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

+ **FAO(OS) (COMM) 60/2026, CM APPL. 16618/2026, CM APPL. 16619/2026 and CM APPL. 16620/2026**

M/S. LOMASH SLURRYTECH PVT LTDAppellant

Through: **Mr. Vishal Mishra and Mr. Bhuvan Arora, Advs.**

versus

M/S. DSC ENGINEERING PRIVATE LIMITED

.....Respondent

Through: **Mr. Vineet Tayal, Adv.**

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

18.03.2026

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1. By way of the present Appeal, the Appellant assails the correctness of the order dated 13.01.2026 passed by the learned Single Judge in OMP(COMM.) No.71/2025, whereby the Petition filed under Section 34 of the Arbitration & Conciliation Act, 1996 [hereinafter referred to as 'A&C Act'] was dismissed.

2. The arbitration proceedings are pending before the Arbitral Tribunal [hereinafter referred to as 'Tribunal'], where the claim and counter-claim are being adjudicated. The Respondent/Claimant had examined CW-1 (Mr. Sunil M. Asnani). The Appellant, who is the counter-claimant before the Tribunal, had put certain questions during the cross-examination which were not permitted by the Tribunal.

3. After completion of the cross-examination of the witness, the Appellant filed an application under Order XI Rule 12 and 14 of the Code of Civil Procedure, 1908 [hereinafter referred to as 'CPC'] seeking issuance of direction to the Respondent/Claimant to produce



certain documents.

4. The Tribunal, after considering various aspects of the matter, including Minutes of Meeting dated 19.03.2018 signed by the parties admitting payment under the invoices, dismissed the application, while observing that the plea of the Appellant would be considered at the time of final arguments.

5. The Appellant filed Petition under Section 34 of the A&C Act claiming that the order passed by the Tribunal dismissing his application under Order XII Rule 12 & 14 was an interim award.

6. The learned Single Judge, after reconsidering the matter, dismissed the Petition under Section 34 of the A&C Act.

7. Learned counsel representing the Appellant submits that in view of the judgment passed by a Coordinate Bench of this Court in FAO(OS)(COMM.) 227/2024 captioned ***APTEC Advanced Protective Technologies AG v. Union of India***, the order dismissing application under Order XI Rule 12 and 14 of the CPC amounts to interim award and, hence, the Petition under Section 34 of the A&C Act was maintainable.

8. This Court has considered this submission and has carefully read the judgment.

9. Paragraph No.24 of the afore-mentioned judgment reads as under:

24. In addition to the above, in deciding point no. 3 framed by the learned Sole Arbitrator for I.A. 4 of 2009 filed by the appellant herein, the learned Sole Arbitrator discussed at length the DGQA report, and observed as under:

“I do not propose to comment on para 5.1 of the Report which deals with the defects in the Boots Multipurpose Model 'A' in as much as that is a matter which has to be gone into the under Issue No.6 in the main Arbitration Case.



But, the discussion in this I.A. 4 of 2009 in regard to para 5.3, and 5.7 of the DGQA Report will be the same as in I.A. 3 of 2009. As stated in I.A. 3 of 2009, what is of importance is the detailed report on Crampons contained in para 5.3 rather than the single sentence in para 5.7 and in fact, both paragraphs have to be read together. If that is done, it is clear from para 5.3 that the soldiers, the training school, the DGQA team, and the Head Quarters XIV Corps all unanimously observed that the Crampons manufactured by M/s. Camp & Co. (which according to claimant were supplied by M/s.JAMDPAL & Co to the Respondent) were good and their procurement should be continued in future. But so far as the Crampons supplied by M/s.Stubai, Austria were concerned, they stated that the said Crampons should be discontinued and whatever balance of Crampons that were supplied by that company remained, they should be used in the training school only. If the crampons manufactured by M/s.Camp & Co. (which were, according to claimant, were supplied by M/s.JAMDPAL & Co.) were "incompatible", it is obvious that the soldiers, the training school, the DGOA team which actually observed the use of Crampons and the Head Quarters of XIV Corps would not have recommended that the procurement thereof should be continued in future also.

As stated in I.A. 3 of 2009, it is because of the above facts contained in para 5.3 of the GOA Report, the claimant has conveniently not referred to the said para in I.A.4/2009 and has straight away gone to para 5.7 which is in a single line in which it was stated that "Crampons do not fit in all sizes of Boots Multipurpose and proceeded to state that para 5.7 contained an "admission" that the Crampons used by the Respondent on the Boots were "incompatible". However, as pointed out above, there is no such admission either in para 5.3 or 5.7 and in fact, on the other hand, para 5.3 contains a recommendation for continuing the procurement of the Crampons manufactured by M/s. Camp & Co., (which according to the claimant were supplied by M/s.JAMDPAL & Co to Respondent) and obviously those Crampons were not reported by the soldiers or the training school to be incompatible. Indeed if the said Crampons were "incompatible", the team would not have recommended their future procurement. It is also important notice that the recommendation in para 5.3 is both by the soldiers and by the training school. In para 5.7 the training school cannot be contradicting itself in para 5.7, what it had stated in the elaborate observations made*



by it in para 5.3.

Thus the allegation in the discovery application I.A.4/2009 that para 5.7 of the DGOA Report contained an admission by the respondent that the Crampons used by the respondent were "incompatible" has no basis and the claimant has wrongly arrived at that inference by straight away going to single sentence in para 5.7 and by deliberately omitting to refer elaborate report on the Crampons that were actually used by troops, as contained in para 5.3 of the report. If the assumption of the claimant that there is an admission in para 5.7 of the DGQA Report is therefore wrong for the reasons given above, the request for discovery of the investigation by the concerned AHSP and further correspondence on the subject, cannot be accepted."

10. It is evident that the Tribunal, in that case, had recorded a final finding of fact because of which the Coordinate Bench came to the conclusion that the Tribunal's order came within the definition of an 'interim award'. In the present case, our attention has not been drawn to any final finding of fact that the Tribunal arrives at.

11. Section 5 of the A&C Act reads as under:

***"5. Extent of judicial intervention.**—Notwithstanding anything contained in any other law for the time being in force, in matters governed by this Part, no judicial authority shall intervene except where so provided in this Part"*

12. As per the statutory mandate, judicial interference is not envisaged except where it is so provided in Part-I of the A&C Act. The intention of the statute is that of minimum judicial interference when proceedings before the Arbitral Tribunal are in progress. Every order that adjudicates on procedural applications does not fall within the definition of 'interim award'. Moreover, in the present case, the Tribunal has already observed that the request of the Appellant shall be appreciated at the time of final arguments.

13. In view of the aforesaid position, this Court finds no ground to interfere with the Impugned Order, particularly in view of the limited



scope of interference under Section 37 of the A&C Act.

14. Hence, the present Appeal, along with pending applications, is dismissed.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

MARCH 18, 2026
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