IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
(COMMERCIAL DIVISION)
ORIGINAL SIDE

Present:
The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

AO-COM No. 23 of 2025

Percept Talent Management Limited and Another

Vs.

Sourav Chandidas Ganguly

For the appellants	:	Mr. Surajit Nath Mitra, Sr. Adv. Mr. Rajarshi Dutta, Adv. Mr. Ranjit Kr. Basu, Adv. Mr. Parag Khandhar, Adv. Mr. Sarbajit Mukherjee, Adv.
For the respondent	:	Mr. Samrat Sen, Sr. Adv. Mr. Paritosh Sinha, Adv. Ms. Manali Bose, Adv. Mr. Amitava Mitra, Adv. Ms. Urmi Sengupta, Adv. Mr. Saurath Dutt, Adv. Mr. Naman Agarwal, Adv.
Hearing concluded on	:	12.03.2026
Judgment on	:	16.04.2026

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Md. Shabbar Rashidi, J.:-

1. The appeal under Section 37 of the Arbitration and Conciliation Act, 1996 is in assailment of judgment and order dated July 22, 2025 passed in AP-COM No. 167 of 2024.

2. By the impugned judgment and order, the learned Single Judge dismissed AP-COM No. 167 of 2024, an application under Section 34 of the Act of 1996 and refused to interfere with the original award dated December 9, 2018 together with the supplementary award dated March 8, 2019 passed by the arbitral tribunal.

3. Learned senior advocate appearing for the appellant submitted that the learned Single Judge failed to appreciate the purport of Section 34 of the Act of 1996 and passed the impugned judgment and order upon erroneous consideration of law and facts. The learned Single Judge did not consider that the impugned award was liable to be set aside on the grounds urged in the application preferred on behalf of the appellants under Section 34 of the Arbitration and Conciliation Act, 1996.

4. Learned senior advocate for the appellant also submitted that the Learned Judge erred in holding that the Arbitral Tribunal has correctly arrived at a finding that the appellants had no right to terminate the Player Representation Agreement (PRA) after dealing with the points raised by the appellants and also took into account the contemporaneous conduct of the parties when in fact the Arbitral

Tribunal failed to consider the submissions of the Petitioners and passed the Impugned Award ex-facie perverse being contrary to the plain meaning and terms of the PRA between the parties, rendering the Impugned Award to be perverse and patently illegal.

5. Learned senior advocate further argued that the learned Single Judge wrongly held the views taken by the learned arbitral tribunal as possible and plausible despite the fact that such view was ostensibly against the fundamental public policy of India. The interpretation of PRA adopted by the learned Single Judge as well as the arbitral tribunal could not have been regarded as plausible. According to learned Senior advocate the right to terminate existed and continued so long as the event of variation subsisted.

6. Learned senior advocate for the appellant contended that the learned Single Judge ignored the terms of the PRA where an unconditional right of termination of the appellant was reserved and on this score, the impugned award was perverse. It was submitted that the learned Single Judge ignored the express terms of the PRA and rewrote a new contract contrary to the original contract. For such reason also the impugned judgment and order is not sustainable in terms of the provisions of Section 34 of the Act of 1996.

7. Learned Senior advocate for the appellant further contended that the Learned Single Judge erred in upholding the Impugned Award despite the perverse finding of the Arbitral Tribunal that the right of

the appellant to terminate the agreement came to an end after November 25, 2006 i.e. when the Respondent was re-selected to play for the Indian Team. Such finding was erroneous, perverse and contrary to the terms of the PRA in view of the provisions of Section 28(3) of the Arbitration and Conciliation Act.

8. Learned Senior advocate for the appellant further submitted that the learned Judge failed to consider Clause 15 and Clause 2.1(c) of Schedule 4 read with Clause 2.2(c)(ii) of the PRA which contemplated two eventualities i.e. one of mere non-selection and non-selection for a continuous period of exceeding 6 months. If it was a mere non-selection not exceeding a period of six months, then it was the right of the appellant to vary the amount and reduce the same by one third for each month during the period when the Respondent is not selected. However, in the event the Respondent was not selected for a period of six consecutive months or more, then the Petitioners had an unconditional right to terminate the PRA at any time by giving a written notice and on such written notice being given the PRA would forthwith come to an end. The learned arbitral tribunal failed to appreciate that the respondent was not selected in the Indian team for more than six months i.e. between August 2006 and November 2006, giving the appellant a right to terminate the PRA.

9. Learned senior advocate for the appellant submitted that the learned Single Judge erroneously upheld the findings of the arbitral

tribunal which held the termination of PRA on the part of the appellant vide its notice dated November 21, 2007 to be invalid. The appellant had unconditional right to terminate the PRA at any time in terms of the express provisions of the agreement. It was also contended that the Learned Judge failed to consider that the Arbitral tribunal's finding that both the reduction of MQD and/or MYD and the right to terminate existed only so long as the event of variation subsists was perverse and contrary to the terms of the PRA and the Arbitral Tribunal lost sight of the express terms of the PRA, which were binding upon the parties.

