A M/S. GOVIND RUBBER LTD.

v.

M/S. LOUIDS DREYFUS COMMODITIES ASIA PVT. LTD.

(Civil Appeal No. 11438 of 2014)

DECEMBER 16, 2014

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[M.Y. EQBAL AND R. BANUMATHI, JJ.]

Arbitration and Conciliation Act, 1996: ss.6, 7(4), 7(5) – Arbitration agreement – Whether the parties were ad idem to C *refer the dispute for arbitration to the Singapore commodity Exchange in the absence of arbitration agreement – Held: An arbitration agreement even though in writing need not be signed by the parties if the record of agreement is provided by exchange of letters, telex, telegrams or other means of* D *telecommunication – s.7(4)(c) provides that there can be an arbitration agreement in the exchange of statements of claims and defence in which the existence of the agreement is alleged by one party and not denied by the other – If it can be prima facie shown that the parties are at ad idem, then* E *mere fact of one party not signing the agreement cannot absolve himself from the liability under the agreement – Therefore, signature is not a formal requirement u/s.7(4)(b) or s.7(4)(c) or u/s.7(5) of the Act – In the instant case, the intention of the parties is clear from the correspondence* F *regarding their meeting of mind and ad idem to the terms of sale contract which contained the forum of dispute resolution at Singapore Commodity Exchange – Apart from that, after the dispute was referred to Singapore Commodity Exchange for arbitration, the appellant in response to the notice made a counter claim before the Arbitral Tribunal contending that* G *the appellant had incurred huge loss in view of the failure on the part of the respondent to supply the goods in time – By making a counter claim, the appellant indeed submitted to the jurisdiction of the arbitrator.*

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Dismissing the appeal, the Court A

HELD: 1. An agreement even if not signed by the parties can be spelt out from correspondence exchanged between the parties. However it is the duty of the Court to construe correspondence with a view to arrive at the conclusion whether there was any meeting of mind between the parties which could create a binding contract between them. It is necessary for the Court to find out from the correspondence as to whether the parties were *ad idem* to the terms of contract. While construing an arbitration agreement or arbitration clause, the Courts have to adopt a pragmatic and not technical approach. [Paras 12 and 13] [497-G-H] B C

M.R. Engineers and Contractors (Pvt.) vs. Som Dutt Builders Ltd. **(2009) 7 SCC 696:2009 (10) SCR 373;** *Rukmanibai Gupta vs. Collector* **(1980) 4 SCC 556 – relied on.** D

2.A perusal of Section 7 of AC Act would show that in order to constitute an arbitration agreement, it need not be signed by all the parties. Section 7(3) of the Act provides that the arbitration agreement shall be in writing, which is a mandatory requirement. Section 7(4) states that the arbitration agreement shall be in writing, if it is a document signed by all the parties. But a perusal of clauses (b) & (c) of Section 7(4) would show that a written document which may not be signed by the parties even then it can be arbitration agreement. Section 7(4)(b) provides that an arbitration agreement can be culled out from an exchange of letters, telex, telegrams or other means of telecommunication which provide a record of the agreement. Reading the provisions it can safely be concluded that an arbitration agreement even though in writing need not be signed by the parties if the record of agreement is provided by exchange of letters, telex, telegrams or other means of telecommunication. E F G H

A Section 7(4)(c) provides there can be an arbitration agreement in the exchange of statements of claims and defence in which the existence of the agreement is alleged by one party and not denied by the other. If it can be prima facie shown that the parties are at ad idem, then
B mere fact of one party not signing the agreement cannot absolve himself from the liability under the agreement. In the present day of E-commerce, in cases of internet purchases, tele purchases, ticket booking on internet and in standard forms of contract, terms and conditions are
C agreed upon. In such agreements, if the identity of the parties is established, and there is a record of agreement it becomes an arbitration agreement if there is an arbitration clause showing ad idem between the parties. Therefore, signature is not a formal requirement under
D Section 7(4)(b) or 7(4)(c) or under 7(5) of the Act. [Paras 15, 16] [499-D-H; 500-A-C]

