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

% ***Judgment reserved on: 22.09.2026***

Judgment pronounced on: 27.10.2026

Judgment uploaded on: 27.10.2026

\# **CNR No. DLHC011963872017**

\+ FAO(OS) (COMM) 108/2017 and CM APPL. 18464/2017

MMTC LTD .....Appellant

Through: Mr. Ashok Chhabra and Mr. Kunal Jaggi, Advs.

versus

CHAUHAN JEWELLERS & ORS .....Respondents

Through: Mr. Surendra Chauhan and Ms. Priyanka Priyadarshni, Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE BHARAT PARASHAR

J U D G M E N T

ANIL KSHETARPAL, J.:

1. The present Appeal under Section 37 of the Arbitration and Conciliation Act, 1996 ("the Act") is directed against the judgment dated 07.03.2017 passed by the learned Single Judge in O.M.P. (COMM) 371/2016, titled ***MMTC Ltd. v. Chauhan Jewellers & Ors.***[1] By the Impugned Judgment, the Petition instituted by MMTC Limited ("MMTC") under Section 34 of the Act was dismissed, and the Arbitral Award dated 26.04.2016 ("the Award") was upheld.

2. The Award was rendered by a three-member Arbitral Tribunal. The learned Tribunal rejected MMTC's claims against Chauhan

[1] The Impugned Judgment

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Jewellers and its partners and directed MMTC to return the title deeds retained as security. MMTC assails both the rejection of its monetary claims and the consequent direction concerning the security.

3. The dispute arises from a scheme under which MMTC supplied gold and extended packing credit to Chauhan Jewellers for manufacture and export of gold jewellery. MMTC's claim centred on five export consignments. The first three consignments, CJ-25, CJ-26 and CJ-27, gave rise to a claim for interest and charges on delayed realisation. CJ-31 was a case of part realisation. The overseas buyer did not take delivery of CJ-1, which was subsequently returned to India. MMTC claimed an aggregate sum of ₹57,74,349/- as on 26.06.1997, together with further interest and costs.

FACTUAL MATRIX

THE CONTRACTUAL ARRANGEMENT

4. MMTC is a Government of India undertaking engaged, inter alia, in the import and export of metals and other commodities. Chauhan Jewellers was a partnership firm engaged in the manufacture and export of gold jewellery. The other respondents before this Court are its partners. For convenience, Chauhan Jewellers and those partners are collectively referred to as "the Respondents".

5. At the material time, MMTC operated a scheme for the supply of gold and provision of pre-shipment and post-shipment credit to jewellery manufacturers. The manufacturer was to convert the gold into jewellery and export it to an overseas buyer. The export order and shipping documents were to be in MMTC's name, although shipment

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was to be effected by the manufacturer on MMTC's behalf. MMTC would receive the export proceeds, adjust the price of gold, the packing credit, interest, service charges and other permissible deductions, and release the balance to the manufacturer.

6. The arrangement between the parties was recorded principally in three instruments: a Hypothecation Agreement for Pre and Post Shipment Credit Advances, an Agreement between MMTC and the unit for export of gold jewellery, and an Agreement of Guarantee. The Hypothecation and Export Agreements bear the date 09.10.1990. A promissory note dated 15.10.1990 was also executed. The documents contemplated financial assistance up to ₹25 lakh.

7. Under Clauses 2 and 3 of the Hypothecation Agreement, the borrower agreed to pay interest on the sums advanced and to repay the advances, interest and costs on demand. Clause 24 provided that liabilities under the credit facility would primarily be cleared from export proceeds received directly by MMTC, without preventing MMTC from recovering its dues from the borrower otherwise. Clauses 28 and 29 dealt with a personal guarantee and penal interest in the event of default.

8. Clauses 1 and 2 of the Export Agreement provided that orders and shipping documents would stand in MMTC's name and that the overseas buyer was to open a confirmed, irrevocable and divisible Letter of Credit ("LC") in MMTC's favour. Clause 3 set out the deductions to be made by MMTC upon realisation of the sale proceeds and further provided that the unit would stand guarantee for their full realisation. Clause 5 required MMTC to obtain ECGC

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comprehensive cover, at the unit's cost, for exports not covered by a letter of credit. Clause 6 placed responsibility for satisfactory shipment and conformity of the goods with the stipulated specifications upon the unit.

9. The separate Agreement of Guarantee secured the financial liability of the borrower, including principal, interest, costs and charges. Title deeds relating to Apartment No. 3, Oberoi Club House, Oberoi Apartments, 2, Shamnath Marg, Civil Lines, Delhi were also deposited with MMTC as security. The property was stated to belong to Mrs Arti Chauhan, wife of Mr Balbir Singh Chauhan.

THE FIVE CONSIGNMENTS

10. The first consignment was exported under invoice CJ-25 dated 14.07.1993. The packing credit advanced against it was ₹12,00,236/-. The invoice initially named Devji Purshottam Jewellers, Dubai. That buyer did not take delivery, and the parcel was redirected to Al-Aseer Jewellers. MMTC received ₹13,72,411/- on 25.01.1995. Its surviving claim concerned interest for the period of delay and the related charges.