10. Learned senior advocate for the appellant further submitted that the learned Single Judge was not justified in holding that since the appellant did not document/send any letter disclosing their intention to terminate the PRA during the subsistence of the event of variation i.e. between August 1, 2006 and November 30, 2006, such conduct conclusively proved that the Petitioners were not contemplating termination of the PRA. In fact, according to the appellant, the parties were negotiating upon the terms of PRA for the next six months which continued until November 2007 when the PRA was terminated in terms of Clause 2.2 (c) (ii) of Schedule 4 of the PRA.

11. Learned senior advocate for the appellant also argued that the learned arbitral tribunal was not justified in holding that the contract of the respondent with KKR was for playing cricket and did not include

exploitation of his personality and that the amount claimed by the appellants was beyond the scope and purview of PRA.

12. Learned senior advocate appearing for the appellant also contended that a party who has not raised or urged a particular plea before the Section 34 Court is precluded from raising such an issue in proceedings under Section 37 of the said Act. In support of his contentions, learned senior advocate appearing for the appellants relied upon ***(2022) 4 Supreme Court Cases 463 (Indian Oil Corporation Limited V. Shree Ganesh Petroleum Rajgurunagar)***, ***2025 SCC OnLine Del 3811 (Oil and Natural Gas Corporation Ltd. V. JSIW Infrastructure Pvt. Ltd.)***, ***1959 SCC OnLine SC 6 (Union of India V. Kishorilal Gupta & Bros.)***, ***(2015) 3 Supreme Court Cases 251 (Board of Control for Cricket in India V. Cricket Association of Bihar and Others)*** and ***(2011) 6 Supreme Court Cases 617 (A.C. Muthiah V. Board of Control for Cricket in India and Another)***.

13. On the other hand, learned senior advocate representing the respondent submitted that on a true and proper construction of the PRA, the termination could not have been effected at the material point of time i.e. 16 months after the occurrence of the event which entitled the appellant to terminate the PRA and in fact, 12 months after the respondent was re-selected as a regular playing member of the Indian Cricket Team. By reason of diverse overt acts and conduct of the appellant since the occurrence of the event of variation on

August 1, 2006 which entitled the appellant to terminate the PRA, the petitioners had manifestly elected to waive their right to terminate the PRA and such termination was thereby barred by the principles of waiver and/or estoppel and/or acquiescence.

14. It was also submitted that during the said period of 16 months, the appellants continued to hold it out to the respondent and to diverse licensees as the respondent's sole and exclusive manager and agent and induced the respondent to perform his reciprocal promises under the PRA. In terms of the PRA, an escrow account was created and all transactions in respect of the personality exploitation of the respondent were to be deposited in such account. It was specifically submitted by learned senior advocate that after August 1, 2006 a total sum of ₹12,04,01,212/- was paid by various Licensees to the petitioners into the escrow account on the basis of representations made by the appellants to the licensees that it was and continued to be the sole and exclusive manager and agent of the respondent.

15. Learned senior advocate for the respondent further contended that the right to terminate the PRA ought to have been exercised by the appellant immediately or at least proximate to the occurrence of the event of variation and such right could not under any circumstances be construed to continue even after the respondent's reinstatement and re-selection in the Indian National Cricket Squad.

The term 'at any time' used in the PRA cannot be stretched to indefinite period of time.

16. Referring to clause 16.1 of the PRA, learned senior advocate for the respondent submitted that in terms of the conditions enunciated in such clause, the appellant ceased the authority to represent the personality i.e. the respondent, upon termination of PRA. However, the appellant continued to represent the respondent even after the date of the purported termination i.e. November 21, 2007 procured and/or solicited/negotiated without any reservation, several contracts on behalf of the respondent. The appellant also, after November 21, 2007, proactively coordinated and/or organized promotional services on behalf of diverse licensees by holding itself out to have the authority or right to represent the claimant. Such facts were brought on record by the respondent in the arbitral proceeding by way of rejoinder as well as affidavit of evidence which was never disputed by the appellants. According to learned senior advocate, the conduct of the appellant was inconsistent with the right of termination. Therefore, the learned Arbitral Tribunal rightly held the termination of PRA to be invalid which was subsequently upheld by the impugned judgment and order.

17. Learned senior advocate for the respondent also contended that in terms of the provisions contained in Section 34 of the Act of 1996, the construction of the terms of a contract is the sole and

exclusive domain of the Arbitral Tribunal. If the view taken by the Arbitral tribunal is one that is possible, even if not a plausible one, the Court is precluded from interfering with the award. Once it is found that the Arbitral Tribunal's approach is neither arbitrary nor capricious' the Arbitral tribunal is the last word on facts. The Court exercising jurisdiction under Section 34 of the Arbitration and Conciliation Act, 1996 does not sit in appeal over the award of an arbitral tribunal upon reassessment or re-appreciation of evidence. In support of such proposition, learned senior advocate relied upon ***2025 SCC OnLine SC 2857 (Ramesh Kumar Jain V. Bharat Aluminium Company Limited)***, ***(2025) 6 Supreme Court Cases 757 (Somdatt Builders-NCC-NEC (JV) V. National Highways Authority of India and Others)***, ***(2024) 1 Supreme Court Cases 479 (Reliance Infrastructure Limited V. State of Goa)***, ***(2023) 15 Supreme Court Cases 472 (Larsen Air Conditioning and Refrigeration Company V. Union of India)***, ***(2019) 4 Supreme Court Cases 163 (MMTC Limited V. Vedanta Limited)*** and ***2024 SCC OnLine SC 2632 (Punjab State Civil Supplies Corporation Limited and Another V. Sanman Rice Mills and Others)***.

