Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS DIVISION

COMM ARBITRATION APPLICATION (L) NO. 29426 OF 2026

Ingram Micro India Pvt Ltd ... Applicant

Vs.

Computech Solutions ...Respondent

SAYALI DEEPAK UPASANI

Digitally signed by SAYALI DEEPAK UPASANI
Date: 2026.09.29 11:38:36 +0530

Mr. Kedar Wagle with Mr. Sagar Wagle, Mr. Kashyap Samant, Ms. Lisa Rasquinha i/b K and P Combine LLP, for Applicant.

Ms. Trisha Ranka h/f Mr. Prerak Choudhary, for Respondent.

CORAM : AMIT BORKAR, J.

RESERVED ON : SEPTEMBER 23, 2026.

PRONOUNCED ON : SEPTEMBER 29, 2026

JUDGMENT:

1. The Applicant has filed the present Application under Section 11 of the Arbitration and Conciliation Act, 1996 ("the Act"), seeking protection pending completion of the arbitration proceedings, for the reasons stated hereinbelow.

2. The facts and circumstances giving rise to the present Application are as follows. The Respondent approached the Applicant for procurement of products which were provided and supplied by the Applicant. After the Respondent accepted the

goods and services supplied by the Applicant, disputes arose between the parties on account of non-payment of the long outstanding dues under various invoices raised upon the Respondent. The invoices contained terms stating that making full or final payment against the invoice, or even mere acknowledgment of the invoice, would amount to acceptance of the terms and conditions printed on the reverse side thereof and acceptance of the Applicant's sales terms and conditions available at www.imonline.co.in. The Applicant is a Company registered under the Companies Act, 1956. It is engaged in the business of distribution of computer hardware and software products, telecommunication devices and provides training, warehousing and other allied services in relation thereto. The Respondent is a Company registered under the Companies Act, 1956. The Respondent claims to be engaged in the business of sale and provision of services in relation to software licences.

3. On 6 July 2016, the Respondent executed the KYC Form and Sales Terms & Conditions containing the Arbitration Agreement and thereby became a registered customer of the Applicant. In July 2016, the Respondent placed purchase orders and the Applicant supplied products to the Respondent from time to time. Various invoices containing Arbitration Clauses were issued in respect of such supplies. The said invoices were accepted and acted upon by the Respondent. From October to December 2023, the outstanding dues of the Respondent exceeded the agreed credit limit. The Applicant followed up with the Respondent through emails and called upon it to make payment of the outstanding dues. The

Respondent admitted that it was facing difficulties and assured the Applicant that the outstanding amounts would be paid. On 16 April 2024, the Applicant deposited Cheque No. 000048 for Rs.4,05,68,061/- issued by the Respondent towards the outstanding dues in accordance with the agreed terms of supply. On 18 April 2024, the said cheque was returned unpaid with the memo stating "Funds Insufficient." The Applicant received the dishonour memo on 20 April 2024. Thereafter, on 26 April 2024, a Statutory Notice under Section 138 of the Negotiable Instruments Act, 1881 was issued to the Respondent. On 24 May 2024, the Respondent made a part payment of Rs.10,00,000/- and thereby acknowledged its liability. Subsequently, on 17 June 2026, the Applicant invoked the Arbitration Agreement and proposed the names of Sole Arbitrators for adjudication of the disputes between the parties. On 22 June 2026, the Notice invoking arbitration was served upon the Respondent. On 30 June 2026, the Arbitration Notice was forwarded to the Respondent by email. Even after expiry of 30 days from the receipt of the notice, the Respondent neither concurred with the appointment of an Arbitrator nor gave any response to the notice invoking arbitration.

4. Mr. Kedar Wagle, the learned Advocate appearing for the Applicant, submitted that the Applicant had, inter alia, invoked the Arbitration Clause contained in the invoices raised upon the Respondent. According to the Applicant, the said invoices were accepted, acknowledged and acted upon by the Respondent. The Arbitration Clause appearing on the face of the invoices reads as follows:

> "Ingram Micro India Private Limited and the Customer agree, in case of any dispute arising out of or in connection with the transaction, the same shall be referred to a sole arbitrator appointed by Ingram Micro India Private Limited and his decision shall be final and binding on both the parties."

