

ARB-364-2025 (O&M)

-1-

268

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

ARB-364-2025 (O&M)
Date of Decision: 09.03.2026

Delhivery Limited

.... Applicant

Versus

Smartpaddle Technology Private Limited

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Abhijeet Singh Rawaley, Advocate,
for the applicant.

Mr. Veeraj Sharma, Advocate,
for the respondent.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present application has been filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') praying for appointment of an independent Sole Arbitrator to adjudicate upon the disputes and differences which have arisen between the parties.

2. Mr. Abhijeet Singh Rawaley, learned counsel for the applicant submitted that a Delivery Service Agreement was executed between the applicant and the respondents for the purpose of providing logistics services to transport the goods. The said agreement contains detailed terms and conditions vide Annexure P-3 (colly.), which provides that it is to be read in conjunction with the detailed agreement and scope of work available in the hyperlink provided in the agreement. The aforesaid agreement was signed by the applicant and sent to the respondent through email which is clear from Page No.39 of the paperbook. The aforesaid agreement contains a valid arbitration clause i.e. Clause 12(i) pertaining to Governing Law and Dispute



ARB-364-2025 (O&M)

-2-

Resolution, which provides that the parties shall first endeavor to resolve their disputes amicably within fifteen (15) days from the date on which the dispute was first notified and in the event, the parties fail to resolve the dispute amicably, the dispute shall be referred to arbitration. It further provides that if the parties are unable to agree on a sole arbitrator, a panel of three arbitrators shall be appointed wherein each party shall appoint one arbitrator within 15 days of the expiry of the matter being referred to arbitration and the two arbitrators together shall appoint the presiding arbitrator within 15 days of the appointment of the last of the two arbitrators and it also provides that the venue/seat of the arbitration shall be Gurgaon.

3. Learned counsel further submitted that the agreement was modified, and thereafter, all communications and commercial transactions were conducted through emails via registered electronic means. In this way, the agreement was executed digitally by both parties, though there were no physical signatures. One of the emails providing a record of the arbitration agreement is also attached vide Annexure P-4 to the present application. He further submitted that all communications were exchanged through emails and other means of telecommunications and rather the notice invoking the aforesaid arbitration clause was also sent through email, to which reference was made at Page 49/50 of the paperbook.

4. A formal notice dated 28.01.2025 under Section 21 of the Act was also sent vide Annexure P-5, wherein the applicant proposed the name of a Sole Arbitrator. In response thereto, the respondent vide its reply dated 27.02.2025 (Annexure P-6) did not accept the proposed name for appointment as the Sole Arbitrator and the same is clear from Para No.29 of the aforesaid reply wherein the respondent expressly stated that it did not



ARB-364-2025 (O&M)

-3-

agree with the proposed Arbitrator and it reserves its right to nominate an Arbitrator of its choice. In the aforesaid reply, the respondent has neither denied the existence of an agreement between the parties nor has it denied the existence of an arbitration clause contained therein. On the contrary, the respondent has admitted to the existence of the agreement in its reply which is clearly mentioned at Para No.3 thereof, wherein they stated that the detailed agreement and scope of work was governed by the above Terms and Conditions via a hyperlinked agreement and both the agreements were to be collectively referred to as “the Agreement”. Further, in Para No.4 of the reply, it was also so stated that the contractual relationship between the parties was governed by the scope of services and payment terms set out in the agreement and under the agreement, all invoices were to be accurate, properly documented and supported by Proof of Deliveries (PODs) for the services rendered and in this way, there is no dispute with regard to execution of the agreement by the parties although communicated through emails and digitally signed.

5. Learned counsel also submitted that since the respondent had disputed the agreement on the ground of it not being signed and executed, this Court had directed both the parties to file their respective affidavits to which the applicant as well as the respondent have filed their separate affidavits. In the affidavit filed by the applicant, it is so stated that an agreement exists, which was digitally signed by both the parties and acted upon by them. In the affidavit filed by the respondent, it is stated by respondent in Para No.3 that the parties have not signed or executed the agreement, thereby again creating a camouflage.

6. Learned counsel also submitted that Section 7(4) of the Act



ARB-364-2025 (O&M)

-4-

provides that an arbitration agreement is “in writing”, if it is contained in (a) a document signed by the parties; (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 where the existence of the agreement is not denied. He submitted that in the present case, all the aforesaid ingredients i.e. (a), (b) and (c) stands fulfilled and therefore, the respondent cannot dispute that since the agreement was not physically signed by the parties, it will not be an arbitration agreement in writing whereas in fact the case of the applicant is covered under Section 7(4) of the Act. He therefore, prays that any independent Sole Arbitrator may be appointed by this Court.