18. Learned senior advocate for the respondent further submitted that the learned Arbitral Tribunal was justified in holding that the contract entered into by KKR with the respondent was for playing the game of cricket and that the amount paid to the respondent by KKR

was independent of the exploitation of the commercial rights of the respondent.

19. The Arbitral Tribunal rightly came to the conclusion that the KKR contract was for playing the game of cricket and did not relate to exploitation of the respondent's personality. The Arbitral Tribunal was of the view that PRA provided only to amounts received by the respondent from exploitation of his personality. Promotional activities that the respondent undertook under his agreement with KKR were promotional activities of and for the KKR team and no individual endorsements were made by any of the persons playing for KKR. The Arbitral Tribunal has rejected the counter claim made by the petitioners by holding that the KKR contract was beyond the purview of the PRA. According to learned senior advocate for the respondent, such view taken by the tribunal is a plausible one which cannot be faulted. On similar grounds, the counter claim of the appellant in respect of share in the KKR contract was rightly disallowed by the learned Arbitral Tribunal and subsequently affirmed by the impugned judgment and order.

20. Learned senior advocate for the respondent further submitted that the PRA was restricted to the exploitation of the commercial rights of respondent by different 'Licensees' upon the licensing of which, consideration was received by respondent. Such consideration is distributed between respondent and Percept as per the Revenue

Distribution Formula provided in the Schedules to the PRA. Under the KKR contract, the respondent was only entitled to receive a fixed consideration as the 'Player Fee' and no other payment. The respondent did not receive anything besides the aforesaid fixed fee, either from KKR or from any of the sponsors of KKR. KKR, as an IPL franchise enters into endorsement/sponsorship agreements with corporate bodies. The corporate bodies pay such consideration as may be agreed by and between the corporate bodies and KKR. The respondent was not a party to, or was not privy to or aware of the commercial terms and conditions under which KKR had entered into contracts with the corporate bodies. At the same time such contracts cannot be termed as commercial exploitation of the individual personality, rather that of the brand KKR.

21. Learned senior advocate for the respondent referred to various clauses of KKR contract to contend that individual players were not authorized to participate in any promotional activity except for and on behalf of the KKR franchise and that too in groups. Therefore, the claim of the appellant over the revenue earned by the respondent from out of the KKR contract was rightly rejected.

22. Learned senior advocate for the respondent also submitted that the learned Arbitral Tribunal rightly did not consider the audit report sought to be relied upon by appellants for lack of proper proof thereof.

23. Learned senior advocate for the respondent also contended that the learned Arbitral Tribunal justifiably held both the appellants jointly and severally liable. It was contended that original PRA was entered into between the respondent and the appellant No.2. Around April 2007, the respondent was intimated that appellant No.2 had assigned its rights under the PRA to appellant No.1. Accordingly, the respondent as claimant impleaded both the appellants in his statement of claim. Both the appellants filed joint statement of defence. They both filed the counter claim jointly. Such issue was never raised by the appellants during the arbitral proceeding and is deemed to have been waived. Therefore, according to learned senior advocate, the appellants are not entitled to raise such issue of liability based on assignment in the present proceeding.

24. The respondent, a cricketer of international repute entered into a Player Representation Agreement (PRA) with the petitioner No.2, on October 22, 2003. By such agreement the respondent appointed petitioner No.2 as his sole and exclusive manager and agent on the terms and conditions enumerated in the PRA.

25. During the subsistence of the PRA, by a deed of assignment dated April 21, 2007 executed between petitioner No.1 and petitioner No. 2, the rights and obligations of the petitioner No. 2 under the PRA were assigned to petitioner no.1. According to the terms of PRA, an

escrow account was to be maintained to keep the amount received from various contracts.

26. The respondent claimed that substantial sums were due and payable by the appellants and that the revenue received from different contracts were not deposited in the escrow account as contemplated by the PRA. The respondent also alleged unauthorized withdrawals from the escrow account to the detriment of his interest in the PRA. The relationship between the parties turned discordant resulting in termination of PRA at the behest of appellant No.1.