5. The invoices contain an Arbitration Clause at Clause 12, which is printed on the reverse side of the invoices. The said clause is reproduced hereinbelow for ready reference:

> "The transaction under this invoice shall be subject to the laws of India and the Courts in Mumbai shall have exclusive jurisdiction. Any dispute pertaining to the Transaction under this invoice shall be referred to sole Arbitrator appointed by IMPL and the decision of the Arbitrator shall be final and binding on the parties. The Arbitration shall be conducted as per the provisions of the Arbitration and Conciliation Act, 1996 and the place of Arbitration shall be in Mumbai, India."

6. The aforesaid clause appears on all the invoices raised upon the Respondent. According to the Applicant, the said invoices were duly accepted and acted upon by the Respondent. The invoices contain a clause which provides that acceptance of the goods and services, making part or full payment, or even acknowledgment of the invoice would amount to acceptance of the terms and conditions printed on the reverse side of the invoice and the Applicant's sales terms and conditions. The said clause reads as follows:

"Acceptance of Goods and Services under this invoice, or making part or full payment or only acknowledgment of this invoice is treated as Acceptance of Terms & Conditions printed overleaf and acceptance of Sales Terms and Conditions of Ingram Micro available at www.imonline.co.in."

7. It was submitted that the terms and conditions available at www.imonline.co.in contain provisions for resolution of disputes through Arbitration. Furthermore, and without prejudice to the aforesaid submissions, the learned Advocate submitted that the Respondent is bound by the Terms & Conditions made available on the website of the Applicant at www.imonline.com. The relevant clause relating to dispute resolution reads as follows:

"Dispute Resolution

In case of disputes of any, company and the customer shall try to resolve the dispute(s) amicably. If the parties are unable to reach any resolution, the matter shall be referred to a sole arbitrator to be appointed by the company. The sole arbitrator appointed by the company shall be deemed to have been accepted by the customer and the customer undertakes not to object to such appointment. The order passed by such Arbitrator shall be final binding on the customer and the same shall be deemed to be accepted by customer. Arbitration shall be held in Mumbai at a venue decided by the company and the proceedings shall be in English".

8. A copy of the Terms & Conditions executed by the Respondent, containing the Arbitration Clause as published and/or displayed at www.imonline.co.in, has been annexed to the Application. Copies of the invoices containing the Arbitration Clause, along with the corresponding delivery challans, have been annexed.

9. Despite receipt of the notice invoking arbitration, the Respondent did not file any reply to the said notice. Even in the present proceedings, although the Respondent has been served, no reply has been filed by the Respondent. Thus, the averments and submissions made by the Applicant remain unanswered on behalf of the Respondent.

Reasons and Findings

10. I have considered the Application, the documents placed on record and the submissions made by the learned Advocate for the Applicant. I have considered that the Respondent was served with the notice invoking arbitration, but did not file any reply to the said notice. Even in the present proceedings, the Respondent has not filed any reply. Therefore, the case of the Applicant has remained unanswered by the Respondent. Merely because the Respondent has not filed a reply, every relief claimed by the Applicant cannot be granted as a matter of course. But when the Applicant has placed relevant documents on record and the Respondent has not disputed those documents, the Court has to consider what is shown from those documents.

11. The case of the Applicant is that the parties were having business transactions from July 2016 onwards. On 6 July 2016, the Respondent executed the KYC Form and Sales Terms & Conditions. According to the Applicant, the said terms contained an Arbitration Agreement. Thereafter, the Respondent placed purchase orders from time to time and the Applicant supplied products to the Respondent. In respect of those supplies, invoices were raised. The Applicant relies upon the Arbitration Clauses contained in those invoices as part of the arrangement between the parties.

