Case Citation: (2026) ibclaw.in 6502 HC

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC010183472026**

\+ ARB. A. (COMM.) 31/2026, I.A. 11977/2026 & I.A. 11978/2026

LIVGUARD ENERGY TECHNOLOGIES PRIVATE LIMITED .....Petitioner

Through: Mr. Gautam Narayan, Sr. Adv. with Ms. Asmita Singh, Mr. Amulya Dhingra and Ms. Anvika Shukla, Advs.

versus

SHIV SHAKTI AGENCIES THROUGH ITS PROPRIETOR MR. VISHAL KUMAR GOYAL .....Respondent

Through: Mr. Rajeev Kapoor, Mr. Navneet Kaur and Mr. Sahdev Sharma, Advs.

CORAM:
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT(ORAL)

% 13.10.2026

1. The present appeal under Section 37(2)(b) of the Arbitration and Conciliation Act, 1996[1], has been preferred by the Appellant against the order dated 13.02.2026 passed by the learned Sole Arbitrator, whereby its application under Section 17 seeking security for the outstanding monetary claim was dismissed.

2. Apparently, the dispute arises out of a Distributorship Agreement dated 18.04.2016. In the said distributorship agreement, the

[1] "Act" hereinafter

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Respondent was appointed as an authorised distributor of the Appellant's batteries, inverters and allied products. According to the Appellant, the Respondent defaulted in making payments against the goods supplied, resulting in outstanding dues of approximately Rs.2.40 crore, and for the same, issued a cheque dated 30.01.2024 for Rs.1,84,27,300/-, which was also subsequently dishonoured.

3. According to the appellant, during discussions concerning settlement of the outstanding dues, a joint inspection of the unsold inventory, was conducted on 01.02.2024.

4. The respondent valued the goods recognized during joint inspection at approximately Rs.1.64 crore.

5. However, the proposed arrangement did not materialise, with both parties attributing responsibility for its failure to each other.

6. According to the appellant, they are not contractually obliged to take back the unsold products. Nevertheless, and without prejudice to its rights, it offered to accept certain unsold goods and adjust their value against the outstanding dues. However, the arrangement was conditional and those reciprocal conditions were never fulfilled.

7. In the version of Appellant, there was no binding settlement which was concluded.

8. The respondent has refuted the version of the appellant, and their case is that Appellant had agreed to take back the entire inspected inventory in full and final settlement of the outstanding invoices. In furtherance of this, it was ready to return the goods and had even sent

an email dated 5 February 2024, asking appellant to collect the stock.

9. However, appellant subsequently refused to collect the goods and insisted upon monetary payment.

10. The Appellant thereafter approached the Delhi High Court under Section 9, wherein interim protection restraining the creation of third-party rights in the property concerned was granted on 08.01.2025.

11. Upon constitution of the Arbitral Tribunal, the present Section 9 application was directed to be treated as an application under Section 17 of the Act and this Court *vide* an order dated 11.03.2025 passed in OMP(I) (comm) No. 439/2024, has directed the Ld. Sole Arbitrator, to decide the said application under Section 17 of the Arbitration and Conciliation Act, 1996.

12. By the impugned order, the learned Arbitrator declined to direct the Respondent to furnish monetary security, observing that the Appellant had itself proposed settlement through return of the unsold inventory and had failed to establish a *prima facie* entitlement to recover the monetary claim notwithstanding the said arrangement.

13. The Tribunal also discontinued the earlier restraint concerning the Respondent's premises while directing preservation of the unsold inventory.

14. Aggrieved thereby, the Appellant has preferred the present appeal.

15. Mr. Gautam Narayan, learned Senior Counsel appearing for the Appellant submits that when the tribunal directed preservation of the unsold stock, it actually went beyond the pleadings and went contrary to the purpose of Section 9, which is to preserve the subject matter of the dispute. According to him, the relief granted by the arbitral tribunal was never prayed for by the appellant.

16. According to learned senior counsel for appellant, if the stock is restrained from being sold, the value of that stock will go down, and it will get dissipated.

17. It is also submitted that the relief granted by the learned arbitrator was never actually prayed for by the respondent or the appellant.