27. In terms of the agreement, arbitral reference was made to an arbitral tribunal consisting of three arbitrators. The Arbitral Tribunal unanimously held that the respondent was entitled to the balance of the minimum guaranteed amount which was assured by the appellant under the PRA, after making necessary deductions and adjustments for the sums received directly under various heads. By the award, the Arbitral Tribunal awarded a sum of ₹14,49,91,000/- with additional interest thereon @ 12% p.a. from November 21, 2007 till the date of passing of the arbitral award together with further interest @ 12% p.a. from the date of passing of the award till realization. The manner in which the amount awarded was quantified was fully enumerated in the award. In addition, the respondent was also granted costs quantified at ₹50,00,000/-

28. While deciding the issues, the learned Single Judge formulated the points of challenge to the arbitral award dated December 9, 2018, read with the supplementary award dated March 8, 2019 made on the part of the appellant in the following terms, that's to say: -

> *"6. It is contended on behalf of the petitioner that the impugned award passed by the Tribunal is ex facie, perverse, contrary to the express terms of the contract, unreasoned and as has been passed in violation of the principles of natural justice. The petitioners assail the award on the following grounds:*
>
> *A. Error of the Arbitral Tribunal in holding that the termination of the contract by the petitioners on November 21, 2007 was invalid.*
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> *B. Failure of the Arbitral Tribunal to give the petitioners the benefit of the consideration received by the respondent under the KKR contract dated August 21, 2OO8 between Knight Riders sports Private Limited and the respondent.*
>
> *C. Failure of the Arbitral Tribunal to give due credence to the purported audit reports of M/ s. Patkar & Pendese which were disclosed on behalf of the petitioners before the Arbitral Tribunal.*
>
> *D. Failure of the Arbitral Tribunal to hold that the petitioners could not be jointly liable in view of the assignment whereby the rights and liabilities of the petitioner No. 2 had been assigned in favour of the Petitioner no. 1."*

29. On the point of right of the appellant to terminate the Player Representation Agreement (PRA), the learned Single Judge declined to

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interfere with the impugned award primarily on two grounds. The learned Single Judge examined various clauses of the PRA as well as the findings arrived at by the Arbitral Tribunal and came to a conclusion that the appellants not only waived their right to terminate but continued to commercially deal with the personality of the respondent in compliance with the terms and conditions of PRA. Secondly, the learned Single Judge also observed that the view taken by the Arbitral Tribunal were plausible and could not be interfered in the jurisdiction under Section 34 of the Act of 1996. The learned Single Judge held that,

> *"12. The respondent lost his place in the Indian Cricket Team in February 2006. The event of variation entitling the petitioners to terminate was triggered on August 1, 2006 i.e. on completion of six consecutive months of the respondent's non-selection. The respondent was again re-selected as a regular player on November 30, 2006. During this period there is neither a single letter nor document which would demonstrate that the petitioners contemplated termination. It was only 16 (sixteen) months after the occurrence of the event i.e. the event which entitled the petitioners to terminate and 12 (twelve) months after his re-selection that the petitioners ultimately purported to terminate the PRA. In light of the above facts, the interpretation of the clauses of the PRA after considering the words "forthwith" and "at any time" in the PRA by the Arbitral Tribunal justify no interference. The Arbitral Tribunal has elaborately taken into account all the above aspects in arriving at the conclusion that the petitioner had no right of termination. The Arbitral Tribunal has dealt*

with each of the points raised by the petitioners and also taken into account the contemporaneous conduct of the parties. There is nothing arbitrary nor capricious in the award. The view of the Arbitral Tribunal is both a possible and plausible view and warrants no interference. In such circumstances, there is no merit in the contention that the termination of the PRA was valid or lawful.

13. A possible view by an Arbitrator on facts has necessarily to pass muster as the Arbitrator is the ultimate master of the quantity and quality of evidence to be relied upon when he delivers his arbitral award. Thus, an award based on little evidence or on evidence which does not measure up in quality to a trained legal mind would not be held to be invalid on this Score. In deciding an application under section 34 of the Act, the Court does not act as an Appellate Court nor re-appreciate evidence findings rendered by the Tribunal. There is a limited and circumscribed scope of interference only on the grounds enumerated under section 34 of the Act. The construction of the terms of the contract is exclusively for the Arbitral Tribunal. The findings in the award are based on a detailed consideration of the PRA, correspondence and evidence of the parties including their respective financial records. There is nothing perverse in the view of the Arbitral Tribunal. The award discusses the nature of obligations under the PRA and elaborately deals with the impugned letter of termination and also the lack of prior protest. The award also takes into account the conduct of the parties. Though the petitioners alleged non-performance, the Tribunal found that no contemporaneous proof had been furnished and this squarely fell within the domain of the Arbitral Tribunal. Once it is found that the Tribunal's approach is not arbitrary nor capricious then the Tribunal is the last word on facts. In such circumstances, there is also nothing which warrants

interference with the view taken by the Arbitral Tribunal. [Associate Builders vs. Delhi Development Authority (2015) 3SCC 49, Ssanyong Engineering and Construction Company Limited vs. National Highways Authority of India (NHIAI) (2019) 15 SCC 131'and P.R.Shah shares & stock Brokers (P) Ltd. V. BHH Securities (P) Ltd, (2012) 1 SCC 594]."

30. The learned Single Judge appears to have discussed the relevant clause in the PRA vis-à-vis the right of termination. Special reference was made to the facts that the alleged termination was found by the learned tribunal to a stale reaction on the part of the appellant. The learned Single Judge observed that the learned Arbitral Tribunal had held that the termination of PRA was bad in so far as it was exercised much after it accrued. The tribunal took a specific view and declined to accept the contention of the appellants that once the event of variation occurred, the right to terminate the contract in the terms of PRA was triggered and continued to be available until it was actually exercised irrespective of the fact that the respondent was re-selected in the Indian cricket team later.