12. The important question at this stage is whether the material placed by the Applicant is sufficient to show that there was an Arbitration Agreement between the parties. In this connection, the Applicant relies upon the clause printed on the face of the invoices. The said clause provides as follows:

> "Ingram Micro India Private Limited and the Customer agree, in case of any dispute arising out of or in connection with the transaction, the same shall be referred to a sole arbitrator appointed by Ingram Micro India Private Limited and his decision shall be final and binding on both the parties."

13. The words used in the above clause show that the parties intended that disputes arising out of or in connection with the transaction would be referred to arbitration. The clause provides for appointment of a sole arbitrator and states that his decision would be final and binding upon both parties. Therefore, from the clause, there is a clear reference of the disputes to arbitration. The Applicant has relied upon Clause 12 printed on the reverse side of

the invoices. The said clause provides:

> "The transaction under this invoice shall be subject to the laws of India and the Courts in Mumbai shall have exclusive jurisdiction. Any dispute pertaining to the Transaction under this invoice shall be referred to sole Arbitrator appointed by IMPL and the decision of the Arbitrator shall be final and binding on the parties. The Arbitration shall be conducted as per the provisions of the Arbitration and Conciliation Act, 1996 and the place of Arbitration shall be in Mumbai, India."

14. Therefore, the Arbitration Clause is not appearing at only one place in the invoices. The Applicant has shown an arbitration provision on the face of the invoices and another arbitration provision on the reverse side. The clause on the reverse side says that the arbitration shall be conducted under the Arbitration and Conciliation Act, 1996 and that the place of arbitration shall be Mumbai.

15. The next question is whether the Respondent can be said to have accepted the terms containing the Arbitration Clause. On this aspect, the Applicant relies upon the wording printed on the invoices. The relevant clause provides:

> "Acceptance of Goods and Services under this invoice, or making part or full payment or only acknowledgment of this invoice is treated as Acceptance of Terms & Conditions printed overleaf and acceptance of Sales Terms and Conditions of Ingram Micro available at www.imonline.co.in."

16. The submission of the Applicant is that the Respondent accepted the goods and services supplied under the invoices and acted upon the transactions between the parties. It is submitted that the Respondent made part payment towards the outstanding amount. The material placed before the Court shows that on 24 May 2024 the Respondent made part payment of Rs.10,00,000/-. The Applicant relies upon this payment as a circumstance showing acknowledgment of the outstanding liability by the Respondent.

17. According to the Applicant, on 6 July 2016 the Respondent executed the KYC Form and Sales Terms & Conditions containing the Arbitration Agreement and became a registered customer of the Applicant. This was before the purchase orders and invoices which were subsequently issued. The business transactions between the parties continued thereafter. Therefore, the Applicant is not relying upon some isolated invoice having no connection with the earlier dealings between the parties.

18. The Applicant has relied upon the terms and conditions available on its website. Those terms contain a separate provision regarding dispute resolution. The relevant portion reads as follows:

> "In case of disputes of any, company and the customer shall try to resolve the dispute(s) amicably. If the parties are unable to reach any resolution, the matter shall be referred to a sole arbitrator to be appointed by the company."

19. The said clause provides that arbitration shall be held in Mumbai and that the proceedings shall be in English. However, at

this stage, it is not necessary to base the conclusion entirely upon the terms available on the website. The more relevant documents are the KYC Form and Sales Terms & Conditions relied upon by the Applicant and the invoices containing the Arbitration Clauses. The website terms may give support to the case of the Applicant. But the existence of an Arbitration Agreement has to be considered from the documents placed before the Court and the conduct of the parties in relation to those documents and the transactions.