7. On the other hand, learned counsel for the respondent has submitted that as per the reply and affidavit filed by the respondent, the stand taken by the respondent is that the agreement was not executed or signed between the parties. He further submitted that in the reply to the notice sent by the applicant under Section 21 of the Act, the only objection of the respondent was that the agreement was not signed by the parties.

8. I have heard learned counsels for the parties.

9. Section 7(4) of the Act is reproduced as under:-

“7. Arbitration agreement. —

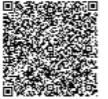
xx xx xx xx

(4) An arbitration agreement is in writing if it is contained in—

(a) a document signed by the parties;

(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 in

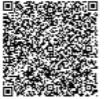


which the existence of the agreement is alleged by one party and not denied by the other.

xx xx xx xx”

10. Whenever an application under Section 11 of the Act is filed, the Court has to see as to whether there exists an agreement which is signed by the parties or not. However, the aforesaid expression ‘signed’ is further so defined under Section 7(4) of the Act as reproduced above. In the present case, the applicant has demonstrated that the agreement was digitally signed by both parties and was given effect through various communications exchanged between them. It is not necessary that the agreement has to be physically signed and the same can always be signed digitally by both the parties and in the present case, the agreement was rather given effect to and the conduct of the parties would show that the agreement was acted upon. A further perusal of the reply filed by the respondent to the notice under Section 21 of the Act issued by the applicant would show that there is no specific denial of the agreement and rather the aforesaid is admitted by the respondent. Paragraphs No.3, 4 and 22 of the reply to the notice under Section 21 of the Act are also reproduced as under:-

“3. Our Client categorically states and maintains that Delhivery has deliberately and with mala fide intent suppressed material facts from you, which is evident from the contents of your notice invoking arbitration. The said notice contains misleading and factually incorrect assertions, with the sole intent of exerting undue pressure on our Client. Additionally, your threats of legal action against our Client are wholly unjustified, as it is Delhivery who has failed to adhere to the express terms and conditions stipulated under the Terms and Condition of Agreement dated 14 February 2019 which was shared



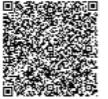
by Delhivery to our Client. It is to be noted that the detailed agreement and scope of work was attached to be above Terms and Conditions via a hyperlinked agreement. (both agreements are collectively referred to as "the Agreement").

4. Our Client engaged the services of Delhivery under the Agreement to provide delivery services for its B2B and B2C businesses based upon their representations and warranties of allegedly being one of the most trusted and leading delivery partners in the country. The contractual relationship between the parties was governed by the scope of services and payment terms set out in the Agreement. Under the Agreement all invoices were to be accurate, properly documented, and supported by Proof of Deliveries (PODs) for the services rendered. In any scenario any failure to adhere to these contractual obligations would render the invoices disputed and unenforceable.

xx xx xx xx

22. That contents of para 15 (incorrectly marked as para 10 in NIA) are a matter of record to the extent that there exists a Dispute Resolution clause in the agreement. It is however, denied that our Client has made any vague excuses to withhold the alleged arrears. It is vehemently denied that our Client has acknowledged any debt owed to Delhivery. It is submitted that no amount is due and payable by our Client to Delhivery. It is denied that our Client is in contravention of any of the clause of the Agreement. It is submitted that the present notice is an abuse of process of law as Delhivery has failed in its obligations under the Agreement and instructed you to issue the present notice.”

11. In this way, the agreement which may not have been physically signed but rather admitted by the respondent in the reply to the notice under



ARB-364-2025 (O&M)

-7-

Section 21 of the Act would be an agreement in writing as per Section 7(4) of the Act.

12. The objection which was raised by the learned counsel for the respondent based upon reply to the present application is not sustainable.

13. In this way, both the essential conditions i.e. *prima facie* existence of the arbitration clause i.e. Clause 12(i) of the agreement (Annexure P-3) as well as invocation thereof remain satisfied.

14. In view of the aforesaid facts and circumstances, the present application is allowed. Mr. Justice B.S. Walia, a former Judge of this Court, resident of House No.1143, Sector-8C, Chandigarh, Mobile No.9814006691, waliabs@gmail.com, is nominated as the Sole Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory provisions including Section 12 of the Act.

15. Parties are directed to appear before the learned Arbitrator on date, time and place to be fixed and communicated by the learned Arbitrator at his convenience.

16. Fee shall be paid to the learned Arbitrator in accordance with the Fourth Schedule of the Arbitration Act, as amended.

17. Learned Arbitrator is also requested to complete the proceedings as per the time limit prescribed under Section 29-A of the Act.

18. A request letter alongwith a copy of the order be sent to Mr. Justice B.S. Walia, a former Judge of this Court.

09.03.2026

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No