31. In fact the agreement was terminated after the event giving rise to the right of termination had long surpassed and no longer existed. The learned Single Judge held that the terms *"forthwith"* and *"at any time"* used in the agreement were not stretchable to any extent rather; it ought to have been exercised within a reasonable proximity of time, which the appellants failed. In fact, the Arbitral Tribunal also

took note of the fact that no document or communication at the behest of the appellants expressing its desire to terminate the contract immediately after the happening of the event of variation was demonstrated. According to the terms of the PRA, the said right of termination of contract was to be exercised following a written notice to that effect.

32. The learned Single Judge also held the finding of the Arbitral Tribunal with regard to invalidity of the termination of the PRA to be not liable to interference on the ground that the appellants continued to deal with the personality exploitation of the respondent even after the termination of the contract. The tribunal had held that the case made out by the respondent to the effect that the appellants continued to act as manager of his personality exploitation under the PRA even after the alleged termination of PRA was not refuted by the appellants and it stood proved in the arbitral proceeding. On such score as well, the termination of PRA was held to be depraved, by the tribunal.

33. Such findings of the tribunal was held by learned Single Judge to be within exclusive domain of the arbitral tribunal and thereby, the learned Single Judge, in its jurisdiction under Section 34 of the Arbitration and Conciliation Act, 1996, refrained from interfering with such findings arrived at by the tribunal. We are of the opinion that the learned Single Judge quite justifiably declined to interfere with the findings of the Arbitral Tribunal. In the facts of the

case, we are not in a position to hold that the learned Single Judge misapplied or failed to exercise its jurisdiction under Section 34 of the Act of 1996.

34. The issue in aspect of the entitlement of the appellants over the revenue share in the consideration received by the respondent under his contract with KKR, was decided by the learned tribunal in the following terms:

> *"19. So far as the claim by the Respondents and against the Claimant in respect of Knight Riders Sports Ltd (KKR Contract) is concerned, it is the Respondents contention that this amount of ₹2,62,2O, OOO/- is payable to the Respondents out of the amount agreed to be paid by the Claimant under the KKR Contract for having participated on behalf of KKR in the tournament popularly known as IPL This claim of Respondents appears to be wholly unsustainable. The PRA applies exclusively to the exploitation of the claimant's commercial rights. Those contracts that the claimant entered into for playing the game of cricket are beyond the purview of the PRA. The amount paid by KKR to the Claimant is wholly independent of the exploitation independent of the claimant's Personality to which the PRA attaches. Probably realizing this position, the Respondents submitted that the claimant had participated in promotional activities as a result of the KKR contract. In fact, the KKR contract provided that respect of any person or product or service. Promotional*
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> *Activities undertaken by the KKR were always endorsements by team members and by the claimant as a part of the KKR team and not an individual promotion by any team member or the Claimant. The evidence in this connection is contained in the cross examination of the Claimant from Qs. and Ans. 149*

to 161 and 174 to 176. The gist of this testimony is that the promotional activities that the Claimant undertook under his agreement with KKR were promotional activities of the KKR team and no individual endorsements were made by any of the persons playing for the KKR."

35. As regards the refusal of counter claim made by the appellant towards the revenue share in the consideration received by the respondent in his contract with the Kolkata Knight Riders (i.e. Indian Premier league Playing contract) dated August 21, 2008 between Knight Riders Sports Private Limited and the respondent, the learned Single Judge held as follows:

"16. The finding that the contract entered into by KKR with the respondent was for playing cricket and independent of the exploitation of the commercial rights of the respondent is based on a construction of the contract and the evidence adduced by the parties before the Arbitral Tribunal. The Arbitral Tribunal held that the promotional activities which the respondent had undertaken in terms of KKR contract were promotional activities of an on behalf of KKR and were not individual endorsements of any of the players playing for KKR. Thus, no part of the consideration received under the KKR contract was subject to "revenue share with the petitioners under the PRA.

17. As a general principle, if there are two plausible interpretations of the terms and conditions of the contract, then no fault can be found if the Arbitral Tribunal proceeds to accept one interpretation as against the other. The reasoning of the Arbitral Tribunal in this regard is within the permissible bounds of arbitral discretion under section 34 of the Act. In the

facts and circumstances, the interpretation of the relevant clauses of the PRA vis-à-vis the KKR contract by the Arbitral Tribunal are both possible and plausible. Merely because another view could have been taken on the self-same facts does not warrant interference with the award. The Arbitral Tribunal has elaborately dealt with this aspect after taking into consideration the relevant clauses and evidence. A Court should not interfere with the decision of the Arbitral Tribunal merely because an alternative view is possible unless the Arbitral Tribunal's view is found to be perverse or tainted with arbitrariness. No portion of the award is shown to have contravened the principles of justice, morality, or the fundamental policy of Indian law the impugned award cannot be described as one which shocks the judicial conscience. To this extent the decisions cited by the petitioners are distinguishable. There is also no question of disregarding the decisions of the Hon'ble Supreme Court in A.C. Muthiah V. Board of Control for Cricket in India (2011) 6 SCC 617 and Board of Control for Cricket in India V. Cricket Association of Bihar (2015) 3 SCC 251. These decisions were inapplicable and inapposite."