3. A commercial document having arbitration clause has to be interpreted in such a manner as to give effect to the agreement rather than invalidate it. Admittedly, the
E respondent issued a sale contract for supply of goods incorporating in the said sale contract various terms including 100% percent payment against letter of credit and also providing the governing terms as "Singapore Commodity Exchange". Though the appellant issued
F purchase order on terms and conditions set out therein but the appellant requested the respondent to change the payment terms mentioned in the sales contract. The request for amendment was accepted by the respondent. The Email sent by the appellant acknowledging the
G amendments on the payment term in the sale contract. Thus, at the request of the appellant, the invoice was split into two invoices and in the said letter of request reference was made to the sale contract. The appellant proceeded to supply the goods on the terms contained
H in the sale contract. From the intention of the parties, as

appearing from the correspondence, it can safely be inferred that there had been meeting of mind between the parties and they were *ad idem* to the terms of sale contract which contained the forum of dispute resolution at Singapore Commodity Exchange. Apart from that, after the dispute was referred to Singapore Commodity Exchange for arbitration, the appellant made a counter claim before the Arbitral Tribunal contending that the appellant had incurred huge loss in view of the failure on the part of the respondent to supply the goods in time. By making a counter claim, the appellant indeed submitted to the jurisdiction of the arbitrator. [Paras 17, 19, 20] [500-C; 501-D-F; 502-F-H; 503-A]

Union of India vs. D.N. Revri and Co. **AIR 1976 SC 2257:1977 (1) SCR 483 – relied on.**

Astro Vendeor Compania Naviera SA vs. Mabanaft GmbH **(1970) 2 Llyod's Rep.267:** *Paul Smith Ltd v. H and S International Holdings Inc.* **(1991) 2 Llyod's Rep.127 – referred to.**

4. It is clear that for construing an arbitration agreement, the intention of the parties must be looked into. The materials on record make it very clear that the appellant was *prima facie* acting pursuant to the sale contract issued by the respondent. So, it is not very material whether it was signed by the second respondent or not. Although the appellant having full notice and knowledge of the dispute having been decided by the Arbitral Tribunal and an award was passed, the said award has not been challenged by the appellant in any court of law. Instead, the appellant filed the suit against the respondent in the High Court for damages. In the said premise, there is no valid ground to oppose the enforcement of the foreign award. The High Court rightly held that the foreign award is enforceable under Part II

A **and is binding for all purposes on the parties. [Paras 22, 23 and 24] [503-F-H; 504-A-B]**

Cairncross vs. Lorimer, **(1860) 7 Jur NS 149;** *Sarat Chunder Dey vs. Gopal Chunder Laha,* **19 IA 203;** *Chowdhri Murtaza-Hossein vs. Mt. Bibi Bechunnissa,* **3 IA 209 –**
B **referred to.**

Case Law Reference:

2009 (10) SCR 373	**Relied on**	**Para 10**
C **(1980) 4 SCC 556**	**Relied on**	**Para 13**
1977 (1) SCR 483	**Relied on**	**Para 18**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 11438 of 2014.

D

From the Judgment & Order dated 04.02.2013 of the High Court of Judicature at Bombay in Arbitration Petition No. 174 of 2012.

E Jayant Bhushan, Vanita Bhargava, Ajay Bhargava (for Khaitan & Co.) for the Appellant.

Jay Savla, Renuka Sahu for the Respondent.

The Judgment of the Court was delivered by

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M.Y. EQBAL, J.: 1. Leave granted.

2. This appeal by special leave is directed against judgment and order dated 4.2.2013 of the High Court of Judicature at Bombay whereby learned Single Judge allowed
G the arbitration petition preferred by the respondent under Sections 47 and 48 of the Arbitration & Conciliation Act, 1996 (in short, "the Act"). By the aforesaid petition, respondent had inter alia sought direction to enforce and execute the foreign award dated 18th December, 2009 as decreed in favour of the
H respondent and against the appellant.

