HC-KAR

NC: 2026:KHC:22245-DB
COMAP No. 517 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

COMMERCIAL APPEAL NO. 517 OF 2024

BETWEEN:

1. PINAKA INFOMATICS PVT LTD
D-111, CHANDRA KIRAN APARTMENTS
42/1, NETAJI ROAD
FRAZER TOWN
BENGALURU - 560 005
REPRESENTED BY ITS
MANAGING DIRECTOR

...APPELLANT

(BY SRI THOMAS VELLAPALLY, ADVOCATE)

AND:

1. KARNATAKA STATE ELECTRONICS DEVELOPMENT CORPORATION LTD.,
2ND FLOOR, TTMC, 'A' BLOCK
BMTC COMPLEX
SHANTHINAGAR, K.H. ROAD
BENGALURU - 560 027
REPRESENTED BY ITS
MANAGING DIRECTOR

...RESPONDENT

(BY SRI NISHANTH A.V., ADVOCATE)

THIS COMMERCIAL APPEAL IS FILED UNDER SECTION 13 (1-A) OF THE COMMERCIAL COURTS ACT, 2015, PRAYING TO ALLOW THIS APPEAL BY SETTING ASIDE THE IMPUGNED JUDGMENT DATED 25.09.2024 (ANNEXURE-A) PASSED IN COM.A.P. 102/2021 BY THE HONBLE LXXXII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY & ETC.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellant, Pinaka Infomatics Private Limited [hereafter, '**PIPL**'], has filed the present appeal under Section 37(1)(c) of the Arbitration and Conciliation Act, 1996 [hereafter, '**A&C Act**'] impugning an order dated 25.09.2024 [**impugned order**] passed by learned LXXXII Additional City Civil and Sessions Judge, Bengaluru [**Commercial Court**] in Com. A.P.No.102/2021.

2. The respondent, Karnataka State Electronics Development Corporation Limited [**KSEDCL**], had filed the said petition under Section 34 of the A&C Act seeking to set aside the arbitral award dated 17.08.2021 [**impugned award**] delivered by an arbitral

tribunal comprising of a sole arbitrator [**the Arbitral Tribunal**]. The impugned award was rendered in the context of the disputes that had arisen between the parties in connection with the agreement for 'Master Services for the Implementation and Roll-out of Agricultural Commodities Electronics Tender System' [hereafter, '**the Agreement**']. In terms of the Agreement dated 19.04.2010, the PIPL had agreed to provide IT infrastructure and related services with respect to twenty-four Agricultural Produce Market Committees [**APMCs**'].

3. KSEDCL is a Government of Karnataka Enterprise incorporated with the object to promote electronic industries in Karnataka. KSEDCL is engaged in providing infrastructure for Information Technology and other related activities. It had undertaken a Pilot Project at Mysuru with the technical assistance of the National Informatics Centre at Bengaluru for ensuring remunerative prices to the farmers for their produce. It was decided to introduce an Electronic Tendering system in the APMCs established under the Karnataka Agricultural Marketing (Regulation and Development) Act, 1966.

4. On 23.01.2010, an agreement was entered into for the Implementation and Roll-out for E-tendering solutions for Agricultural Commodities between the Director, Department of Agricultural Marketing, Government of Karnataka [**DAM**] and KSEDCL. Thereafter, 24 (twenty-four) number of separate Tri-Partite agreements for Implementation and Roll-out of e-tendering solutions were entered into between DAM, KSEDCL and respective APMCs.

5. KSEDCL entered into the Agreement with PIPL to provide IT infrastructure and related services with respect to the aforesaid 24 (twenty-four) number of APMCs. PIPL also furnished a performance guarantee for a sum of ₹50,00,000/- in favour of DAM. PIPL performed its obligations under the Agreement and rendered the support for acquisition of hardware, software service networking, running a data center, implementation and training in data migration solutions. The respective APMCs also issued completion certificates in respect of the work performed by PIPL.

6. Certain disputes arose between the parties. PIPL claimed that despite its opposition, National Commodities Derivatives Exchange [**NCDEX**] was inducted for e-tendering solutions in the

APMCs that were being serviced by KSEDCL under the agreement. PIPL claimed that such induction distracted its work. It also claimed that subsequently, a company named Rashtriya e-Market Services Private Limited [**ReMS**] was formed as a joint venture between NCDEX and the Government of Karnataka. Certain APMCs began using ReMS services despite their existing agreement with PIPL. PIPL listed the actions, which, according to it, constituted a breach of the Agreement.