36. The learned Single Judge refused to interfere with the decision of the Arbitral Tribunal on the ground that the promotional activities which the respondent had undertaken in terms of KKR contract were promotional activities of and on behalf of KKR and were not individual endorsements of any of the players playing for KKR. Thus, no part of the consideration received under the KKR contract was subject to "revenue share with the petitioners under the PRA. The learned Single Judge was also of the view that if there are two

plausible interpretations of the terms and conditions of the contract, then no fault can be found if the Arbitral Tribunal proceeds to accept one interpretation as against the other. The reasoning of the Arbitral Tribunal in this regard is within the permissible bounds of arbitral discretion under Section 34 of the Act. In the facts and circumstances, the interpretation of the relevant clauses of the PRA vis-à-vis the KKR contract by the Arbitral Tribunal are both possible and plausible.

37. We are also of the opinion that when the learned Arbitral Tribunal, in its wisdom, accepted one plausible view against the other, no interference under the jurisdiction of Section 34 of the Act of 1996 was at all warranted. On this score also we are not in a position to hold at any stretch of imagination, that the learned Single Judge failed to exercise its jurisdiction under the provisions of Arbitration and Conciliation Act, 1996.

38. So far as rejection of the report of audit reports of M/s. Patkar & Pendese which were disclosed on behalf of the petitioners before the Arbitral Tribunal is concerned, the learned tribunal had held that such report was not duly proved by the appellants at the arbitral proceeding. The maker of such report was not called upon to prove the same. The respondent was not given the opportunity to cross examine the maker of the audit report. For such reasons, the audit report was not taken into consideration by the Arbitral Tribunal. In this regard the learned Single Judge observed that,

"20. This is a pure question of assessment or weightage of evidence which is within the exclusive domain of the Arbitral Tribunal. The Tribunal found that no evidence was at all adduced in respect of the auditor's certificate nor did the maker of the documents depose. There was no evidence furnished as to the veracity or correctness of the certificates. On the other hand, the respondent solely relied on the admissions contained in the letter dated September 10, 2007 issued by the petitioner No.1 and this was given due credence to by the Arbitral Tribunal. Mere filing of a certificate by an auditor or a chartered accountant without examining the author or giving an opportunity of cross examination does not constitute proof of the contents thereof. It is well settled that the Arbitral Tribunal being the ultimate master of the quantity and quality of evidence, the court must respect the view of the Arbitral Tribunal."

21. There can be no re-appreciation of the findings by the Arbitral Tribunal nor does the Court substitute its own view or re-interpret the entire documentary evidence. There is limited scope of the court both in respect of the quality and the quantity of evidence. In Sumitomo Heavy Industries' Ltd. V. ONGC Ltd., (2010) 11 SCC 296, it has been held as follows:

> *"43....The umpire has considered the fact situation and placed a construction on the clauses of the agreement which according to him was the correct one. One may at the highest say that one would have preferred another construction of Clause 17.3 but that cannot make the award in any way perverse. Nor can one substitute one's own view in such a situation in place of the one taken by the umpire, which would amount to sitting in appeal. As held by this Court in Kwlality Mfg. Corpn. v. Central Warehousing Corpn. [(2009) 5 SCC 142, (2009) 2 SCC (Civ) 4066] the Court while considering challenge*

> *to arbitral award does not sit in appeal over the findings and decision of the arbitrator, which is what the High Court has practically done in this matter. The umpire is legitimately entitled to take the view which he holds to be the correct one after considering the material before him and after interpreting the provisions of the agreement. If he does so, the decision of the umpire has to be accepted as final and binding."*

39. In the present proceeding, the appellants failed to demonstrate that the alleged audit report was actually proved at the arbitral proceeding in accordance with law. Nothing has been placed before us that the author of the audit report was examined as a witness in such proceeding and was thrown open for cross examination on the part of the respondent. In such circumstances, we cannot hold that the findings of learned Single Judge in this regard suffer from perversity.

40. The learned Single Judge found no merit in the contention of the appellants that the learned Arbitral Tribunal failed to appreciate that after the execution of the deed of assignment by and between appellant No. 1 and appellant No. 2 on April 21, 2007 both the appellants could not have been held jointly liable. The learned Single Judge noted in the impugned judgment that,

> *"23. The application under section 34 of the Act has been filed by both petitioners. There are neither any pleadings nor grounds to conclude that the rights and liabilities of the petitioner No.2 had ceased to exist. Significantly, the issue of assignment has been ignored and disregarded by the*

> *petitioners themselves before the Arbitral Tribunal. There was no argument advanced before the Arbitral Tribunal that the petitioner No. 2 is not liable to respondent by virtue of the assignment. This is also not a ground urged in the pleadings and is wholly outside the scope of this proceeding. As such, the petitioners are estopped from raising this issue. In such circumstances, there is no merit in the objection."*

41. It is trite law that one cannot take the benefit of his own wrong. There is nothing on record to conclude that the findings of learned Single Judge to the effect that the it was never argued before the learned Arbitral Tribunal that in view of the assignment, appellant No. 2 could not be held liable. Such issue was never raised by the appellants during the arbitral proceeding and is deemed to have been waived. Therefore, according to learned senior advocate, the appellants are not entitled to raise such issue of liability based on assignment in the present proceeding. The materials placed before us show that both the appellants filed joint statement of defence as well as the counter claim jointly. In such facts of the case, the impugned judgment does not call for any interference.