18. In support of his submission, the learned senior counsel for the appellant relied on the judgment of ***Indo Spirits v. Pernod Ricard India Pvt. Ltd. & Ors.***[2] and ***Indian Oil Corporation Ltd. v. M/s Fire Ball Engineers***[3], and submitted that the Arbitral Tribunal was bound by the relief sought in the Section 17 application.

19. *Per contra,* learned Counsel for the Respondent submits that the principal interim relief sought by the Appellant in its petition under Section 9 of the Arbitration and Conciliation Act, 1996, was to restrain the Respondent from creating any third-party rights or interests in the property situated at Khanna, Ludhiana, Punjab. This Court, *vide* order dated 08.01.2025, had granted the aforesaid interim protection in OMP(I) (comm) No. 439/2024.

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[2] **2026:DHC:1413**
[3] **2024:DHC:8911-DB**

20. However, during the proceedings before the learned Arbitral Tribunal, it was brought to light that the said property was not owned by the Respondent and was merely occupied by it as a tenant.

21. It is submitted that, having regard to the aforesaid overwhelming circumstances, the learned Arbitral Tribunal discontinued the earlier restraint concerning the said property and, instead, directed the Respondent to preserve the unsold inventory identified during the joint inspection dated 01.02.2024, thereby protecting the subject matter of the dispute.

22. I have heard both the parties and perused the record.

23. It is well settled that the scope of interference by this Court in an appeal under Section 37(2)(b) of the Act is extremely limited. This Court and the Hon'ble Supreme Court, on multiple occasions, have reiterated that interference is warranted only where the impugned order suffers from patent illegality, perversity, arbitrariness, or capriciousness, or where the discretion exercised by the Court is manifestly unreasonable or contrary to settled principles of law.

24. It is also equally settled that merely because another view is possible, or this Court may have arrived at a different conclusion on the same set of facts, would not, by itself, constitute a valid ground for interference with the impugned order.

25. Thus, keeping in mind the narrow scope of interference available, this court shall examine whether any interference is warranted.

26. The learned Arbitral Tribunal, while dismissing the application under Section 17 observed that the appellant had failed to establish a *prima facie* case for grant of interim relief.

27. The Tribunal noted that although this court had earlier granted interim protection on the basis of a dishonoured cheque, it subsequently emerged that the parties had conducted a joint inspection of the unsold inventory on 01.02.2024 pursuant to an understanding whereby the Appellant had agreed to accept the return of unsold stock in full and final settlement of the outstanding invoices.

28. The Tribunal observed that the Respondent continued to express its willingness to return the inventory, valued at approximately Rs. 1.64 crore, whereas the Appellant refused to accept the same. The Tribunal further noted that the responsibility for the failure of the proposed settlement remained disputed.

29. The learned Arbitral Tribunal also noted that the appellant has failed to establish its contention that the goods had deteriorated to scrap value.

30. In these circumstances, the Tribunal, *prima facie*, held that the Respondent's account could have been settled through the return of inventory and that the appellant was required to establish the Respondent's breach of the settlement before insisting upon monetary recovery. Consequently, the Tribunal held that the appellant had failed to establish a *prima facie* entitlement to secure its monetary claim and that no justification existed for directing the Respondent to furnish security.

31. Having understood the findings rendered by the arbitral tribunal, this court shall proceed to examine the submission made by the learned senior counsel for the appellant against the limited scope of interference available.

32. The learned senior counsel has relied upon ***Indo Spirit*** (supra) and ***IOCL***(supra) to contend that, in the present matter, the learned arbitral tribunal went beyond the pleadings and created a new dimension by granting relief restraining alienation of the unsold stock.

33. Although the learned senior counsel is correct on principle that Arbitral Tribunal cannot go beyond the pleadings and create a new dimension by granting relief that was never sought by any party.

34. However, this court is of the view that the learned arbitral tribunal did not travel beyond the subject matter of the dispute nor introduce any new controversy between the parties. The challenge to the direction i.e. restraining the Respondent from disposing of the unsold inventory, and the relief i.e. security of Appellant's monetary claim, is intrinsically founded upon the contention that goods had deteriorated and were reduced to scrap value. This contention has been expressly rejected by the arbitral tribunal.

