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ARBITRATION AND CONCILIATION

Scope and Limits of Section 11 Adjudication: The Delhi High Court on Prima Facie Arbitration Agreements, Waiver, and Parallel Proceedings

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Introduction

The Delhi High Court, in its judgment dated 30th May 2026 (ARB.P. 1778/2025), delivered a significant ruling in the case of *VE Commercial Vehicles Limited v. Singh Enterprises*, adjudicating upon complex questions surrounding arbitration jurisdiction, seat versus venue determination, and the interplay between civil litigation and arbitration proceedings. Justice Mini Pushkarna presided over this matter, which arose from a longstanding commercial dealership relationship that ultimately deteriorated into a multi-faceted legal dispute involving claims of breach of contract, allegations of forgery, and competing statutory proceedings under the *Insolvency and Bankruptcy Code, 2016.* The judgment provides crucial insights into the scope of *Section 11 of the Arbitration and Conciliation Act, 1996*, and reinforces the sanctity of party autonomy in determining the seat of arbitration.

Factual Background and Genesis of the Dispute

The commercial relationship between the parties commenced in 2006, when VE Commercial Vehicles Limited, a manufacturer of Eicher Pro Trucks and Buses, appointed Singh Enterprises as its authorized dealer in Rewa, Madhya Pradesh. This arrangement was formally renewed through a Dealership Agreement dated 18th March 2021, purportedly valid for a period of four years and three months until 30th June 2025. The relationship soured when VE Commercial Vehicles alleged persistent non-compliance by Singh Enterprises, including failures in timely vehicle deliveries, inadequate manpower deployment, and insufficient working capital infusion. Consequently, the petitioner issued a termination notice on 22nd April 2024, followed by a formal Termination-cum-Demand Notice on 11th May 2024, demanding outstanding payments of ?1,41,66,283. The respondents contested these allegations and responded on 26th June 2024, maintaining that their non-compliance was justified. The petitioner subsequently invoked arbitration under Clause 34 of the Dealership Agreement on 5th August 2025, to which the respondents replied on 5th September 2025, refusing consent to the proposed arbitrator and simultaneously counter-invoking arbitration with a substantial counter-claim of ?40,66,73,457.

Core Legal Issues and Contentions Raised

The respondents mounted a vigorous nine-pronged defense against the arbitration petition. Their primary objection centered on the alleged absence of the petitioner's signature on the Dealership Agreement, rendering it an unexecuted draft incapable of supporting a valid arbitration agreement. They further contended that Clause 31 of the Agreement mandated execution by an authorized signatory as a condition precedent to legal validity. The respondents leveled serious allegations of forgery, asserting that the petitioner had fabricated signatures on Page 4 of the Agreement to unilaterally alter the standard three-year term to four years and three months, and had accordingly filed a criminal complaint with the Economic Offences Wing on 14th November 2025. They argued that the petitioner had waived its right to arbitration by previously filing two civil suits in Indore and Rewa, constituting forum shopping and abuse of process. Additionally, they challenged the territorial jurisdiction of the Delhi High Court, asserting that the parties had agreed to exclusive jurisdiction of Indore courts. The respondents also highlighted their statutory demand notice under Section 8 of the IBC dated 17th October 2025, and criticized the petitioner's failure to disclose adequate particulars regarding the proposed arbitrator's qualifications.

Court's Analysis of the Seat-Venue Controversy

The judgment's most significant contribution lies in its careful analysis of the seat versus venue distinction. The Court examined Clause 34 of the Dealership Agreement, which comprised two sub-clauses: Clause 34.1 categorically stipulated that "the place of arbitration shall always be at Delhi," while Clause 34.2 provided that "subject to clause 34.1, the Courts of Indore shall have exclusive jurisdiction." Justice Pushkarna held that the phrase "subject to clause 34.1" unequivocally subordinated the Indore jurisdiction clause to the arbitration clause, leaving no ambiguity regarding the parties' intention to designate Delhi as the juridical seat. The Court extensively relied upon the Supreme Court's landmark judgment in *BGS SGS Soma JV v. NHPC Limited (2020),* which established that where an arbitration clause specifies a venue without contrary indicia regarding seat, the venue constitutes the juridical seat. The Court also applied the principles enunciated in *Bharat Aluminium Company v. Kaiser Aluminium Technical Services Inc. (2012),* emphasizing that Section 20 of the Arbitration Act recognizes party autonomy and that the legislature intentionally conferred jurisdiction upon both the court where the cause of action arises and the court at the seat of arbitration. The Court distinguished this case from *Meenakshi Nehra Bhat v. Wave Megacity Center Private Limited and Kush*