20. The Respondent had an opportunity to dispute the documents relied upon by the Applicant. The Respondent could have stated that it had not executed the KYC Form. It could have denied acceptance of the invoices. It could have disputed the Arbitration Clauses appearing in the invoices. It could have stated that the goods and services were not accepted in the manner alleged by the Applicant. However, no such case has been placed before the Court. The Respondent did not file any reply to the notice invoking arbitration. Even after the present Application was filed, the Respondent has not filed any reply. At the same time, merely because the Respondent has not filed a reply, every statement made by the Applicant cannot be treated as proved. The Applicant still has to place sufficient material before the Court to show the existence of an Arbitration Agreement. In the present case, the Applicant has relied upon the executed KYC Form and Sales Terms & Conditions, the invoices, the Arbitration Clauses appearing in the invoices and the conduct of the parties in acting upon the transactions. These materials have not been disputed by the Respondent. There is material before the Court regarding the

outstanding dues. The Applicant states that between October and December 2023, the outstanding amount had gone beyond the agreed credit limit. The Applicant called upon the Respondent to make payment. According to the Applicant, the Respondent admitted that it was facing difficulties and assured that payment would be made. Thereafter, the Respondent issued a cheque for Rs.4,05,68,061/- towards the outstanding dues. The cheque was dishonoured with the endorsement "Funds Insufficient." A statutory notice under Section 138 of the Negotiable Instruments Act was issued. Subsequently, the Respondent made part payment of Rs.10,00,000/-.

21. These facts are being considered only for a limited purpose. The present proceedings are not for deciding the entire monetary claim of the Applicant. If there is any dispute regarding the amount payable, the same can be considered by the arbitral tribunal. However, the conduct of the Respondent is relevant for considering whether the transactions and documents relied upon by the Applicant were acted upon. The cheque issued by the Respondent and the subsequent part payment are circumstances which support the case of the Applicant that transactions had taken place between the parties and that the Respondent had acknowledged an outstanding liability. Thereafter, on 17 June 2026, the Applicant invoked the Arbitration Agreement and proposed names of Sole Arbitrators. The notice invoking arbitration was served upon the Respondent on 22 June 2026. The notice was forwarded by email on 30 June 2026. According to the Applicant, even after expiry of 30 days, the Respondent neither

agreed to the appointment of an Arbitrator nor sent any response to the notice.

22. The conduct of the Respondent in this regard is relevant. If the Respondent disputed the existence of the Arbitration Agreement, the notice invoking arbitration gave it an opportunity to state so. If the Respondent disputed the invoices or the terms printed upon them, it could have raised such objection. If the Respondent disputed its liability, it could have placed its case before the Applicant. No such response was given. Even in the present proceedings, the Respondent has not placed any material contrary to the documents relied upon by the Applicant. There is therefore no material before the Court showing that the Arbitration Clauses relied upon by the Applicant were never agreed to by the Respondent. There is no material showing that the documents relied upon by the Applicant are unrelated to the transactions between the parties. At the same time, the limited scope of the present proceedings has to be kept in mind. At this stage, the Court is not required to conduct a detailed trial regarding the correctness of every invoice, or any other defence which the Respondent may have on merits. If such disputes arise, they can be considered by the arbitral tribunal in accordance with law. The question before the Court at this stage is whether the material placed by the Applicant shows an Arbitration Agreement and whether the disputes raised by the Applicant can be referred to arbitration.

23. On considering the documents and the conduct of the parties, I find sufficient material to hold that the parties had

agreed to resolve disputes arising from their transactions through arbitration. The Arbitration Clause refers disputes arising "out of or in connection with the transaction" to a sole arbitrator. Clause 12 provides that any dispute "pertaining to the Transaction under this invoice" shall be referred to a sole Arbitrator. It provides that the arbitration shall be conducted under the Arbitration and Conciliation Act, 1996. The disputes raised by the Applicant arise from the transactions between the parties and relate to the alleged non-payment of amounts under the invoices. Such disputes therefore come within the words used in the Arbitration Clauses relied upon by the Applicant. The Applicant has shown that the Respondent acted upon the invoices and the transactions between the parties. The part payment of Rs.10,00,000/- made by the Respondent is relevant in this regard. The Applicant has placed on record the cheque for Rs.4,05,68,061/- issued towards the outstanding dues, which was dishonoured. When these circumstances are considered together with the executed KYC Form, Sales Terms & Conditions and the invoices, they support the existence of a contractual relationship between the parties.