11. The second consignment was exported under invoice CJ-26 dated 16.07.1993. Certain portions of the Award refer to the date as 26.07.1993, but the invoice bears the date 16.07.1993. Packing credit of ₹12,01,441/- was advanced. This parcel was also initially intended for Devji Purshottam Jewellers and was later redirected to Al-Aseer Jewellers. MMTC received ₹13,79,456/- on 23.01.1995 and claimed interest and charges for delayed realisation.

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12. The parties differed on the reason for the redirection of CJ-25 and CJ-26. The Respondents maintained that MMTC had arranged the diversion after the original buyer failed to take delivery. Mr Ashwini Kapoor (CW-2) accepted that MMTC issued the instructions, but stated that it did so at the Respondents' written request. The proceeds of both consignments were, however, received in full.

13. Invoice CJ-27 is dated 27.07.1993 and records the payment term as Cash on Delivery. Packing credit of ₹11,89,478 was advanced. MMTC received ₹13,68,684/- on 11.04.1994. Its account nevertheless reflected a debit balance of ₹14,653/- after inclusion of interest and charges. In cross-examination, Mr Ashwini Kapoor (CW-2) stated that payment against CJ-25, CJ-26 and CJ-27 had been received in full, but belatedly, and that interest and service charges were consequently claimed. MMTC's final written arguments before the learned Tribunal described CJ-27 in the same manner.

14. The fourth consignment was exported to Al-Aseer Jewellers under invoice CJ-31 dated 11.11.1993. The invoice records payment on documents against acceptance ("DA") terms ("DA-90 DAYS"), rather than against an LC. Packing credit of ₹11,24,620/- was advanced. MMTC recorded realisation of ₹9,43,875/- on 26.04.1995 and claimed the unpaid balance, interest and charges.

15. The record refers to a cheque or cheques furnished by Al-Aseer which were subsequently dishonoured. In a letter dated 16.06.1995, the Respondents asked MMTC to recover the amount or initiate proceedings against Al-Aseer. MMTC, in turn, asked the Respondents to deposit ₹30,000/- towards legal expenses. No proceedings were

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ultimately instituted against the overseas buyer. The parties disputed responsibility for the adoption of DA terms and for recovery of the unpaid amount.

16. The fifth consignment concerned invoice CJ-1 dated 28.06.1994 and S.S. Jewellery Traders, Dubai. Packing credit of ₹18,87,977/- was advanced. By its letter dated 04.07.1994, Chauhan Jewellers requested that delivery be permitted on DA-60 days basis instead of cash on delivery. MMTC's replies dated 05 July and 25 July 1994 stipulated the conditions on which a change in the payment terms could be considered.

17. S.S. Jewellery Traders did not take delivery. On 16.06.1995, the Respondents sought one month to arrange clearance by another buyer, asked MMTC to defer action during that period and undertook responsibility for costs after expiry of the extended period. The request also sought a concessional rate of interest, reasonable commission and release of the property papers upon completion of the formalities.

18. The parcel was thereafter returned to India to avoid its auction by the Dubai Customs authorities. It was examined by the Indian Customs/Directorate of Revenue Intelligence authorities in the absence of the Respondents. MMTC asserted that the examination disclosed a shortage in the jewellery. The Respondents disputed both the alleged shortage and their liability, contending that they had neither been given notice of the recall and opening nor associated with the examination. According to the record before the learned Tribunal, the parcel remained in the custody of the Customs authorities.

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THE ARBITRAL PROCEEDINGS

19. MMTC lodged its Statement of Claim in 1997. The claim was quantified, as on 26.06.1997, at ₹57,74,349/-. MMTC's account divided this amount into two parts. For CJ-25, CJ-26, CJ-27 and CJ-31, it showed a balance of ₹12,18,841/- after crediting the receipts, further interest of ₹7,52,269/- and additional service charges of ₹1,05,063/-, aggregating to ₹20,76,173/-. For CJ-1, it claimed ₹36,98,176/-, comprising the packing credit and accrued interest and charges. The aggregate claim was thus ₹57,74,349/-, apart from further interest and costs.

20. The Respondents denied liability. They contended, among other things, that the exports and realisations were controlled by MMTC, that MMTC had itself redirected the first two consignments, that CJ-31 had been sent on DA terms at MMTC's instance and without the stipulated insurance, and that the returned CJ-1 parcel had been opened without notice to them. They also questioned the contractual basis and rate of interest claimed. MMTC filed a rejoinder disputing those assertions.

21. MMTC examined three witnesses. Mr. S. Guruswamy and Mr. Ashwini Kapoor deposed to the operation of the scheme, the five consignments and the accounts. Mr I.S. Sidana (CW-3) dealt with the export documentation, the Sale Day Register and the accounting records. Mr. R.S. Chauhan testified for the Respondents. In cross-examination, he accepted his signatures on Exhibits C-1 to C-4, and that gold had been obtained on loan under the agreements, while asserting that the dates had been inserted subsequently.