3. The factual matrix of the case is that the appellant is carrying on business at Mumbai inter alia of import and export of commodities and the respondent company is having its office at Singapore. On 20th August, 2008, the appellant through the broker B.B. Rubber Pvt. Ltd. (in short, 'Broker') confirmed the offer for purchase of natural rubber RSS-3 (Thailand origin). The respondent issued a sales contract bearing No.03S8733 for 200 Metric Tons (MT) of Thai RSS-3 at US $2,880 per metric ton, CIF Nhava Sheva, India with payment term 100% against Letter of Credit for shipment in September, 2008. The said sale contract, signed by the representative of the respondent, provided the governing terms as "Singapore Commodity Exchange". The name of the appellant was described as buyer, who issued purchase Order No.BOM:PO:2008-09:286 dated 21st August, 2008. As pleaded by the appellant, by this purchase order, the appellant placed orders on the terms and conditions set out therein. The appellant thereafter requested to change the payment term in the said sales contract to be 10% advance by TT (Telegraph Transfer) and balance 90% by DP (documents against payment) at sight through e-mail dated 26th August, 2008. This request for amendment was accepted by the respondent and accordingly it issued invoice dated 27th August, 2008 for the 10% advance payment for 200 metric tons RSS 3 at the rate of US$ 2,880/MT. It is the case of the respondent that latter the invoice was split into two invoices of 100 metric tons each for which 10% of contract value was US$28,800. Cargo of 200 MT RSS-3 was accordingly shipped to Nahava Sheva and original documents of shipments were couriered to the appellant's Bank.

4. On 11th October, 2008, the broker sent a letter to the appellant to confirm acceptance of their request to split bills of lading separately as conditions for payment upon presentation. The respondent on 17th October, 2008 requested for return of the documents from Indian Overseas Bank of the appellant in order to split the bills of lading into smaller lots as requested by the appellant. On 31st October, 2008, the respondent sent

A the revised split bills of lading and invoices for resubmission on Indian Overseas Bank for payment. On 31st October, 2008, the appellant confirmed acceptance of non-negotiable documents for both contracts and requested for price deduction as conditions to make payment, which was not accepted by B the respondent. On 10th November, 2008, the broker emailed to the appellant to insist performance of the contracts and recapping the sequence of events of the contracts. The appellant, however, did not make payment.

C 5. It is pleaded by the respondent that on 22nd August, 2008, upon receiving brokers confirmation of order and advice to fax over the sales contracts, the respondent issued sales contract on 25th August, 2008 bearing No.03S8739 for 201.6 Metric tons (mt) of SIR20 at us $ 2,895/mt CIF Nhava Sheva, India, with payment term 100% Letter of Credit for shipment in D September, 2008 with the respondent's contract stating governing terms as Singapore Commodity Exchange to the appellant which issued its purchase Order No. BOM:PO: 208-09:290 (in short, the said contract is referred to as "second sales contract"). By email dated 27th August, 2008 the E appellant requested to change payment terms in respect of the said second sales contract and the respondent accepted new payment terms as requested by the appellant.

6. The dispute arose between the parties in respect of this F second sales contract. The respondent, therefore, vide letter dated 12th May, 2009, referred the matter to Singapore Commodity Exchange for arbitration in accordance with the terms of sale contract and attached points of claim in arbitration. The appellant vide letter dated 23rd May, 2009 to G SICOM Rubber Contract Dispute Resolution Committee, the Singapore Commodity Exchange, contended that the appellant had incurred huge loss in view of the failure on the part of the respondent to supply the goods in time with standard of second party in quantity. By the said letter, the appellant lodged its counter claim on the first party for US $ 3734036.25 and also H

agreed for acceptance of nomination to Mr. Leon Tim Fook as their sole arbitrator. The appellant contended that the Singapore Commodity Exchange or its committee did not have any jurisdiction. It was submitted that the jurisdiction shall be in Mumbai. The Arbitral Tribunal made award dated 18th December, 2009 directing the appellant to pay to the respondent a sum of US $716283 for breach of contract and also to bear cost and expenses of said arbitration amounting to Singapore dollar 20330. The Arbitral Tribunal, rejected the counter claim made by the appellant and recorded a finding that SICOM and its arbitral tribunal had arbitration jurisdiction over two contracts in dispute and the said two sales contracts existed and were valid.

7. The appellant did not challenge the aforesaid award before the High Court. On the other hand, in the year 2010, appellant filed a suit against the respondent in the High Court inter alia praying for damages. The respondent has also filed notice of motion in the said proceedings. During the pendency of the said suit, respondent filed arbitration petition on 11th January, 2012 for enforcement and execution of the said award as decree. After hearing learned counsel on either side and going through the materials placed before the Court, learned Single Judge allowed the arbitration petition observing that the appellant has not furnished any proof as to why the enforcement of the foreign award dated 18th December, 2009 can be refused. The appellant had made counter claim before the arbitral tribunal and thereafter did not challenge the award passed in favour of the respondent and rejection of the counter claim against the appellant in any court of law. According to the learned Single Judge, the said foreign award is enforceable under Part II and is binding for all purposes on the parties under Section 46 of the Arbitration & Conciliation Act, 1996. After holding that that the said foreign award is enforceable, High Court directed the respondent to put the award in execution in accordance with the rules of this court. The High Court also directed the appellant to produce on oath, complete inventory

A of its assets and properties as prayer for in prayer clause (b) within the period of four weeks from the date of impugned order.