7. In the given circumstances, PIPL caused its advocate to issue the notice dated 09.03.2015 claiming certain amounts, which, according to PIPL, were due for the services rendered as well as damages. The said claims were not satisfied, and the PIPL invoked the arbitration clause under Article 16(9) of the Agreement. The parties did not agree on the appointment of an Arbitrator. Consequently, the PIPL filed a petition, CMP No.59/2018, under Section 11 of the A&C Act before this Court. The same was allowed by an order dated 22.03.2019 and a sole arbitrator was appointed.

8. The PIPL filed a claim petition (A.C.No.55/2019) before the Arbitral Tribunal seeking the following reliefs:

> "i. The Claimant is entitled from the Respondent a sum of Rs.2,76,26,072/- (Rs.1,73,84,312/-+Rs.1,02,41,760/-) towards unpaid cost of hardware, manpower charges, compensation towards non-receipt of amounts due under Schedule-3 as per Annexure-1 which is inclusive of Rs.1,02,41,760/- as admitted by the Respondent.
>
> ii. A sum of Rs.10.55 Crores by way of compensation to the losses caused to the Claimant by way of Opportunity Cost / Loss of Profit.
>
> iii. Claimant is entitled to receive a sum of Rs.10 Crores by way of compensation for the losses caused to the Claimant due to the Respondent failing to protect the software developed by the Claimant in terms of the Copyright Act pirated by NCDEX.
>
> iv. For interest at the rate of 18%."

9. The Arbitral Tribunal considered the disputes and delivered the impugned award. The dispositive part of the impugned award is set out below:

> "i. Claim No. 1: The Claimant is entitled for a sum of Rs.2,76,26,072/- towards unpaid cost of hardware, manpower charges, compensation towards non-receipt of amounts due.
>
> ii. Claim No. 2: The Claimant is entitled for a sum of Rs.25,00,000/- towards Business Loss and Loss of Opportunity.
>
> iii. Claim No. 3: Rejected.
>
> iv. Claim No. 4: The Claimant is entitled for interest at the rate of 18% p.a. from 19-04-2015 till the date of the Award and 8% p.a. from the date of the Award till realisation. Interest at the rate of 8% on the award

amount becomes payable after expiry of 120 days from the date of award.

v. Claim No. 5: The Claimant is entitled for Costs which is quantified at Rs.15,00,000/- payable by the Respondent. The Respondent shall bear its own Costs."

vi. The stamp duty is payable as per the Stamp Act, 1957."

10. KSEDCL filed a petition under Section 34 of the A&C Act (Com. A.P.No.102/2021), which was allowed in terms of the impugned order. It is material to note that the learned Commercial Court did not find any fault with the Arbitral Tribunal allowing PIPL's claim no.1 and awarding a sum of ₹2,76,26,072/- in respect of the said claim. This is evident from paragraph no. 18 of the impugned order. The same is set out below:

"In para No.61 and 62 the learned arbitrator discussed about the oral evidence as well as documents Ex.P.1 and Ex.P.2, Ex, P.3, Ex, P.87, Ex,P 68, Ex,P 69 and Ex.P.81 held that in fact a perusal of the documents at Ex. P-81, a communication sent by the Respondent to the Claimant would indicate that the invoices were to be raised reducing the rate retrospectively at the rate of Rs.8,000/- per Senior Operator and Rs.6,500/- per Junior Operator from the existing rates of Rs.32,895/- and Rs.14,150/- respectively unilaterally. Indeed the Claimant would be entitled would be entitled to the Contractual Rate, but however, the Claimant had raised invoices/ bills at the reduced rates. A perusal of Ex.P-87 discloses regarding the manpower totalling to Rs.1,00,84,986/- which is a sub-total of SL. Nos. 1-16 exclusive of interest and taxes. Insofar as Sl. Nos. 17-19 are concerned, the same were not affected. Insofar as Sl. Nos. 20-24 of Ex. P-87 are concerned, it is the case of the Claimant that they refused to comply with

