing for the respondent, has made various submissions.

12 The Court specifically asked him as to why a list of the concerns/entities, to whom the articles were already supplied/sold should not be produced before the Court in a sealed envelope. The same rules out any possibility of future manipulation and is necessary to test the veracity of the statement that all goods have already been sold. The aforesaid observation was made keeping in view the submission of Mr. Mandeep Singh Vinaik, learned counsel, that all articles have not been sold. In view of the apparent trust deficit, the respondent may, in the interregnum, manipulate the entries and records.

13 Mr. Bindra on behalf of the respondent, has expressed his inability to produce any document with respect to the sale at this stage. He undertakes to produce the same before the Arbitral Tribunal, if so directed. He also relies on, the decision in the case of ***Pink City Expressway Private Limited v. National Highways Authority of India and Another***¹ to state that the Court, while exercising the jurisdiction under Section 9 of the Act can only preserve the subject matter of the dispute and not direct specific performance: -

19 'Law on the scope of interference in a Section 9 petition is no longer res integra. The learned Single Judge has held that the prayer made by the Appellant in the Section 9 petition cannot be granted as that would amount to extending the contract contrary to the decision dated 29.04.2022. It is well-settled that powers under Section 9 can only be exercised for preservation of the subject matter of the dispute till the decision of the Arbitral Tribunal and cannot be extended to directing specific performance of the contract itself...'

¹ 2022 SCC OnLine Del 1816



14 I have considered the submissions made by learned counsel appearing for the parties and have perused the record.

15 The legal position with respect to Section 9 of the Act remains undisputed. The Supreme Court in the case of *Arcelor Mittal Nippon Steel India Ltd. v. Essar Bulk Terminal Ltd.*² and *Adhunik Steels Ltd. v. Orissa Manganese and Minerals (P) Ltd*³ has extensively dealt with the scope of intervention by the Courts while granting interim relief pending arbitration. It was reiterated that the jurisdiction of the Court under Section 9 of the Act is aimed at safeguarding and preserving the subject matter of the arbitration, so as to prevent frustration of the arbitral process and to ensure that the arbitral proceedings are not rendered otiose or inefficacious. It was further observed that while exercising jurisdiction under Section 9 of the Act, the Court cannot adjudicate upon the merits of the dispute, grant final relief, extend contractual obligations, or direct specific performance. The relief is essentially preservative in nature and is governed by the settled principles of grant of temporary injunctions under Order XXXIX of the Code of Civil Procedure, 1908 (*hereinafter referred as 'the CPC'*) and the triple test of *prima facie* case, balance of convenience and irreparable harm.

16 Moreover, the Division Bench of this Court, recently, in *M/s GTL Infrastructure Ltd. v. S.C. Wadhwa and Sons (HUF)*,⁴ has held that the powers of the Court under Section 9 of the Act are of wide amplitude and are not confined to the grant of prohibitory or temporary injunctions analogous to Order XXXIX of CPC. The Court reiterated that Section 9 of

² (2022) 1 SCC 712

³ (2007) 7, SCC 125

⁴ 2025:DHC:1475-DB





the Act empowers the Court to grant such interim measures of protection as may be just and convenient, including mandatory injunctions, where such relief is necessary to protect and preserve the subject matter of arbitration and to prevent the arbitral proceedings from being rendered inefficacious. The relevant extract of the decision is reproduced as under: -

“14. In the given facts, the contention that an order under Section 9 of the A&C Act could not be passed directing the appellant to remove the tower is unpersuasive. It is settled law that powers of a court under Section 9 of the A&C Act are wide and encompass such orders as are necessary to protect and preserve the subject matter of the arbitration, including issuing mandatory injunctions. The court must adopt a course, which is least likely to result in injustice if the same is finally found to be wrong.....”

17 Thus, the paramount object underlying the exercise of jurisdiction under Section 9 of the Act, *inter alia*, is the preservation and protection of the subject matter of the dispute, so as to maintain the equitable balance between the parties and to ensure that the arbitral proceedings are not rendered illusory.

18 Turning to the facts of the instant case, it seen that one of the terms of the Agreement is as under:

*2.2 Any act by the Distributor outside the scope of this appointment, including but not limited to (a) marketing or sales of Products by Distributor outside the Territory, or
2.(b) sales of products to persons or entities that distributor knows or has reason to believe intend to sell, market, or distribute the Products outside the respective Territory, shall be considered a material breach of this Agreement.*

19 The said clause clearly stipulates that the respondent, as the distributor, has a limited right to sell the petitioner's products only in the territory so provided in the Agreement. Thus, the right to distribute is not absolute or unrestricted. Any sale outside such territory, or to persons or



entities which the respondent knows or ought reasonably to know may further sell or distribute the products outside the territory, is specifically prohibited and is treated as a material breach of the Agreement.

20 In the backdrop of the aforementioned clause, the apprehension expressed by the petitioner-Company that the relevant records may be altered, suppressed, or rendered unavailable in the *interregnum* cannot be brushed aside as unfounded. The petitioner has been able to demonstrate a *prima facie* case warranting protective intervention, inasmuch as the Agreement expressly restricts the manner of sale and treats any deviation therefrom as a material breach. The balance of convenience also tilts in favour of the petitioner since if the sale has already taken place in accordance with the Agreement, as claimed by the respondent, the respondent would suffer no prejudice whatsoever in preserving the relevant particulars in a sealed cover before the Court. The respondent's reluctance to place the details of the sold goods in a sealed cover before the Court is incomprehensible. This compels the Court to draw an adverse inference against the respondent about its *bona fides*. This also raises suspicion about the respondent's stance that all the goods/articles are already sold.

21 Moreover, denial of such disclosure at this stage may irreversibly impair the petitioner's ability to establish a contractual breach and effectively prosecute its claims before the Arbitral Tribunal.

22 Therefore, such a direction is necessary to maintain the *status quo*, preserve the subject matter of dispute, and ensure that the arbitral process is not rendered nugatory.

23 In view of the foregoing circumstances, the respondent is directed to place on record the complete particulars of the sale of all articles, within a





period of seven days from the date of this order, before the Registrar General of this Court. The same shall remain in a sealed envelope and shall be subjected to further directions to be passed by the Arbitral Tribunal.

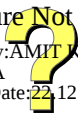
24 The petition, along with all pending applications, stands disposed of.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

DECEMBER, 20, 2025/aks.

Signature Not Verified

Signed By:AMIT KUMAR
SHARMA
Signing Date:22.12.2025
10:30:48



Signature Not Verified

Signed
By:PURUSHAINDRA
KUMAR KAURAV