8. Hence, this appeal by special leave under Article 136 B of the Constitution is preferred by the appellant raising substantial question of law as to whether in the absence of a valid arbitration agreement between the parties as contemplated under Section 7 of the Act, the Singapore Commodity Exchange had jurisdiction to appoint any arbitrator C on behalf of the appellant or to proceed with the arbitration. It is the case of the appellant that the entire arbitral proceedings before the Singapore Commodity Exchange, at the instance of the respondent, was without jurisdiction and cannot bind the appellant.

D 9. Mr. Jayant Bhushan, learned senior counsel appearing for the appellant, at the very outset submitted that the sale contract issued by the respondent containing and referring the arbitration to Singapore Commodity Exchange was not signed and returned by the appellant. On the contrary the purchase E order sent to the respondent contains commercial terms and conditions including exclusive jurisdiction of Bombay High Court. The said purchase order was accepted by the respondent and was concluded. Hence, Singapore Commodity Exchange did not have jurisdiction to decide the disputes inasmuch as the F parties were not ad idem to refer the dispute for arbitration. Learned counsel submitted that the High Court has failed to appreciate the case of the appellant and grossly erred in holding that the appellant did not raise jurisdiction in the counter claim filed by it. Leaned counsel submitted that as against the G specific conditions fixed in the purchase order regarding the jurisdiction of Bombay High Court, the respondent did not respond to the said letter objecting to the jurisdiction of the Bombay High Court. Mr. Bhushan then submitted that making a counter claim in response to the notice sent by the Arbitrator will not amount to waiver of jurisdiction. Lastly learned counsel H

submitted that the High Court has further gravely erred by recording a finding that the appellant has acted upon the sale contract as concluded contract.

10. Per contra, Mr. Jay Savla, learned advocate firstly contended that the sales contract is a concluded contract and the appellant acted on the terms of the sales contract and issued the supply order to the respondent. The appellant thereafter requested to change the terms of payment mentioned in the sales contract to be 10% advance by TT and the 90% by DP. The said request for amendment in the sales contract was accepted by the respondent. Learned counsel submitted that the appellant always referred the sales contract which is evident from the fact that no amendment in the payment terms in the supply order was ever sought for. Learned counsel submitted that the request for splitting the bills referring the sales contract was also accepted and payments were made as per the amended terms in the sales contract. According to the learned counsel, the High Court has rightly appreciated all these facts then submitted that the parties were *ad idem* in the matter of terms of the sale contract which contained the resolution of dispute by arbitration through Singapore Commodity Exchange. Learned counsel put reliance on the decision of this Court in the case of ***M.R. Engineers and Contractors (Pvt.) vs. Som Dutt Builders Ltd.***, (2009) 7 SCC 696.

11. We have heard the learned counsel appearing for the parties and have perused and considered all the facts and the documents brought on record.

12. There may not be any dispute with regard to the settled proposition of law that an agreement even if not signed by the parties can be spelt out from correspondence exchanged between the parties. However it is the duty of the Court to construe correspondence with a view to arrive at the conclusion whether there was any meeting of mind between the parties which could create a binding contract between them. It is

A necessary for the Court to find out from the correspondence as to whether the parties were *ad idem* to the terms of contract.

13. It is equally well settled that while construing an arbitration agreement or arbitration clause, the Courts have to adopt a pragmatic and not technical approach. In the case of ***Rukmanibai Gupta vs. Collector***, (1980) 4 SCC 556, this Court held that:-

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> "6. Arbitration agreement is not required to be in any particular form. What is required to be ascertained is whether the parties have agreed that if disputes arise between them in respect of the subject-matter of contract such dispute shall be referred to arbitration, then such an arrangement would spell out an arbitration agreement."