> the directions and the Contract insofar as those 5 APMCs are concerned, they were rendered infructuous thus affecting the costing and profits which would amount to Rs.66,58,000/- which is a sub-total of Sl. Nos. 20-24 of Ex. P-87 exclusive of interest and taxes Ex.P63 is a communication issued by the Claimants to the Manager, IT services of the Respondent clearly indicating outstanding amount due and which has been withheld by the Respondent. The said total amount due would work out to rs.1,01,09,475/-. This is substantiated by the annexures appended to Ex. P63 which gives a clear indication that the said amount is due. Thus the Claimant would be entitled to the sub-total of Rs.1,00,84,986/- + Rs.66,58,000/- + Rs.5,10,786/- + 1,30,540/- which amounts to Rs. 1,73,84,312/-. Thus Claimant is entitled to the sum of Rs.1,73,84,312/-, Rs. 1,02,41,760/- which amounts to a total of Rs.2,76,26,072/-.
>
> The above findings given by the learned arbitrator is not perverse and illegal. According to the arbitration record and proceedings, the Arbitrator has not committed any legal misconduct. In my opinion, the above findings rendered by the learned Arbitrator, does not call for any interference."

11. Insofar as Claim No.2 is concerned, the Arbitral Tribunal awarded a sum of ₹25,00,000/- as against PIPL's claim for ₹10.55 crores towards compensation for losses. The Arbitral Tribunal found that the KSEDCL was in breach of its obligations, and the damages resulting from such breach were difficult to ascertain. However, the same would not absolve KSEDCL from paying nominal damages. The Arbitral Tribunal proceeded to assess the damages for loss of business/loss of opportunity at ₹25,00,000/-.

12. The learned Commercial Court found that the award of damages assessed at ₹25,00,000/- was patently illegal as it was not based on any evidence. The Arbitral Tribunal also concluded that the award of damages, without evidence, was in conflict with the public policy of India.

13. Insofar as PIPL's Claim No. 3 is concerned, the Arbitral Tribunal rejected it. PIPL accepted the impugned award and did not challenge the impugned award.

14. The Arbitral Tribunal also allowed the PIPL's Claim No.4 for interest and awarded interest at the rate of 18% per annum on the award amounts from 19.04.2015 (the date immediately after the five year term of the Agreement came to an end) till the date of the award. Additionally, the arbitral tribunal awarded a future interest at the rate of 8% per annum which would become payable after expiry of 120 days from the date of the impugned award.

15. The learned Commercial Court did not find any error in the award the interest and observed as under:

> "27. The payability of interest at the rate of 18% per annum from the date due is mandated by the contract

> Ex.P.3. This the claimant is entitled for interest at the rate of 18% per annum from 19.04.2015 till the date of award and 8% per annum on such sum which becomes payable from the date of the award till realization in terms of the decision of the Apex court in the case of Hyder Consulting (UK) Limited vs. Governor, State of Orissa, 2015 (2) SCC 189.
>
> The above findings given by the learned arbitrator is not perverse and illegal. In my opinion, the above findings rendered by the learned Arbitrator, does not call for any interference."

16. The Arbitral Tribunal has also awarded a sum of ₹15,00,000/- as costs. However, the learned Commercial Court has made no observations regarding the award of costs.

17. The learned Commercial Court found no grounds to set aside the award in respect of claims for unpaid costs, interest, and the cost of litigation; nonetheless, it set aside the entire impugned award.

18. At the outset, the learned counsel for the PIPL submitted that it would not press its challenge to the decision of the learned Commercial Court in respect of the award of ₹25,00,000/- as compensation for business loss and loss of opportunity. However, contended that the learned Commercial Court's decision to set

aside the entire award, despite finding no fault in respect of the award against other claims, is unsustainable.

REASONS AND CONCLUSION

19. The learned Commercial Court proceeded on the erroneous premise that, since it had found the award of damages to be perverse and contrary to public policy, the entire impugned award had to be set aside.

20. We may note that the PIPL's claims were distinct and separable. The claims for the unpaid cost of work done and for damages are distinct and separable. In the circumstances, setting aside the entire impugned award on the basis that the award of damages was vitiated by patent illegality is unjustified.