Raj Bhatia v. DLF Power & Services Limited, where contrary indicia existed that negated the designated venue as the seat.

Determination on Validity of Arbitration Agreement and Forgery Allegations

Addressing the respondents' contention regarding the unexecuted nature of the Agreement, the Court observed that the respondents themselves had invoked Clause 34 in their reply dated 4th September 2025, thereby admitting the existence and applicability of the arbitration clause. The Court noted that the petitioner had subsequently filed the duly executed copy of the Agreement with its rejoinder, rectifying the initial inadvertent filing of an unsigned copy. Regarding the forgery allegations, the Court held that at the Section 11 stage, its jurisdiction was confined to examining the prima facie existence of an arbitration agreement, and it could not adjudicate upon disputed questions of fact such as allegations of fraud or forgery. The Court further observed that the alleged forgery pertained only to Page 4 of the Agreement concerning the term duration, whereas the Arbitration Clause at Page 21 remained undisputed by either party.

Evaluation of Waiver and IBC Proceedings

The Court rejected the respondents' waiver argument, noting that the Indore civil suit (RCSA No. 908/2025) had been withdrawn on 17th October 2025 with liberty to institute fresh proceedings, and mere prior filing of a civil suit did not constitute an irrevocable waiver of arbitration rights. The Court characterized the Rewa suit (RCSA No. 528/2025) as involving a distinct cause of action, namely post-termination interference by the respondent's partner with the petitioner's business operations and new dealership arrangements, rather than the substantive monetary disputes arising from the Dealership Agreement itself. Regarding the IBC notice, the Court observed that it was issued on 17th October 2025, subsequent to the arbitration invocation on 5th August 2025, and the respondents had failed to initiate any formal insolvency proceedings despite the considerable time elapsed. The Court concluded that the IBC notice appeared to be a counter-blast designed to offset the petitioner's legitimate claims, particularly since the respondents themselves had invoked arbitration for the identical operational debt.

Appointment of Arbitral Tribunal and Final Directions

The Court noted that both parties had nominated their respective arbitrators but had failed to agree upon the third arbitrator who would be the Presiding Arbitrator. Consequently, exercising its powers under Section 11 of the Arbitration Act, the Court appointed Justice (Retd.) Kurian Joseph, Former Judge of the Supreme Court of India, as the Presiding Arbitrator. The Court directed the Presiding Arbitrator to furnish a declaration under Section 12 of the Arbitration Act prior to entering the reference, with liberty to the parties to approach the Court in case of any impediment. The remuneration was fixed in accordance with Schedule IV of the Arbitration Act. The Court explicitly preserved all rights and contentions of the parties, including arbitrability of claims, preliminary objections, and merits, for determination by the arbitral tribunal, and directed the parties to approach the Presiding Arbitrator within two weeks.

Conclusion

The judgment in *VE Commercial Vehicles Limited v. Singh Enterprises* represents a strong affirmation of arbitration as the preferred mechanism for resolving commercial disputes, emphasizing party autonomy in seat selection and maintaining the limited scope of judicial intervention at the Section 11 stage. The Court's nuanced interpretation of the "subject to" clause in the arbitration agreement provides valuable guidance on resolving seat-venue conflicts, while its treatment of IBC notices issued after arbitration invocation and withdrawn civil suits offers practical clarity on frequently encountered procedural scenarios. The appointment of a retired Supreme Court Justice as Presiding Arbitrator underscores the Court's commitment to ensuring fair and credible arbitration proceedings. This judgment will be an important precedent in India's evolving arbitration jurisprudence, particularly in disputes involving complex contractual arrangements and competing statutory claims.

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