42. In ***Kishorilal Gupta*** (supra) on the survival of an arbitration clause in a contract where such contract was superseded by a fresh contract, the Hon'ble Supreme Court observed that,

> *"6. ..... It was a self-contained document; it did not depend upon the earlier contracts for its existence or enforcement. The liability was ascertained and the mode of recovery was provided for. The earlier contracts were*

> *superseded and the rights and liabilities of the parties were regulated thereunder. No condition either precedent or subsequent was expressly provided; nor was there any scope for necessarily implying one or other either. The only argument in this direction, namely, that it is impossible to attribute any intention to the Government to take a mere promise on the part of the respondents to hypothecate their properties "as satisfaction" and therefore it should be held that the intention of the parties was that there would be no satisfaction till such a document was executed, does not appeal to us. We are concerned with the expressed intention of the parties and when the words are clear and unambiguous — they are undoubtedly clear in this case — there is no scope for drawing upon hypothetical considerations or supposed intentions of the parties; nor are we attracted by the argument that the description of the properties intended to be hypothecated was not made clear and therefore the presumed intention was to sustain the rights under the new contract till a valid document in respect of a definite and specified property was executed."*

42. ***Oil and Natural Gas Corporation*** (supra) dealt with the interpretation of the terms of contract. It noted that when the language of the contract is clear and unambiguous, internal aid of interpretation is not permissible. The Delhi High Court held that,

> *"46. When the language of the Clause 3.4.1.5 of the GCC is plain, clear and unambiguous, the internal aid of interpretation is impermissible. The law has been settled by various decisions of the Hon'ble Supreme Court in Pandit Chunchun Jha (supra), United India Insurance Co. Ltd. (supra), State Bank of India (supra) and Rajasthan State Industrial Development and Investment Corporation (supra) relied upon by the Respondent.*

47. The decision in Provash Chandra Dalui (supra) relied on by the Appellant would not be applicable in the present facts and circumstances as the clause 3.4.1.5 of the GCC is unambiguous, plain, clear and express.

48. The impugned judgment has correctly held that when the terms of the contract were unambiguous, the negotiations between the parties in the contract should not have been looked into considering clause 1.2.5 of the GCC, which stated that the contract constitutes an entire agreement and supersedes all past negotiations, communications and agreements entered into between the parties prior to the execution of the contract. Ignoring an explicit clause of the contract or acting contrary to the terms of the contract amounts to patent illegality. The above law has been settled in the decision of the Hon'ble Supreme Court in Indian Oil Corporation Ltd. (supra).”

43. Similarly, in ***Indian Oil Corporation Ltd.*** (supra), the Hon’ble Supreme Court noted that,

“45. The Court does not sit in appeal over the award made by an Arbitral Tribunal. The Court does not ordinarily interfere with interpretation made by the Arbitral Tribunal of a contractual provision, unless such interpretation is patently unreasonable or perverse. Where a contractual provision is ambiguous or is capable of being interpreted in more ways than one, the Court cannot interfere with the arbitral award, only because the Court is of the opinion that another possible interpretation would have been a better one.

46. In Associate Builders [Associate Builders v. DDA, (2015) 3 SCC 49: (2015) 2 SCC (Civ) 204], this Court held that an award ignoring the terms of a contract would not be in public

> *interest. In the instant case, the award in respect of the lease rent and the lease term is in patent disregard of the terms and conditions of the lease agreement and thus against public policy. Furthermore, in Associate Builders [Associate Builders v. DDA, (2015) 3 SCC 49: (2015) 2 SCC (Civ) 204] the jurisdiction of the Arbitral Tribunal to adjudicate a dispute itself was not in issue. The Court was dealing with the circumstances in which a court could look into the merits of an award."*

44. In ***Cricket Association of Bihar*** (supra) and ***A.C. Muthaiah*** (supra) it was held that the engagement of players for the game of cricket played in the Indian Premiere League (IPL) is commercial in nature and a pathway to national selection. However, in both the decisions, the Hon'ble Supreme Court held that the IPL format of the game of cricket was introduced for the purpose to maximise the outreach of the game and exploit its commercial potentials. It does not speak of commercial exploitation of the personality of an individual to contend that the PRA entered into between the appellants and the respondent comprehended the contract between the respondent and KKR, merely on the ground that such contract was a commercial venture.