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D 14. So far as the first contention made by the learned counsel for the appellant that since the appellant did not sign the agreement, it cannot be said to be a party to the agreement, we would like to refer Section 7 of the Arbitration and Conciliation Act, which reads as under:

E

> "7.**Arbitration agreement**:-
>
> (1) In this Part, "arbitration agreement" means an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not.

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> (2) An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.

G

> (3) An arbitration agreement shall be in writing.
>
> (4) An arbitration agreement is in writing if it is contained in-

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(a) a document signed by the parties; A

(b) an exchange of letters, telex, telegrams or other means of telecommunication which provide a record of the agreement; or

(c) an exchange of statements of claim and defence B in which the existence of the agreement is alleged by one party and not denied by the other.

(5) The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement C if the contract is in writing and the reference is such as to make that arbitration clause part of the contract."

15. Perusal of the aforesaid provisions would show that in order to constitute an arbitration agreement, it need not be D signed by all the parties. Section 7(3) of the Act provides that the arbitration agreement shall be in writing, which is a mandatory requirement. Section 7(4) states that the arbitration agreement shall be in writing, if it is a document signed by all the parties. But a perusal of clauses (b) & (c) of E Section 7(4) would show that a written document which may not be signed by the parties even then it can be arbitration agreement. Section 7(4)(b) provides that an arbitration agreement can be culled out from an exchange of letters, telex, telegrams or other means of telecommunication which provide a record of the agreement. F

16. Reading the provisions it can safely be concluded that an arbitration agreement even though in writing need not be signed by the parties if the record of agreement is provided by exchange of letters, telex, telegrams or other means of G telecommunication. Section 7(4)(c) provides there can be an arbitration agreement in the exchange of statements of claims and defence in which the existence of the agreement is alleged by one party and not denied by the other. If it can be prima facie shown that the parties are at ad idem, then mere fact of one H

party not signing the agreement cannot absolve himself from the liability under the agreement. In the present day of E-commerce, in cases of internet purchases, tele purchases, ticket booking on internet and in standard forms of contract, terms and conditions are agreed upon. In such agreements, if the identity of the parties is established, and there is a record of agreement it becomes an arbitration agreement if there is an arbitration clause showing ad idem between the parties. Therefore, signature is not a formal requirement under Section 7(4)(b) or 7(4)(c) or under 7(5) of the Act.

17. We are also of the opinion that a commercial document having arbitration clause has to be interpreted in such a manner as to give effect to the agreement rather than invalidate it. On the principle of construction of a commercial agreement, Scrutton on Charter Parties (17th Edition, Sweet & Maxwell, London, 1964) explained that commercial agreement has to be construed, according to the sense and meaning as collected in the first place from the terms used and understood in the plain, ordinary and popular sense (See Article 6 at page 16). The learned Author also said that the agreement has to be interpreted 'in order to effectuate the immediate intention of the parties'. Similarly, Russel on Arbitration (21st Edition) opined, relying on **Astro Vendeor Compania Naviera SA vs. Mabanaft GmbH** (1970) 2 Llyod's Rep.267, that the Court should, if the circumstances allow, lean in favour of giving effect to the arbitration clause to which the parties have agreed. The learned Author has also referred to another judgment in **Paul Smith Ltd v. H and S International Holdings Inc.** (1991) 2 Llyod's Rep.127 in order to emphasize that in construing an arbitration agreement the Court should seek to 'give effect to the intentions of the parties'. (See page 28 of the book).

18. The Apex Court also in the case of ***Union of India vs. D.N. Revri and Co.***, AIR 1976 SC 2257, held that a commercial document between the parties must be interpreted

in such a manner as to give efficacy to the contract rather than to invalidate it. The learned Judges clarified it by saying: -

> "7. It must be remembered that a contract is a commercial document between the parties and it must be interpreted in such a manner as to give efficacy to the contract rather than to invalidate it. It would not be right while interpreting a contract, entered into between two lay parties, to apply strict rules of construction which are ordinarily applicable to a conveyance and other formal documents. The meaning of such a contract must be gathered by adopting a common sense approach and it must not be allowed to be thwarted by a narrow, pedantic and legalistic interpretation."