35. It is made out from the record that the entire controversy between the parties is pertaining to outstanding invoices and the failed settlement through return of unsold inventory. Had the settlement been reached, the present situation would not have arisen at all.

36. It is an admitted position that a joint inspection of the unsold

stock was conducted. Additionally, the Respondent has consistently maintained that it is ready and willing to return the inspected inventory. In these circumstances, the condition and return of the said inventory have therefore been extensively pleaded and argued before the learned Arbitral Tribunal.

37. The deterioration in the condition of the goods and the question of taking them back was one of the contention and reasons as to why the Appellant sought monetary relief to secure its monetary claim.

38. In such circumstances, it cannot be contended that preservation of the very same inventory introduces any new dimension to the dispute.

39. Section 17(1)(ii)(a) of the Act, expressly empowers an Arbitral Tribunal to order the preservation, or sale of goods forming the subject matter of the arbitration agreement. Section 17(1)(ii)(c) empowers the Tribunal to direct inspection of any property or thing. The unsold inventory in the present case is directly connected with the disputed settlement arrangement and the parties' competing monetary claims. Consequently, the direction for its preservation in the present matter falls within the protective jurisdiction expressly contemplated under Section 17 of the Act.

40. The judgment in *Indo Spirits (supra)* is distinguishable on the peculiar facts of the present case, as in the present case, the restraint is confined to specifically identified inventory forming an integral part of the dispute, and the Respondent, upon whom the obligation of

preservation has been imposed, does not object to the same. In any case, no liability has been created against the Appellant, nor has any new substantive claim been adjudicated.

41. Insofar as the Appellant's submission concerning depreciation of the unsold inventory is concerned, the Appellant had already contended before the learned Arbitral Tribunal that the inventory had deteriorated to scrap value. The Tribunal expressly considered this contention in paragraphs 48 and 53 of the impugned order and observed that no sufficient evidence had been placed on record to establish the alleged diminution in value. This court is of the view that whether the goods have subsequently deteriorated, are disputed questions requiring evidence. This court exercising 37 jurisdiction cannot substitute its view.

42. Additionally, direction for preservation of inventory does not permanently prohibit its sale or disposal in all circumstances. Section 17(1)(ii)(a) itself contemplates sale of goods as an available interim measure. Therefore, in any case, it remains open to the parties to approach the learned Arbitral Tribunal for appropriate modification of the existing arrangement upon any subsequent change of circumstances.

43. The learned Arbitral Tribunal, specifically observed that the Appellant had failed to substantiate its contention regarding the alleged deterioration of the inventory, which was valued at approximately Rs. 1.64 crore at the time of the joint inspection dated 01.02.2024. The Tribunal further observed that the Respondent continued to express its

willingness to return the said inventory and that the question of its alleged deterioration required evidence. In these circumstances, the learned Arbitral Tribunal, after considering the entire factual controversy, exercised its discretion to direct preservation.

44. This Court exercising section 37 jurisdiction cannot substitute its own view for a plausible view taken by the Arbitral Tribunal merely because another view may be possible. The Appellant has failed to demonstrate that the discretion exercised by the learned Arbitral Tribunal cannot be sustained on the present factual foundation.

45. Even assuming *arguendo* that the direction for preservation of inventory requires reconsideration, the same is distinct and severable from the Tribunal's independent findings declining monetary security and discontinuing the restraint concerning the rented premises

46. Accordingly, this Court is of the view that the impugned order does not warrant interference in the exercise of appellate jurisdiction under Section 37(2)(b) of the Act.

47. The appeal is, accordingly, dismissed.

48. It is clarified that, in the event of any subsequent change in circumstances, including deterioration in the condition, if any or depreciation of value of the unsold inventory, it shall be open to the Appellant to approach the learned Arbitral Tribunal under Section 17(1)(ii)(a) and (c) of the Act, seeking appropriate directions for inspection, valuation or sale of the said inventory and the same shall be

decided by the learned Arbitral Tribunal in accordance with law.

49. Pending application(s), if any, also stand disposed of.

OM PRAKASH SHUKLA, J

OCTOBER 13, 2026/*gunn*