

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

ARBITRATION APPLICATION NO.289 OF 2025

Jetspeed Logistics Private Limited	.. Applicant
Vs.	
Samrat Gems Impex Private Limited	.. Respondent

Mr. Laukik Parekar with Mr. Laukik Deshmukh, Advocates, i/by Lawfort Advocates, for the Applicant.

Mr. Devasis Mitra, i/by Mr. Pawan Mishra, Advocates for the Respondent.

CORAM : GAUTAM A. ANKHAD, J.

DATE : 27TH APRIL 2026.

P.C. :

1. The Applicant has filed the present application under Section 11 of the Arbitration and Conciliation Act, 1996 (“the Act”) seeking appointment of a sole arbitrator to adjudicate disputes arising from unpaid invoices raised upon the Respondent. The invoices are annexed at pages 43 to 45 of the Application. Clauses 5 and 6 thereof stipulate that the invoices are governed by the Applicant’s Standard Trading Terms and Conditions available on its website and that disputes are subject to Mumbai jurisdiction. For the sake of convenience, the same is extracted as under:-

“5. This invoice and shipment are governed by Jetspeed’s Standard Trading Terms and Conditions available on our website www.jetspeed.co.in

6. All disputes subject to MUMBAI jurisdiction.”

2. The Standard Trading Terms and Conditions, placed on record as Exhibit “L”, contains an arbitration agreement at clause no. 16, which provides for reference of disputes to a sole arbitrator, with Mumbai as the seat of arbitration. Clause 16 is extracted and quoted as follows:

“16. Governing Law and Arbitration:

- a. This Agreement shall be construed, interpreted and governed by the laws of India and the Courts at Mumbai shall have the jurisdiction with regard to the subject matter of this Agreement.*
- b. Any dispute, controversy or claims arising out of or relating to this Agreement or the breach termination or invalidity thereof, shall be settled by arbitration in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996 and amendments thereof.*
- c. A sole Arbitrator shall be appointed by the Company and the Arbitral Tribunal shall duly follow the principles of natural justice and Code of Civil Procedure and Indian Evidence.*
- d. The place of arbitration shall be Mumbai and any award whether interim or final, shall be made, and shall be deemed for all purposes between the parties to be made in Mumbai.*
- e. The arbitral procedure shall be conducted in the English language and any award or awards shall be rendered in English language. The procedural law of the arbitration shall be Indian law.*
- f. The award of the arbitral tribunal shall be final, conclusive and binding upon the parties.*
- g. The cost of arbitration shall be shared equally between the parties.”*

3. Mr. Palekar, learned advocate for the Applicant submits that goods were duly supplied under the aforesaid invoices, but the payments remain outstanding. This led to correspondence between the parties including demand notices dated 25th October 2024, 13th November 2024

and 6th March 2025. By notice dated 6th March 2025, the Applicant expressly invoked arbitration in terms of clause no. 16, seeking recovery of outstanding dues of Rs. 26,82,726/- with interest and other reliefs. All the above notices, including the notice invoking arbitration dated 6th March 2025, have been duly served upon the Respondent, as evidenced by the affidavit of service and the postal acknowledgments which are placed on record. In view thereof, it was submitted that a sole arbitrator ought to be appointed to adjudicate all the disputes between the parties.

4. On the other hand, Mr. Mitra, learned advocate for the Respondent opposed the Application on three principal grounds: (i) there is no valid invocation of arbitration under Section 21 of the Act and the notice dated 6th March 2025 cannot be treated as a valid notice in law; (ii) the Standard Trading Terms and Conditions were neither supplied to nor known by the Respondent and hence are not binding as it does not satisfy the test of Section 7(4) of the Act; and (iii) the invoices are unstamped and therefore unenforceable. In support thereof, he relies upon the judgment of this Court in *M/s. D.P. Construction v. Vishvaraj Environment Pvt. Ltd.*¹ and a judgment of the Allahabad High Court in *M/s. Samyam Industries & Ors. v. Shivalik Small Finance Bank Ltd.*²

¹ *Miscellaneous Civil Application (Arbitration) No.31 of 2021 dated 6th July 2022*