21. In **JG Engineers Private Limited v. Union of India**[1]**,** the Supreme Court had observed as under:

> "24. The arbitrator had considered and dealt with Claims 1, 2, 3, 4 and 5, 6, 7 and 8, 9 and 11 separately and distinctly. The High Court found that the award in regard to Items 1, 3, 5 and 11 was liable to be set aside. The High Court did not find any error in regard to the award on Claims 2, 4, 6, 7, 8 and 9, but nevertheless chose to set aside the award in regard to these six items, only

[1] (2011) 5 SCC 758

on the ground that in the event Counterclaims 1 to 4 were to be allowed by the arbitrator on reconsideration, the respondents would have been entitled to adjust the amounts awarded in regard to Claims 2, 4, 6, 7, 8 and 9 towards the amounts that may be awarded in respect of Counterclaims 1 to 4; and that as the award on Counterclaims 1 to 4 was set aside by it and remanded for fresh decision, the award in regard to Claims 2, 4, 6, 7, 8 and 9 was also liable to be set aside.

25. It is now well settled that if an award deals with and decides several claims separately and distinctly, even if the court finds that the award in regard to some items is bad, the court will segregate the award on items which did not suffer from any infirmity and uphold the award to that extent. As the award on Items 2, 4, 6, 7, 8 and 9 was upheld by the civil court and as the High Court in appeal did not find any infirmity in regard to the award on those claims, the judgment of the High Court setting aside the award in regard to Claims 2, 4, 6, 7, 8 and 9 of the appellant, cannot be sustained. The judgment to that extent is liable to be set aside and the award has to be upheld in regard to Claims 2, 4, 6, 7, 8 and 9."

22. In **GAYATRI BALASAMY v. ISG NOVASOFT TECHNOLOGIES LTD.,**[2], the Constitution Bench considered the question whether an arbitral award could be modified in exercise of powers under Section 34 of the A&C Act. The court concluded that there is a limited power to modify the award. However, the court

[2] (2025) 7 SCC 1

had also clearly stated that there is a distinction between setting aside and modification.

23. Sanjiv Khanna, Hon'ble Chief Justice delivered the majority opinion and observed as under:

> "33. We hold that the power conferred under the proviso to Section 34(2)(a)(iv) is clarificatory in nature. The authority to sever the “invalid” portion of an arbitral award from the “valid” portion, while remaining within the narrow confines of Section 34, is inherent in the Court's jurisdiction when setting aside an award."

24. The Supreme Court held that there was a distinction between modification and partially setting aside the award, as is clear from the following extract of the said decision:

> "38. This distinction lies at the heart of many arguments canvassed before us. The parties opposing the recognition of a power of modification of the courts have strenuously contended that modification and setting aside are distinct and sui generis powers. While modification involves altering specific parts of an award, setting aside does not alter the award but results in its annulment. Their primary concern is that recognising a power of modification may invite judicial interference with the merits of the dispute—something arguably inconsistent with the framework of the 1996 Act.
>
> 39. We agree with this argument, but only to a limited extent. It is true that modification and setting aside have different consequences: the former alters the award, while the latter annuls it. [

> The words used in the statute must be interpreted contextually, taking into account the purpose, scope, and background of the provision. Many words and expressions have both narrow and broad meanings and thereby open to multiple interpretations. Legal interpretation should align with the object and purpose of the legislation. Therefore, we may not strictly apply a semantic differentiation while interpreting the words “modification” or “setting aside”. Instead, a holistic and purposive interpretation of these words will be consistent with the intent behind the provision and the 1996 Act. Linguistically and even jurisprudentially, a distinction can be drawn between the expressions — “modification”, “partial setting aside”, and “setting aside” of an arbitral award in its entirety. However, we must note that the practical effect of partially setting aside an award is the modification of the award.] However, we do not concur with the view that recognising any modification power will inevitably lead to an examination of the merits of the dispute. It will completely depend on the extent of the modification powers recognised by us. In the following part of our Analysis, we outline the contours of this limited power and explain why, in our view, recognising it will ultimately yield more just outcomes."

25. As noted herein before the Supreme Court also observed that the authority to sever the 'invalid' portion of an arbitral award from the 'valid' portion is inherent in the court's jurisdiction when setting aside an award.