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22. The parties placed their final written submissions before the learned Tribunal in 2015. MMTC, in its written arguments, classified CJ-25, CJ-26 and CJ-27 as cases in which payment had been received late, CJ-31 as a case of part payment, and CJ-1 as a case of non-realisation. The Respondents' written submissions also distinguished the three delayed-payment consignments from the consignment involving short payment.

THE AWARD

23. The learned Tribunal first recorded that, for CJ-25, CJ-26 and CJ-27, the entire price was to be received by MMTC and that MMTC's claim concerned interest on delayed payment. It thereafter considered each consignment separately.

24. For CJ-25 and CJ-26, notwithstanding the evidence of CW-2 noticed in Paragraph 12 above, the learned Tribunal found no material to show that the consignments had been redirected to Al-Aseer at the Respondents' instance. It held that the exports and receipts were in MMTC's name, that the Respondents had no role in collection of the price, and that they could not be held liable for the resulting delay. The claim for interest was accordingly rejected.

25. While separately considering CJ-27, the learned Tribunal referred to MMTC's assertion that the Respondents had failed to ensure remittance of the full invoice value "on due date". It treated the assertion as unclear as to whether the case was one of delayed payment or short payment. Since MMTC had not specified or proved the amount of any shortfall, the Tribunal rejected the claim. It further held that the Respondents were not responsible for ensuring payment

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where the export was made by MMTC in its own name and proceeded on the basis that the consignment had been sent against a letter of credit. The invoice itself, however, records the payment term as cash on delivery.

26. As regards CJ-31, the learned Tribunal observed that the consignment had been sent on DA basis instead of against a letter of credit. It noted the dishonoured cheque furnished by the overseas buyer, MMTC's failure to take action against that buyer, and MMTC's demand that the Respondents provide the legal expenses for such action. It consequently held that the Respondents could not be made liable for the short realisation.

27. For CJ-1, the learned Tribunal relied on the examination report recording that the seals were intact and had not been tampered with. It treated this as showing that there was no proof of pilferage and ultimately concluded that there had been no loss of jewellery. It also found that the parcel had been opened in the absence of the Respondents, and that only MMTC, in whose name the export was made, could obtain its release from the Customs authorities. The learned Tribunal held that MMTC could not fasten liability upon the Respondents while leaving the returned jewellery uncollected.

28. On these findings, the learned Tribunal dismissed MMTC's claims in their entirety. It directed MMTC to return the title deeds relating to the Shamnath Marg property to Mr. Balbir Singh Chauhan immediately and left the parties to bear their own costs.

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PROCEEDINGS UNDER SECTION 34 OF THE ACT

29. MMTC then challenged the Award under Section 34 of the Act in O.M.P. (COMM) 371/2016. It contended that the learned Tribunal had failed to decide the dispute in accordance with the Hypothecation Agreement, the Export Agreement and the Agreement of Guarantee. It relied particularly on the Respondents' obligations to repay the credit with interest, to ensure satisfactory shipment and to guarantee full realisation of the export proceeds. MMTC also assailed the consignment-wise findings and the adequacy of the reasons furnished by the Tribunal.

30. By the Impugned Judgment, the learned Single Judge dismissed the petition. Reproducing clauses 1, 2, 3 and 5 of the Export Agreement, the learned Single Judge held that the shipments and receipts stood in MMTC's name. In relation to CJ-25 and CJ-26, the learned Single Judge found no ground to disturb the learned Tribunal's conclusion that MMTC had redirected the parcels and caused the delay. The learned Single Judge further held that clause 3 of the Export Agreement did not impose an obligation upon the Respondents to pay interest on delayed realisation.

31. The Impugned Judgment treated CJ-27 as a claim for short payment. It upheld the Tribunal's conclusion on the ground that MMTC had not established any shortfall in the invoice proceeds. It also observed that the contractual arrangement contemplated an irrevocable letter of credit and questioned how a short payment could arise in such a transaction. The judgment did not separately address

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MMTC's case, reflected in the witness evidence and final written submissions, that CJ-27 was a delayed-realisation claim.

32. For CJ-31, the learned Single Judge held that the letters dated 04.07.1994, 05.07.1994 and 25.07.1994, on which MMTC relied to attribute DA terms to the Respondents, concerned the later shipment to S.S. Jewellery Traders and not the November 1993 consignment to Al-Aseer. The Court further relied on MMTC's obligation under clause 5 to obtain ECGC cover for a non-LC export and on the Tribunal's finding that MMTC had not diligently pursued the overseas buyer after dishonour of the cheque.

33. In relation to CJ-1, the learned Single Judge found no palpable error in the learned Tribunal's conclusion that MMTC alone could obtain delivery of the returned jewellery from the Customs authorities and that the Respondents could not be blamed for MMTC's failure to do so.

