
Trimex International Fze Ltd. Dubai vs Vedanta Aluminium Limited, India

Arbitration Petition no. 18 of 2009

Facts of the Case

The petitioner, Trimex International Fze Ltd. (hereinafter referred as 'Trimex'), is a Dubai based mineral trading company and the respondents, Vedanta Aluminium Ltd. (hereinafter referred as 'Vedanta'), an Indian company that entered into negotiations in Oct 2007 for the supply of bauxite. Trimex has sent an email offering to supply bauxite under specified commercial terms, giving Vedanta the option of two to five shipments, with the offer valid under noon on 16 Oct 2007. This offer was accepted on e-mail by Vedanta for the supply of five shipments; as a result of which, Trimex immediately made back-to-back arrangements with its bauxite supplier and entered into a Charter Party Agreement (CPA) with a ship owner in Oslo for shipping the cargo.

On 8 November 2007, Trimex accepted the detailed draft contract containing additional terms and an arbitration clause; however, the document was never formally signed. Thereafter, Vedanta sought postponement of shipments which Trimex refused, stating it was already contractually bound. The shipping contract was eventually cancelled, and Trimex allegedly paid damages of around 1 million in USD to the ship owners of Oslo.

On 1 September 2008, Trimex issued a notice invoking arbitration and claiming losses, which Vedanta rejected on the ground that no concluded contract or arbitration agreement existed, asserting that negotiations were incomplete. This led Trimex to file a petition before the Supreme Court under *Section 11(6) of the Arbitration and Conciliation Act, 1996*¹ seeking appointment of an arbitrator.

Issue Before the Court

1. Whether the exchange of e-mails between Trimex and Vedanta (between 15-16 October) resulted in a concluded and legally binding contract, despite the absence of a formally signed agreement.
2. Whether the subsequent draft agreement sent on 8 November 2007 was merely part of ongoing negotiations or evidence of an already concluded contract. And whether a valid arbitration agreement existed between the parties.
3. And whether an arbitrator can be appointed under Section 11(6) of the Arbitration and Conciliation Act, 1996 in this case.

Arguments (Both Sides)

¹ Arbitration and Conciliation Act 1996 (India), s 11(6).

- Petitioner's Arguments

The petitioner, Trimex, argued that a concluded and binding contract came into existence on 16 October 2007 when Vedanta unequivocally accepted its email offer for five shipments of bauxite. It contended that a concluded and binding contract arose on 16 October 2007 when Vedanta accepted its email offer for five bauxite shipments. All essential terms were mutually agreed upon, and as under *Indian Contracts Act, 1872* and *Arbitration & Conciliation Act of 1996*, a formal signed agreement is not mandatory when the intention to be bound is clear from correspondence. Acting on Vedanta's acceptance, Trimex entered into supply and shipping contract with ship owners of Oslo, showing reliance. The draft agreement sent on 8 November 2007, including the arbitration clause, was the only formal record of the concluded contract. Hence, a valid arbitration agreement existed, justifying appointment of an arbitrator under Section 11.

- Respondent's Arguments

Vedanta argues that no concluded contract ever existed between the parties as they were still in the negotiation stage and several material terms remained unsettled. It contended that the e-mail exchange of 15-16 October 2007 was only a preliminary understanding and not intended to create any legal obligations. Vedanta relied heavily on the fact that the formal written contract sent on 8 November 2007 was never signed, asserting that without execution of this document, there was no binding agreement. It further argued that since the draft contract was subject to changes and approval, there was no final consensus, and therefore, no arbitration agreement existed independently. It further argued that since the draft contract was subject to changes and approval, there was no final consensus, and therefore no arbitration agreement could exist independently. On this basis, Vedanta submitted that the Section 11 petition was not maintainable, as arbitration cannot be compelled in the absence of a valid and concluded contract.

Judgement

In this judgement, the hon'ble Supreme Court held that a concluded and binding contract did come into existence on 16 October 2007 after Vedanta's acceptance of Trimex's offer via e-mail. The court also clarified that a valid arbitration agreement existed, as the arbitration clause formed part of the contractual understanding between the parties and was accepted through exchange of emails. The court further held that the Section 11 petition was maintainable and allowed it, directing appointment of an arbitrator, since the dispute arose out of a valid contract containing an enforceable arbitration clause. The essential commercial terms were agreed and later, documentation was only to record what was already concluded; and the minor modifications proposed by Trimex didn't negate the *consensus ad idem* reached before.

Conclusion

The Supreme Court reaffirmed via this case that commercial contracts can be validly concluded through electronic correspondence when the intention to be bound and essential terms (of the contract) are clear, even in the absence of a formally signed document. The decision prevents parties from escaping contractual and arbitral obligations on technicalities and strengthens certainty in modern commercial and arbitration practice.

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