45. In ***Somdatt Builders*** (supra), the Hon'ble Supreme Court set aside the order passed by the Division Bench of Delhi High Court on the ground that interpretation of certain clauses of the contract by the

Arbitral Tribunal and learned Single Judge were upset by the Division Bench. It was observed that,

> *"51. As already discussed above, the Arbitral Tribunal had interpreted Clause 51 in a reasonable manner based on the evidence on record. This interpretation was affirmed by the learned Single Judge exercising jurisdiction under Section 34 of the 1996 Act. Therefore, the Division Bench [NHAI v. Som Datt Builders-NCC-NEC (JV), 2009 SCC OnLine Del 3692] of the High Court was not at all justified in setting aside the arbitral award exercising extremely limited jurisdiction under Section 37 of the 1996 Act by merely using expressions like "opposed to the public policy of India", "patent illegality" and "shocking the conscience of the court".*

46. Similarly, in **Ramesh Kumar Jain** (**Supra**) it was noted that,

> *"42. The errors pointed out in the impugned judgment, i.e., lack of evidence, percentage-based guess allowances, etc. do not, singly or cumulatively, amount to patent illegality warranting annulment. There were at least some evidence and logical rationale for each award element. The arbitrator's approach was certainly a possible view a reasonable man might take.* ***The High Court, unfortunately, re-appreciated the evidence and came to a different view, which is impermissible.*** *The High Court's scrutinized the award from a stricter standard of proof than arbitration law demands. Arbitrators are not bound by the strict rules of evidence as per Section 19 of the A&C Act and may draw on their knowledge and experience. It is settled that a court should not interfere simply because the arbitrator's reasoning is brief or because the arbitrator did not cite chapter and verse of the contract as long as the path can be discerned by which*

the arbitrator arrived at his conclusions. Here, the path is discernible and not absurd."

[Emphasis supplied]

47. As regards the scope and ambit of Section 37 of the Arbitration and Conciliation Act, 1996, in ***Larsen Air Conditioning and Refrigeration Company*** (supra), the Hon'ble Supreme Court observed to the following, that's to say:-

"15. The limited and extremely circumscribed jurisdiction of the court under Section 34 of the Act, permits the court to interfere with an award, sans the grounds of patent illegality i.e. that "illegality must go to the root of the matter and cannot be of a trivial nature"; and that the Tribunal "must decide in accordance with the terms of the contract, but if an arbitrator construes a term of the contract in a reasonable manner, it will not mean that the award can be set aside on this ground" [ref : Associate Builders [Associate Builders v. DDA, (2015) 3 SCC 49 : (2015) 2 SCC (Civ) 204] , SCC p. 81, para 42]. The other ground would be denial of natural justice. In appeal, Section 37 of the Act grants narrower scope to the appellate court to review the findings in an award, if it has been upheld, or substantially upheld under Section 34."

48. Similar principles were laid down in ***MMTC Limited*** (supra). It was observed that,

"14. As far as interference with an order made under Section 34, as per Section 37, is concerned, it cannot be disputed that such interference under Section 37 cannot travel beyond the restrictions laid down under Section 34. In other words, the court cannot undertake an independent assessment of the merits of the award, and must only ascertain that the exercise

of power by the court under Section 34 has not exceeded the scope of the provision. Thus, it is evident that in case an arbitral award has been confirmed by the court under Section 34 and by the court in an appeal under Section 37, this Court must be extremely cautious and slow to disturb such concurrent findings.

15. .....

16. It is equally important to observe at this juncture that while interpreting the terms of a contract, the conduct of parties and correspondences exchanged would also be relevant factors and it is within the arbitrator's jurisdiction to consider the same. [See McDermott International Inc. v. Burn Standard Co. Ltd. [McDermott International Inc. v. Burn Standard Co. Ltd., (2006) 11 SCC 181] ; Pure Helium India (P) Ltd. v. ONGC [Pure Helium India (P) Ltd. v. ONGC, (2003) 8 SCC 593] and D.D. Sharma v. Union of India [D.D. Sharma v. Union of India, (2004) 5 SCC 325] .]"

49. In ***Punjab State Civil Supplies Corporation Limited*** (supra), the Hon'ble Supreme Court laid down that the appellate power under Section 37 of the Act was not akin to the normal appellate jurisdiction vested in the civil courts for the reason that the scope of interference of the courts with arbitral proceedings or award is very limited and confined to the ambit of Section 34 of the Arbitration and Conciliation Act, 1996 and such powers cannot be exercised in a casual and cavalier manner.

50. Noting several authorities, the Hon'ble Supreme Court, in ***Reliance Infrastructure Ltd.*** (supra) held that the jurisdiction conferred on Courts under Section 34 of the Arbitration Act is fairly

narrow, when it comes to the scope of an appeal under Section 37 of the Arbitration Act, the jurisdiction of an appellate court in examining an order, setting aside or refusing to set aside an award, is all the more circumscribed.

51. In the light of discussions made hereinbefore, we are of the opinion that the learned Single Judge did not exceed its jurisdiction or fail to exercise its jurisdiction vested in it under the provisions of Section 34 of the Act of 1996. Therefore, we find no reason to interfere with the impugned judgment and order.

52. Consequently, the instant appeal being AO-COM 23 of 2025 is hereby dismissed however, without any order as to costs. With the disposal of main case, connected applications, if any, shall also stand disposed of accordingly.

53. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties on priority basis upon compliance of all formalities.

[MD. SHABBAR RASHIDI, J.]

54. I agree.

[DEBANGSU BASAK, J.]