34. The learned Single Judge held that MMTC had failed to establish that the Award was patently illegal, perverse or opposed to the public policy of India. The Petition and the pending application were accordingly dismissed. Aggrieved by that decision, MMTC has preferred the present Appeal.

CONTENTIONS

35. MMTC contends that the learned Tribunal, and thereafter the learned Single Judge, failed to examine the contractual arrangement as a whole. It relies upon the obligations to repay the packing credit with interest, the provisions preserving recovery otherwise than from

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export proceeds or other security, and the guarantee of full realisation under Clause 3 of the Export Agreement. It also relies upon the separate Agreement of Guarantee. According to MMTC, the fact that the exports and foreign remittances stood in its name did not extinguish these obligations. Its claims therefore required consideration under the financing documents as well as the Export Agreement.

36. In relation to CJ-25 and CJ-26, MMTC submits that its surviving claim was for interest and charges occasioned by delayed realisation of the export proceeds. It disputes the finding that the diversion of the consignments to Al-Aseer was attributable exclusively to MMTC and relies upon the evidence of CW-2 that, although MMTC issued the diversion instructions, it did so pursuant to a written request from the Respondents. It is further contended that, in any event, the question whether MMTC participated in the diversion did not dispense with consideration of the repayment and interest obligations arising under the financing documents.

37. In relation to CJ-27, MMTC relies upon the account, the evidence of CW-2 and its final written arguments before the Tribunal to submit that the invoice proceeds had been received in full, though belatedly. Its claim was therefore for interest and related charges, rather than an unpaid portion of the invoice value. This objection is expressly raised in the Section 34 petition and the memorandum of appeal. MMTC further points out that the invoice records COD terms, whereas the reasoning below proceeds on the basis of a letter of credit. The treatment of CJ-27 in its later appellate synopsis is considered in the analysis below.

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38. As regards CJ-31, the Appellant submits that part of the invoice value admittedly remained unrealised and that the Respondents had guaranteed full realisation of the export proceeds. The subsequent dishonour of the cheque furnished by Al-Aseer, according to MMTC, could not discharge that contractual obligation. Reliance is also placed upon Section 137 of the Indian Contract Act, 1872 to contend that the creditor's failure or forbearance to institute proceedings against Al-Aseer did not, without more, discharge the Respondents from their liability under the contractual guarantees.

39. In respect of CJ-1, MMTC relies upon the correspondence preceding the return of the consignment. It submits that the Respondents were repeatedly informed that the jewellery remained unclaimed in Dubai and faced auction by the Customs authorities, but failed to arrange its clearance despite having sought further time for that purpose. According to MMTC, the parcel had ultimately to be brought back to India in consequence of that failure. It contends that the learned Single Judge, while sustaining the finding concerning MMTC's ability to obtain release of the returned jewellery from Indian Customs, did not adequately consider the antecedent obligations of the Respondents or the circumstances in which the consignment came to be returned.

40. MMTC also relies upon ***Muzzafar Shah v. MMTC Ltd.***[2], the orders passed in the appeal and special leave proceedings arising therefrom, and ***Glitter Overseas & Ors. v. MMTC Ltd***[3]. It submits that these decisions support the associate's liability notwithstanding export

[2] 2014 SCC OnLine Del 900
[3] 2022 SCC OnLine Del 2058

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and collection in MMTC's name. It separately challenges the direction requiring return of the title deeds. On these grounds, MMTC seeks setting aside of the Impugned Judgment and the Award.

41. The Respondents, on the other hand, support the Award and the Impugned Judgment. Their case is that MMTC was the exporter, the shipping documents stood in its name and foreign remittances were received directly by it. They rely upon the contractual requirement of a letter of credit and MMTC's obligation to obtain ECGC cover for non-LC exports, and contend that the guarantee of realisation cannot be read independently of MMTC's own obligations concerning export and collection.

42. As regards CJ-25 and CJ-26, the Respondents maintain that the original buyer failed to take delivery and that MMTC itself redirected the consignments to Al-Aseer. Since the full proceeds were ultimately received, they contend that the delay attributable to that course of dealing could not furnish a claim for interest against them. In relation to CJ-27, their case is that the entire invoice value was received by MMTC and that no further amount was payable by them.

43. For CJ-31, the Respondents maintain that MMTC permitted the shipment on DA terms instead of the contractual LC mechanism, received security in the form of a cheque or cheques from the foreign buyer, and thereafter failed to pursue that buyer. They contend that the resulting short realisation could not be shifted to them. As regards CJ-1, they rely upon the absence of notice of the recall and opening of the parcel, the intact seals recorded in the examination report, and the continued custody of the jewellery with Customs. Their case is that

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neither any shortage attributable to them nor any corresponding monetary liability was established.