24. I therefore find that, for the purpose of the present proceedings, the Applicant has established the existence of an Arbitration Agreement between the parties. The Respondent has not placed any material before the Court to make out a contrary case. The dispute regarding the outstanding dues arises from the transactions covered by the Arbitration Clauses. It is true that the Arbitration Clause provides for appointment of the sole arbitrator by the Applicant. The effect of such a clause is required to be

considered while appointing an arbitrator under the Act. The Court cannot simply give effect to a contractual method of appointment if such method is contrary to the provisions of the Act or the law laid down by the Supreme Court. However, the question at this stage is not whether the Applicant can unilaterally appoint the arbitrator. The question is whether, since the Respondent did not concur in the appointment after receiving the notice invoking arbitration, an arbitrator is required to be appointed in accordance with law. On this aspect, the conduct of the Respondent is clear. The Respondent received the notice invoking arbitration. It did not agree to the appointment of an arbitrator. It did not suggest any other name. It did not raise any objection to the existence of the Arbitration Agreement. Even in the present Application, it has not filed any reply. Therefore, the procedure contemplated between the parties for appointment of the arbitrator has not resulted in appointment of an arbitrator.

25. In these circumstances, intervention of the Court is justified for constitution of the arbitral tribunal in accordance with the provisions of the Arbitration and Conciliation Act, 1996. The disputes between the parties can be considered by the arbitral tribunal. Both parties will have an opportunity before the arbitral tribunal to place their respective claims, defences and supporting material in accordance with law. I therefore find that the Applicant has established the existence of an Arbitration Agreement and the existence of disputes arising from the transactions between the parties. The Respondent had received the notice invoking arbitration and has been served in the present proceedings. Even

thereafter, no defence has been placed on record by the Respondent. The material produced by the Applicant has, therefore, remained unanswered. The disputes are accordingly required to be referred to arbitration in accordance with law.

26. In view of the foregoing discussion, and upon overall assessment of the material record, the following order is passed:

(a) Mr. Tushad Kakalia, learned Advocate of this Court, is hereby appointed as the Sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of disputes arising between the Applicant and the Respondent out of the transactions covered by the invoices relied upon by the Applicant.

The office address and contact particulars of the learned Sole Arbitrator are as under:

Office Address:- Aban House,
25-31, 6th Floor,
Kakushroo Dubash Marg,
Kala Ghoda, Fort,
Mumbai 400001.

Contact No.: 9833212724.

(b) A copy of this order shall be communicated to the learned Sole Arbitrator by the Advocates for the Petitioner within a period of one week from the date on which this order is uploaded. The Petitioner shall furnish to the learned Sole Arbitrator the contact and communication particulars of

the respective parties, along with a copy of this order.

(c) The learned Sole Arbitrator is requested to forward to the parties the statutory disclosure contemplated under Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, within a period of two weeks from the date of receipt of a copy of this order.

(d) The parties shall appear before the learned Sole Arbitrator on such date and at such place as may be notified by the learned Sole Arbitrator, for obtaining appropriate directions with regard to the conduct of the arbitral proceedings. Such directions may include, inter alia, the schedule for filing of pleadings, examination of witnesses, if any, and the dates and schedule of hearings.

(e) At such meeting, the parties shall furnish to the learned Sole Arbitrator valid and functional email addresses, together with the mobile and landline telephone numbers of their respective Advocates. Service of communications relating to the arbitral proceedings upon the said email addresses shall be treated as valid service upon the respective parties.

(f) The costs and fees of the learned Sole Arbitrator and all other arbitral costs shall, in the first instance, be borne equally by the parties. Such payment shall, however, remain subject to any final order or Award that may be passed by the learned Sole Arbitrator in relation to costs.

27. It is clarified that nothing contained in this order shall be construed as an expression of any opinion by this Court on the merits of the disputes between the parties or on the relative merits or strength of the respective cases. All questions and contentions on merits are kept open for consideration by the learned Sole Arbitrator in accordance with law.

28. All steps and actions required to be taken pursuant to this order shall be taken on the basis of a downloaded copy of the order made available on the official website of this Court.

29. The Arbitration Application stand disposed of in the aforesaid terms.

(AMIT BORKAR, J.)