26. K.V.Viswanathan J. entered a separate opinion, partly dissenting from the majority. However, there was no difference of

opinion that if a portion of an award which renders it invalid is separable, the award can be partially set aside. In his opinion, he referred to the decision of a learned Single Judge of **Delhi High Court in NHAI v. Trichy Thanjavur Expressway Ltd.** and expressly concurred with the said view. The relevant extract of the said decision is set out below:

> "250. A learned Single Judge of the Delhi High Court addressing the issue of severability in NHAI v. Trichy Thanjavur Expressway Ltd. [NHAI v. Trichy Thanjavur Expressway Ltd., 2023 SCC OnLine Del 5183] , set out the principle thus: (SCC OnLine Del paras 38-42 & 87)
>
> > "38. In our considered opinion, therefore, the answer to the question which stands posed would have to be rendered on an interpretation of the phrase "setting aside" as ultimately adopted and forming part of Section 34. As was noticed hereinbefore, Section 34(2)(a)(iii) does speak of an award being set aside in part. We find that the key to understanding the intent underlying the placement of the proviso in sub-clause (iv) of Section 34(2)(a) is in the nature of the grounds for setting aside which are spoken of in clause (a). As would be manifest from a reading of the five sub-clauses which are positioned in Section 34(2)(a), those constitute grounds which would strike at the very heart of the arbitral proceedings. The grounds for setting aside which are set forth in clause (a) strike at the very foundation of validity of arbitration proceedings. Sub-clauses (i) to (v) thus principally constitute grounds which would render the arbitration proceedings void ab initio. Although Section 34(2)(a)(iv) ground for setting aside also falls in the same genre of a fundamental invalidity, the Legislature has sought to temper the potential fallout of the award being set aside in toto on that score. The proviso to sub-clause (iv) seeks to

address a comprehensibly conceivable situation where while some parts of the award may have dealt with non-arbitrable issues or disputes falling outside the scope of the reference, its other components or parts constitute an adjudication which could have been validly undertaken by the AT. The proviso thus seeks to address such a situation and redeems as well as rescues the valid parts of an award. This saves the parties from the spectre of commencing arbitral proceedings all over and from scratch in respect of all issues including those which could have validly formed part of the arbitration.

39. The grounds for setting aside encapsulated in Section 34(2)(b) on the other hand relate to the merits of the challenge that may be raised in respect of an award and really do not deal with fundamental invalidity. However, the mere fact that the proviso found in sub-clause (iv) of Section 34(2)(a) is not replicated or reiterated in clause (b) of that provision would not lead one to conclude that partial setting aside is considered alien when a court is considering a challenging to an award on a ground referable to that clause. In fact, the proviso itself provides a befitting answer to any interpretation to the contrary. The proviso placed in Section 34(2)(a)(iv) is not only an acknowledgment of partial setting aside not being a concept foreign to the setting aside power but also of parts of the award being legitimately viewed as separate and distinct. The proviso itself envisages parts of an award being severable, capable of segregation and being carved out. The proviso is, in fact, the clearest manifestation of both an award being set aside in part as well as an award comprising of distinct components and parts.

40. Undoubtedly, an award may comprise a decision rendered on multiple claims. Each claim though arising out of a composite contract or transaction may be founded on distinct facts and flowing from separate identifiable obligations. Just

as claims may come to be preferred resting on a particular contractual right and corresponding obligation, the decision which an AT may render on a particular claim could also be based on a construction of a particular covenant and thus stand independently without drawing sustenance on a decision rendered in the context of another. If such claims be separate, complete and self-contained in themselves, any decision rendered thereon would hypothetically be able to stand and survive irrespective of an invalidity which may taint a decision on others. As long as a claim is not subordinate, in the sense of being entwined or interdependent upon another, a decision rendered on the same by the AT would constitute an award in itself. While awards as conventionally drawn, arranged and prepared may represent an amalgam of decisions rendered by the AT on each claim, every part thereof is, in fact, a manifestation of the decision rendered by it on each claim that may be laid before it. The award rendered on each such claim rules on the entitlement of the claimant and the right asserted in that regard. One could, therefore, validly, subject of course to the facts of a particular case, be entitled to view and acknowledge them as binding decisions rendered by the AT on separate and distinct claims.

41. The Court notes in this regard that MrMukhopadhaya, MrRajshekhar Rao, learned Senior Counsel as well as MrAshimSood had urged that while an award as ultimately rendered may contain findings on numerous claims, the decision rendered in respect of each such claim is entitled to be viewed as an award in itself. This, according to the learned counsel, clearly flows from the power of the AT to not just render a final award but also and in the course of arbitral proceedings render interim awards in respect of various claims. It was rightly pointed out by the learned counsel that each such decision on a claim could stand independently and be final and binding in itself. Those findings or decisions in relation to various claims that stand placed before

the AT may each constitute an award itself and the operative directions framed representing the disposition of all such claims. As was rightly contended by MrMukhopadhaya, the declaration with respect to entitlement and the award of a money claim consequent thereto would be liable to be viewed as independent arbitral awards. MrSood had chosen to describe such a disposition of claims as being an "agglomeration" of awards. The Court accords its emphatic and wholehearted acceptance to the aforenoted submissions and comes to the conclusion that an award is thus liable to be viewed and understood accordingly. It thus comes to conclude that each such decision rendered by an AT could be validly viewed as the decision rendered on a particular claim and thus constituting an independent award in itself.