² *Writ Petition (C) No.41115 of 2023 – Order dated 6th December 2023*

5. In my view, all the objections are without merit. The notice dated 6th March 2025 clearly refers to the arbitration agreement at clause no.16 and unequivocally invokes arbitration. The mere fact that the notice also refers to the Applicant's intention to approach this Court under Section 11 does not detract from its character as a notice invoking arbitration. Section 21 requires only a communication evincing an intention to refer disputes to arbitration, which requirement stands satisfied in the present case. The second contention that the Standard Trading Terms and Conditions are not binding is equally untenable. The invoices expressly incorporate these terms by reference. The Respondent has admittedly received the invoices and has not disputed such receipt. In commercial transactions, incorporation by reference is a well-recognized mode of binding parties, particularly where the terms are clearly identified and readily accessible. There is no material to indicate that the Respondent objected to or repudiated these terms at any stage. Lastly, as regards the objection on stamping, the same is misplaced in view of the settled law that, at the stage of Section 11, the Court is concerned only with the existence of an arbitration agreement. Issues relating to stamping, admissibility, or enforceability fall within the domain of the arbitral tribunal. I find from the record that the Respondent has received the invoices and the subsequent notices. The notice dated 6th March 2025 specifically invokes the arbitration clause and there is no denial of the same. In these circumstances, the invoices read with the Standard

Trading Terms and Conditions constitute a valid arbitration agreement between the parties and the arbitration has been duly invoked by the Applicant. Mr. Mitra's reliance on *M/s. D.P. Construction* and *M/s. Samyam Industries* is misplaced. In those cases, the applications under Section 11 were rejected on account of absence of a notice invoking arbitration or failure to establish service thereof. In the present case, both invocation and service are clearly established by the Applicant.

6. As per the law laid down by the Supreme Court in *SBI General Insurance Company Vs. Krish Spinning*, (2025) 3 SCC (Civ) 567, a Court under Section 11 must confine itself to examining the existence of an arbitration agreement. In the present case, I am satisfied that a valid arbitration agreement exists between the parties and that the disputes are arbitrable. Accordingly, all disputes and differences between the parties arising out of and in connection with all the unpaid invoices are referred to arbitration by a sole arbitrator. In these circumstances, Arbitration Application no.289 of 2025 is disposed of in the following terms :-

[A]. Mr. Bhavik Lalan, learned Advocate of this Court is hereby appointed as the sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of and in connection with all the unpaid invoices referred to above. The contact details of

Mr. Bhavik Lalan, the sole Arbitrator, are “*Office Address : Chambers of Dr. Sanjay Jain, 502-503, Oval House, British Hotel Lane, Fort, Mumbai – 400023. Mob. No. 9769013994, E-mail : bhavik@bhaviklalan.in*”.

[B]. A copy of this order will be communicated to the learned sole Arbitrator by the advocate for the Applicant within a period of one week from the date on which this order is uploaded on the website of this Court. The Applicant shall provide the contact and communication particulars of the parties to the Arbitral Tribunal along with a copy of this order;

[C]. The learned sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the Advocate for the Applicant so as to enable them to file the same in the Registry of this Court. The Registry of this Court shall retain the said Statement on the file of this Arbitration Application and a copy of the same shall be furnished by the Advocate for the Applicant to the Respondent;

[D]. The parties shall appear before the learned sole

Arbitrator on such date and at such place as indicated to obtain appropriate directions with regard to conduct of the arbitration including fixing schedule for pleadings, examination of witnesses, if any, schedule of hearings etc. At such meeting, the parties shall provide a valid and functional e-mail address along with mobile and landline numbers of the respective advocates of the parties to the Arbitral Tribunal. Communications to such e-mail addresses shall constitute valid service of correspondence in connection with the arbitration;

[E]. The fees of the learned sole Arbitrator shall be as per the Fourth Schedule of the Act read with the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.

[F]. All issues, claims and counterclaims are kept open to be agitated before the Tribunal.

[G]. The arbitration shall be held at Mumbai.

[GAUTAM A. ANKHAD, J.]