44. The Respondents accordingly submit that the learned Tribunal's conclusions were based upon the contractual documents and the evidence before it and represented, at the least, a possible view of the record. The learned Single Judge was therefore justified in declining to reappraise the evidence under Section 34. They contend that no ground for interference under Section 37 is made out and that the direction concerning return of the title deeds follows from the concurrent finding that nothing was payable to MMTC.

ISSUES

45. In view of the rival submissions, two overarching questions arise for determination:

i. Whether the reasons for rejecting MMTC's claims concerning the five consignments disclose a ground for interference under Sections 34 and 37 of the Act.

ii. What bearing the decisions relied upon by MMTC have on that enquiry, and what consequential relief, including in relation to the title deeds, follows.

46. This Court will first set out the governing standard of review and address the structure of the contractual arrangement, before examining the precedents relied upon by MMTC, the Tribunal's findings on each of the five consignments, and the appropriate relief.

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ANALYSIS & FINDINGS

47. The Section 34 petition was instituted after the Arbitration and Conciliation (Amendment) Act, 2015 came into force and is governed by the amended provision. The Court does not sit in appeal over the Award. A possible view of the evidence or a reasonable construction of the contract cannot be displaced because another conclusion appears preferable. Patent illegality under Section 34(2A) must go to the root of the matter; an erroneous application of law or reappreciation of evidence does not suffice. The jurisdiction under Section 37 remains subject to those limits.

48. Furthermore, an Award must be read fairly and as a whole. Arbitrators are not required to write exhaustive awards or to discuss every document and contractual clause in isolation. The decisive question is whether the pathway to the learned Tribunal's conclusion is discernible and reflects a permissible view of the dispute.

49. Judicial deference, however, has a defined boundary.An award cannot ignore or override an express contractual stipulation that governs the dispute, as the Supreme Court explained in ***State of Chhattisgarh v. Sal Udyog Private Limited***[4]. Before interfering on that ground, the Court must examine the tribunal's reasoning and determine whether its conclusion genuinely conflicts with the governing contractual term in a way that goes to the root of the matter.

50. The Hypothecation Agreement, the Export Agreement and the separate Agreement of Guarantee formed parts of the same

[4] (2022) 2 SCC 275

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arrangement. The fact that exports and foreign receipts stood in MMTC's name did not exclude the repayment and guarantee obligations. At the same time, those obligations had to be considered with MMTC's duties concerning export and collection, and with the Tribunal's findings about the performance of the particular transaction.

51. Before the learned Tribunal, MMTC anchored its claim in the borrower's obligation to repay the advances with interest, the clauses preserving direct recourse against the borrower, and the guarantees. The Respondents answered that the losses and delays stemmed from MMTC's own conduct in managing the shipments and collections. The question in this appeal is whether the Tribunal's resolution of those competing positions remained within the permissible bounds of arbitral adjudication.

52. The answer depends on the reasons for rejecting each claim. The absence of a separate discussion of every clause of the Hypothecation Agreement does not vitiate the Award if the Tribunal's factual finding supplies a complete answer to the claim. Equally, the Tribunal could not dispose of every contractual claim simply by observing that MMTC was the named exporter. Each of the five consignments must therefore be examined in its own factual and contractual setting.

THE DECISIONS RELIED UPON BY MMTC

53. Before turning to the individual shipments, it is necessary to consider the precedents cited by MMTC. In ***Muzzafar Shah*** *(supra)*, the learned Single Judge rejected objections under Section 33 of the

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Arbitration Act, 1940 to an award enforcing the associate's liability. The decision addressed the associate's contractual undertakings, its role in identifying the foreign buyer and specific indemnity provisions. On appeal, the Division Bench, by its order dated 12.11.2014 in FAO(OS) 469/2014, sustained the interpretation as reasonable in the circumstances. Those decisions arose under the earlier Arbitration regime and on the contractual and factual record before that Tribunal. They do not establish that an associate's liability must be enforced irrespective of MMTC's performance of its own obligations in another transaction.

54. Nor does the Supreme Court's order dated 04.05.2017 in SLP(C) 10816/2015 carry the matter further. The dismissal of the special leave petition under Article 136, without reasons or a construction of the contract, did not authoritatively settle the contractual issue raised here.

55. As for ***Glitter Overseas*** *(supra)*, that decision expressly considered the present Impugned judgment. The Court explained that two arbitral tribunals may adopt different, but plausible, interpretations of similar contracts, each of which may withstand scrutiny under Section 34. Dismissal of a Section 34 petition does not establish a single authoritative interpretation of the contract. In Glitter Overseas(supra) itself, the challenge was partly allowed while the finding of liability on the invoices was upheld. The decision therefore does not support MMTC's contention that the learned Single Judge departed from binding precedent.

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56. These decisions require the present Award to be tested on its own reasons and against the grounds available under Section 34. An award accepting MMTC's claim in another case does not establish patent illegality in this Award. Nor can reasons furnished in another arbitration replace the reasons of this Tribunal.