42. Once an award is understood as comprising of separate components, each standing separately and independent of the other, there appears to be no hurdle in the way of courts adopting the doctrine of severability and invoking a power to set aside an award partly. The power so wielded would continue to remain one confined to "setting aside" as the provision bids one to do and would thus constitute a valid exercise of jurisdiction under Section 34 of the Act. …

***

D. CONCLUSIONS

87. … G. Undoubtedly, an award may comprise a decision rendered on multiple claims. Each claim though arising out of a composite contract or transaction may be founded on distinct facts and flowing from separate identifiable obligations. Just as claims may come to be preferred resting on a particular contractual right and corresponding obligation, the decision which an AT may render on a particular claim could also be based on a construction of a particular covenant and thus stand independently without drawing sustenance on a decision rendered in the context of another. If

such claims be separate, complete and self-contained in themselves, any decision rendered thereon would hypothetically be able to stand and survive irrespective of an invalidity which may taint a decision on others. As long as a claim is not subordinate, in the sense of being entwined or interdependent upon another, a decision rendered on the same by the AT would constitute an award in itself.

H. While awards as conventionally drawn, arranged and prepared may represent an amalgam of decisions rendered by the AT on each claim, every part thereof is, in fact, a manifestation of the decision rendered by it on each claim that may be laid before it. The award rendered on each such claim rules on the entitlement of the claimant and the right asserted in that regard. One could, therefore, validly, subject of course to the facts of a particular case, be entitled to view and acknowledge them as binding decisions rendered by the AT on separate and distinct claims.

I. Once an award is understood as consisting of separate components, each standing separately and independent of the other, there appears to be no hurdle in the way of courts adopting the doctrine of severability and invoking a power to set aside an award partly. The power so wielded would continue to remain one confined to “setting aside” as the provision bids one to do and would thus constitute a valid exercise of jurisdiction under Section 34 of the Act.

***

L. The power to partially sever an offending part of the award would ultimately depend on whether the said decision is independent and distinct and whether an annulment of that part would not disturb or impact any other finding or declaration that may have been returned by the AT. The question of severability would have to be decided bearing in mind whether the claims are

> interconnected or so intertwined that one cannot be segregated from the other. This for the obvious reason that if the part which is sought to be set aside is not found to stand independently, it would be legally impermissible to partially set aside the award. A partial setting aside should not lead to a component of the award being rendered vulnerable or unsustainable. It is only when the award relates to a claim which is found to stand on its own and its setting aside would not have a cascading impact that the Court could consider adopting the aforesaid mode.
>
> M. The Court is thus of the firm opinion that the power to set aside an award in part would have to abide by the considerations aforenoted mindful of the imperatives of walking a line which would not dislodge or disturb another part of the award. However, as long as the part which is proposed to be annulled is independent and stands unattached to any other part of the award and it could be validly incised without affecting the other components of the award, the recourse to partial setting aside would be valid and justified."
>
> (emphasis supplied)
>
> 251. The views expressed in the judgment, referred to hereinabove, are correct and the power to set aside will include the power to partially set aside and sever the portions of the award which fall foul of Section 34 subject to the riders engrafted hereinabove."

27. Insofar as the claim for damages is concerned, it is well settled that in a case where breach of contract is proved, and the damages suffered are not quantifiable, the court can award nominal damages. It is also settled that nominal damages need not be token damages. However, we do not consider it necessary to

examine the question whether the award of damages assessed at ₹25,00,000/- is sustainable. The learned Commercial Court had found that the said award was patently illegal, and it was stated on behalf of PIPL that it accepts the same. Thus, neither counsel advanced any submissions on the said question before us.

28. In the aforesaid view, the impugned order is modified to set aside the impugned award only to the extent the award of damages/compensation assessed at ₹25,00,000/- in respect of Claim No.2.

29. The appeal is partly allowed in the aforesaid terms.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(C.M. POONACHA)
JUDGE

KPS
List No.: 1 Sl No.: 27