19. In the instant case, admittedly, the respondent issued a sale contract for supply of goods incorporating in the said sale contract various terms including hundred percent payment against letter of credit and also providing the governing terms as "Singapore Commodity Exchange". Though the appellant issued purchase order dated 21st August, 2008 on terms and conditions set out therein but the appellant requested the respondent to change the payment terms mentioned in the sales contract. The request for amendment was accepted by the respondent. At this juncture, we would like to quote hereinbelow the Email dated 27th August, 2008 sent by the appellant acknowledging the amendments on the payment term in the sale contract.

> "bbr@vsnl.com
>
> To MeKwan.Yip@idcommodities.com
>
> Cc:Andrew.Trevett@idcommodities.com
> Christina.Chlia@idocmodities.com
>
> Subject: Re: Govind Rubber
>
> " Hi Mee Kwan,
>
> As discussed & confirmed with Andrew y'd, Govind

A Rubbeer's payment terms have been changed to:10% ADVANCE BY TT, BALANCE AGAINST D/P AT SIGHT' SO, PLEASE AMEND YOUR SALE CONTRACT ACCORDINGLY & SEND ME THE SALE CONTRACT & PROFORMA INVOICE FOR BOTH CONTRACTS
B SEPARATELY.

Await your earlier action, since Govind Rubber wants to send the 10% advance TT today & is waiting for your Proforma Invoice.

C Rgds,

Biju

___Original Message__

From: MeeKwan.Yip@idcommodities.com

D To: bbr@vsnl.com

Cc: Andrew.Trevatt@idcommodities.com; Christina.Chia@idcommodities.com

Subject: Re: Govind Rubber."

E 20. From the documents available on record and also referred in the impugned order, it is evident that at the request of the appellant, the invoice was split into two invoices and in the said letter of request reference was made to the sale contract. The appellant proceeded to supply the goods on the
F terms contained in the sale contract. The intention of the parties, as appearing from the correspondence, it can safely be inferred that there had been meeting of mind between the parties and they were *ad idem* to the terms of sale contract which contained the forum of dispute resolution at Singapore
G Commodity Exchange. Apart from that, after the dispute was referred to Singapore Commodity Exchange for arbitration, the appellant in response to the notice made a counter claim before the Arbitral Tribunal contending that the appellant had incurred huge loss in view of the failure on the part of the
H respondent to supply the goods in time. By making a counter

claim, the appellant indeed submitted to the jurisdiction of the arbitrator.

21. The principles laid down by the House of Lords in the case of ***Cairncross vs. Lorimer,*** (1860) 7 Jur NS 149 , were approved of by the Judicial Committee in the case of ***Sarat Chunder Dey vs. Gopal Chunder Laha***, 19 IA 203. We may also take the liberty of reading a passage from another Privy Council decision where the general principle applicable to such cases is stated. "On the whole, therefore, their Lordships think that the appellant, having a clear knowledge of the circumstances on which he might have founded an objection to the arbitrators proceeding to make their award, did submit to the arbitration going on; that he allowed the arbitrators to deal with the case as it stood before them, taking his chance of the decision being more or less favourable to himself; and that it is too late for him, after the award has been made, and on the application to file the award, to insist on this objection to the filing of the award": see the case of ***Chowdhri Murtaza-Hossein vs. Mt. Bibi Bechunnissa***, 3 IA 209 . It is true that the question in the present case is a question of competence of the arbitrator which in a sense is a question of jurisdiction, but it is not like the jurisdiction of a Court, because the jurisdiction of arbitrators is derived from consent of the parties.

22. It is clear that for construing an arbitration agreement, the intention of the parties must be looked into. The materials on record which have been discussed hereinabove make it very clear that the appellant was prima facie acting pursuant to the sale contract issued by the respondent. So, it is not very material whether it was signed by the second respondent or not.

23. It is not in dispute that although the appellant having full notice and knowledge of the dispute having been decided by the Arbitral Tribunal and an award was passed on 18th December, 2009, the said award has not been challenged by

A the appellant in any court of law. Instead, the appellant filed the suit against the respondent in the High Court inter alia praying for damages.

24. In the aforesaid premise, we do not find any valid ground to oppose the enforcement of the foreign award. The B High Court in the impugned order has rightly held that the foreign award is enforceable under Part II and is binding for all purposes on the parties.

25. After giving our anxious consideration to the question C raised by the appellant, we do not find any merit in this appeal and is accordingly dismissed, but with no order as to costs.

Devika Gujral Appeal dismissed.