CJ-25 AND CJ-26

57. For both CJ-25 and CJ-26, MMTC ultimately received the entire sale proceeds. The surviving claims were confined to interest and related charges for delayed realisation. The Tribunal found that when the original buyer failed to take delivery, it was MMTC that redirected the parcels to Al-Aseer. Attributing the delay in realisation to that course of dealing, the Tribunal held that its financial consequences could not be shifted onto the Respondents.

58. Read in that light, the Award's references to MMTC's role in handling the exports and collection form part of its explanation of responsibility for the delay. The learned Tribunal understood that these two claims were for delayed payment, and it rejected them on a finding of fact as to why the payment was late.

59. MMTC disputes that finding and relies upon the evidence of CW-2 that the diversion instructions were issued at the Respondents' written request. The Respondents maintained that MMTC selected Al-Aseer, and their letter dated 22.08.1994 referred to MMTC's diversion instructions. These competing accounts were before the Tribunal. Reassessing them to determine who should bear responsibility would require this Court to undertake an appraisal of the evidence which the present jurisdiction does not permit.

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60. Crucially, the financing provisions do not render that factual determination irrelevant. The Tribunal's reason for refusing the interest claimed was that the delay was attributable to MMTC. That supplies an intelligible answer to the particular claims. The absence of a separate discussion of Clause 2 of the Hypothecation Agreement does not establish that the interest claim remained undecided. Nor need the rejection rest upon the learned Single Judge's additional observation that Clause 3 of the Export Agreement contains no express stipulation for interest on delayed realisation.

61. The Tribunal's conclusion on CJ-25 and CJ-26 reflects a tenable assessment of how MMTC's own conduct bore upon the claims for delayed realisation. This Court finds no ground to disturb it. That conclusion is confined to the responsibility for delay found in these transactions. It does not establish that routing exports through MMTC generally excludes the borrower's contractual liability.

CJ-27

62. CJ-27 stands differently. Paragraph 11 of the Statement of Claim alleged failure to remit the full invoice value "on due date", while the rejoinder asserted that full remittance had not been received. Those pleadings were capable of creating uncertainty about whether the complaint concerned delayed payment or short payment.

63. The evidence and final arbitral submissions clarified the position. CW-2, in his evidence, stated that payment against CJ-25, CJ-26 and CJ-27 had been received in full, though belatedly, and that interest and service charges were claimed. MMTC's final written arguments classified the first three invoices in those terms. The

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Respondents' final submissions also distinguished three delayed-payment consignments from CJ-31, which involved part payment. The Award itself initially records that distinction.

64. Nevertheless, in its separate determination of CJ-27, the Tribunal rejected the claim because MMTC had not specified or proved the amount of a short payment. That inquiry answered the wrong question: the claim before the Tribunal was for interest and charges occasioned by delay, not for an unpaid shortfall in the invoice price. The learned Single Judge fell into the same error, upholding the rejection because no shortfall in the invoice proceeds had been established.

65. The Tribunal's alternative observation that MMTC was the named exporter does not sustain the rejection either. The Tribunal proceeded on the mistaken premise that CJ-27 was backed by a letter of credit, whereas the invoice specifies COD terms. Further, unlike CJ-25 and CJ-26, the Award records no finding that MMTC diverted CJ-27 or otherwise caused the delay in realisation. In the absence of such a finding, MMTC's status as exporter does not answer the borrower's obligation to pay interest under the financing agreements.

66. MMTC squarely challenged this mischaracterisation in Ground L of its Section 34 petition and has again challenged it in Ground G of this appeal. Although its August 2025 additional synopsis is inconsistent and reverts to describing CJ-27 as a case of short payment, that subsequent slip in a written note cannot alter the claim that stood clarified in the evidence and final submissions before the

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Tribunal, or supply an adjudication of that claim which the Award does not contain.

67. The rejection of the claim concerning CJ-27 thus rests upon an enquiry into a shortfall that MMTC was not claiming, compounded by a misreading of the payment terms stated in the invoice. The error goes to the root of the determination and constitutes patent illegality under Section 34(2A). The rejection must therefore be set aside. This Court expresses no opinion on whether MMTC is ultimately entitled to interest or charges, or on their rate, period or quantum.

CJ-31

68. CJ-31 involved part realisation of the sale proceeds. The consignment was shipped under the invoice dated 11.11.1993 on "DA-90 DAYS" terms, against which packing credit of ₹11,24,620/- was advanced. MMTC received ₹9,43,875/- on 26.04.1995 and claimed the unpaid principal balance, together with interest and charges.

69. In rejecting that claim, the Tribunal accepted the Respondents' case that MMTC had departed from the LC mechanism by shipping on DA terms, and pointed to the dishonour of Al-Aseer's cheque, MMTC's failure to sue the foreign buyer, and its insistence that the Respondents first deposit legal expenses. Because of that course of conduct, the Tribunal held, the resulting shortfall could not be shifted onto the Respondents.

70. The learned Single Judge correctly noticed that the letters dated 04.07.1994, 05.07.1994 and 25.07.1994 pertained to the later

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shipment to S.S. Jewellery Traders. They did not establish that the Respondents requested the terms on which CJ-31 had already been exported in November 1993. Reliance upon that correspondence does not demonstrate perversity in the Tribunal's treatment of CJ-31.

71. Even assuming that Section 137 of the Indian Contract Act, 1872 applies in the manner urged by MMTC, it does not dispose of the Tribunal's actual reasoning. Under that provision, mere forbearance by a creditor to sue the principal debtor does not, in the absence of a contrary provision in the guarantee, discharge the surety. The Tribunal, however, attributed the shortfall to MMTC's departure from the agreed payment arrangements and considered its subsequent recovery efforts in that setting. Its conclusion therefore did not rest on forbearance to sue alone.

72. The repayment and guarantee provisions do not require a different result within the present jurisdiction. Clauses 3 and 24 of the Hypothecation Agreement preserve recovery from the borrower independently of the receipt of export proceeds. They do not make MMTC's performance of the connected Export Agreement irrelevant to a defence against the particular demand. The unit's undertaking under Clause 3 of the Export Agreement must also be distinguished from the separate guarantee of the borrower's financial liabilities.

73. Clause 4 of the separate Agreement of Guarantee addresses variations and specified acts or omissions by MMTC. It may preserve a subsisting guaranteed debt notwithstanding such variation or conduct; its application nevertheless requires consideration of the liability secured and whether the particular demand was recoverable

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under the composite arrangement, having regard to the defence accepted by the Tribunal. Read fairly, the Award treats the shortfall as a consequence of MMTC's departure from the export arrangement which could not be passed to the Respondents. The omission to discuss each financing provision separately does not establish that this conclusion was outside the range of permissible views.

74. Clause 5 of the Export Agreement contemplated non-LC exports with ECGC cover. It therefore prevents treating the absence of an LC as an absolute bar to recovery, but does not establish that every alteration of the agreed payment terms was authorised or that its consequences necessarily fell upon the Respondents. Neither the Award nor the impugned judgment contains an express finding that CJ-31 was uninsured, and this Court does not supply one. The rejection is sustained on the Tribunal's assessment of responsibility for the short realisation, read in the context of the payment arrangements and the parties' conduct.

75. MMTC's submissions disclose a competing construction of the arrangement and a competing assessment of responsibility for the shortfall. They do not establish that the Tribunal's conclusion, read as a whole, contradicts an express contractual term in a manner that admits of no permissible interpretation. The inclusion of unpaid principal in this claim does not enlarge the scope of review or exclude a defence founded on MMTC's own performance. As with CJ-25 and CJ-26, the Tribunal identified the claim and attributed the financial consequence to MMTC's conduct. Revisiting that attribution would require a fresh determination of the merits. The rejection of the claim concerning CJ-31 is therefore left undisturbed.

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CJ-1

76. CJ-1 raises a different contractual difficulty. MMTC's claim included the packing credit advanced and the accumulated interest and charges. It was not confined to compensation for the alleged shortage in the returned jewellery.

77. The Tribunal relied upon Ex. C-40 to find that the seals were intact, the jewellery had been resealed without damage and no loss of jewellery had been established. It also noted the Respondents' absence when the parcel was opened. This Court need not reappraise those findings. The further reason for rejecting liability was that MMTC alone could obtain release of the returned jewellery and had left it uncollected with Customs.

78. That reason must be tested against the express provisions for direct recovery. Clause 9 of the Hypothecation Agreement permits MMTC to demand payment without first enforcing its remedies against others or its security. Clause 14 preserves the right to sue the borrower alongside the power to realise the goods. Clause 24 provides that the credit liabilities would primarily be cleared from export proceeds, while preserving recovery from the borrower otherwise. The availability of the goods was therefore not an exclusive source of repayment.

79. The Award treats the intact return and continued availability of the jewellery as sufficient to exclude the financing claim. It identifies no repayment or adjustment of the value of the goods against the credit. Nor does it explain a contractual basis on which MMTC's failure to collect the goods extinguished the asserted liability for the

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advance. In effect, the rejection makes realisation of the goods a condition of recovery from the Respondents, contrary to the reservation of direct recourse. This is a substantive difficulty in the reasoning, rather than a demand for a separate recital of the financing clauses.

80. MMTC's conduct could have consequences for its claim. However, the Award contains no finding that MMTC had lost the goods, had become unable to restore them upon satisfaction of the debt, or had adjusted their value against the advance. Its finding was that the jewellery remained intact and available for collection. This Court cannot supply an unrecorded accounting adjustment or another basis of discharge to reconcile the rejection with the express right of direct recovery.

81. The distinction from CJ-31 is material. There, the Tribunal attributed the shortfall to MMTC's departure from the payment arrangements. Here, the reason for rejecting the financing claim was that the returned jewellery remained available and MMTC had not collected it, notwithstanding the express provisions permitting direct recovery without first realising the goods. The Award does not determine an adjustment or other discharge of the advance which could reconcile that reason with those provisions. The defect goes to the foundation of the rejection and constitutes patent illegality under Section 34(2A). The rejection of the claim concerning CJ-1 must therefore be set aside. The effect of MMTC's conduct upon the accounts, interest and charges, and the adjustment of the returned jewellery remains for substantive adjudication. This Court determines

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none of those matters, makes no independent finding concerning the contents of the parcel and awards no sum to MMTC.

EXTENT OF INTERFERENCE AND RELIEF

82. The infirmities affecting CJ-27 and CJ-1 do not extend to the rejection of CJ-25, CJ-26 and CJ-31. Each consignment was separately considered by the Tribunal, and the two affected determinations can be removed without reopening the three determinations that have withstood scrutiny. The presentation of parts of MMTC's claim in an aggregate account does not make those determinations inseparable. Any further proceedings concerning the portions set aside cannot revive amounts whose rejection remains undisturbed through a recomputation of that aggregate account.

83. In ***Gayatri Balasamy v. ISG Novasoft Technologies Limited***[5], the Supreme Court recognised the power to set aside part of an award where the affected determination is legally and practically severable. That requirement is satisfied here. Setting aside the rejections concerning CJ-27 and CJ-1 leaves the determinations on the other consignments intact. It does not require this Court to decide liability, calculate interest or reconstruct the accounts. Those tasks would involve an adjudication of the merits beyond the limited relief granted in this Appeal.

THE TITLE DEEDS

84. The direction for immediate return of the title deeds followed the learned Tribunal's conclusion that nothing remained due to

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MMTC. Setting aside the rejections concerning CJ-27 and CJ-1 removes the foundation for that categorical consequential direction, notwithstanding the preservation of the rejections concerning the other consignments. The direction must therefore also be set aside.

85. Mrs. Arti Chauhan was not a party to the arbitration. The Statement of Claim referred to separate proceedings against her, and the creation of an equitable mortgage was disputed. This judgment determines neither her rights in relation to the property nor MMTC's entitlement to retain or enforce the security. If the deeds have already been returned pursuant to the Award or any subsequent order, this judgment does not require their re-deposit.

CONCLUSION

86. In the result, the Appeal succeeds in part. The challenge fails in respect of CJ-25, CJ-26 and CJ-31, where the learned Tribunal identified the claims and attributed the disputed financial consequences to MMTC's conduct. Those determinations remain within the permissible bounds of arbitral adjudication. The challenge succeeds in respect of CJ-27, where the clarified delayed-realisation claim was rejected through an inquiry into an unproved shortfall and an alternative reason that did not answer that claim. It also succeeds in respect of CJ-1, where the rejection of the financing claim rested on MMTC's failure to collect the returned jewellery despite the express reservation of direct recourse.

87. Setting aside the rejections concerning CJ-27 and CJ-1 does not establish MMTC's entitlement to either claim. This Court leaves undecided the disputed liability, permissible interest and charges, and

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the accounting treatment of receipts and returned jewellery relevant to those claims. These reservations do not reopen the rejection of any claim concerning CJ-25, CJ-26 or CJ-31.

88. The parties are left to such remedies as may be available in accordance with law in respect of the portions set aside. Nothing stated herein directs recommencement of the arbitral proceedings or determines any question of limitation, constitution of the arbitral forum or other objection which may arise in further proceedings. The determinations left undisturbed by this judgment retain their effect.

FINAL ORDER

89. Accordingly, the Appeal is partly allowed in the following terms:

i. The judgment dated 07.03.2017 in O.M.P. (COMM) 371/2016 is set aside only insofar as it sustains the rejection of MMTC's claims concerning CJ-27 and CJ-1 and the direction for immediate return of the title deeds. The Section 34 petition is allowed to that extent.

ii. The Arbitral Award dated 26.04.2016 is set aside insofar as it rejects MMTC's claims concerning CJ-27 and CJ-1 against the Respondents before this Court and directs immediate return of the title deeds relating to Apartment No. 3, Oberoi Club House, Oberoi Apartments, 2, Shamnath Marg, Civil Lines, Delhi.

iii. The rejection of MMTC's claims concerning CJ-25, CJ-26 and CJ-31, and the impugned judgment sustaining those

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rejections, remain undisturbed. The Appeal is dismissed to that extent.

iv. No amount is awarded to MMTC. The parties may pursue remedies available in law in respect of the portions set aside, subject to the questions left open in this judgment and without reopening the determinations left undisturbed.

v. No finding is returned on MMTC's entitlement to retain or enforce any security against Mrs Arti Chauhan or the property. All rights and contentions of MMTC and Mrs Arti Chauhan in that regard are left open. If the title deeds have already been returned pursuant to the Award or any subsequent order, this judgment shall not require their re-deposit.

vi. Pending application stands disposed of.

ANIL KSHETARPAL, J.

BHARAT PARASHAR, J.

OCTOBER 27, 2026
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