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

% ***Judgment reserved on: 07.05.2026***
Judgment pronounced on: 29.05.2026

\+ O.M.P. (COMM) 232/2024

ORACLE INTERNATIONAL CORPORATION .....Petitioner
Through: Ms Swathi Sukumar, Sr. Adv. with Ms Priyanka Gupta, Mr Aasheesh Gupta, Mr Palash Agarwal, Mr Ritik Raghuvanshi, Ms Ritika Aggarwal, Advs.

versus

CIS IT SOLUTIONS PVT LTD .....Respondent
Through: Mr. Manoj Yadav & Ms. Sakshi Arora, Advs.

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. The present Petition has been instituted under Section 34 of the **Arbitration and Conciliation Act, 1996**[1], seeking the setting aside of the **Arbitral Award dated 23.12.2023**[2], rendered by the learned Sole Arbitrator, in INDRP Case No. 1757 under the **.IN Domain Name Dispute Resolution Policy**[3].

[1] A&C Act
[2] Impugned Award
[3] INDRP

2. By way of the Impugned Award, the learned Arbitrator rejected the complaint preferred in INDRP by the Petitioner seeking transfer of the domain name "www.exadata.in" from the Respondent to the Petitioner.

BRIEF FACTS:

3. The Petitioner, Oracle International Corporation, which is a US-based company, claims to be a globally operating technology corporation engaged in the business of providing computer hardware, software platforms, database management systems, cloud computing solutions and allied technological services. The Petitioner asserts that it is the proprietor and prior user of the Trade Mark "EXADATA", which, according to the Petitioner, has been continuously and extensively used since the year 2008 in relation to its database and cloud-based technology offerings.

4. The Petitioner further claims registration of the Trade Mark "EXADATA" in India under Class 9 *vide* registration dated 28.05.2008 in respect of computer hardware and software for use in storage, management, analysis and optimization of data warehouses and databases, and under Class 42 *vide* registration dated 19.03.2018 in relation to cloud computing, database management, data storage and allied technological services.

5. The Respondent registered the domain name "www.exadata.in" on 21.12.2016.

6. According to the Respondent, the said domain name was adopted in connection with activities relating to big data analytics, epidemiology, predictive analytics, data science and research-oriented informational services. The Respondent further claims that the domain

name was not adopted or used in bad faith and was never intended to create any association with the Petitioner.

7. The record reflects that disputes arose between the parties when the Petitioner objected to the Respondent's use of the aforesaid domain name on the ground that the same was identical and deceptively similar to the Petitioner's registered Trade Mark "EXADATA".

8. The Petitioner, in December 2022, issued a cease-and-desist notice to the Respondent seeking cessation of use of the impugned domain name and transfer thereof in its favour.

9. Since the disputes between the parties could not be resolved amicably, the Petitioner invoked the mechanism under the INDRP before the **National Internet Exchange of India**[4], by filing a complaint seeking transfer of the impugned domain name "www.exadata.in".

10. Upon reference of the disputes under the INDRP framework, the learned Sole Arbitrator entered upon reference and framed issues concerning the similarity of the domain name with the Petitioner's trade mark, the Respondent's rights and legitimate interests in the domain name, and the question of whether the domain name had been registered or used in bad faith.

11. After considering the pleadings and material placed on record by the parties, the learned Arbitrator rendered the Impugned Award whereby the complaint preferred by the Petitioner came to be rejected.

[4] NIXI

12. Aggrieved by the aforesaid Award, the Petitioner has preferred the present Petition under Section 34 of the A&C Act seeking the setting aside of the Impugned Award.

CONTENTIONS ON BEHALF OF THE PETITIONER:

13. In response to the objection, which has been raised by the learned counsel for the Respondent, concerning the alleged delay in filing the present Petition beyond the permissible period prescribed under Section 34(3) of the A&C Act, learned senior counsel appearing on behalf of the Petitioner would submit that the present Petition was validly instituted within the period of limitation contemplated under the said provision. It would further be contended that the objections raised by the Respondent alleging that the filing was *non-est* are wholly misconceived, untenable in law, and liable to be rejected.

14. It would be contended that the initial Petition had been filed within the statutory period and the subsequent filings constituted mere curing of procedural defects and refiling in accordance with the practice and procedure of this Court, which would not render the Petition barred by limitation.

15. On the merits of the Petition, learned senior counsel for the Petitioner would contend that the Impugned Award is patently illegal, internally inconsistent and liable to be set aside under Section 34 of the A&C Act.

16. It would be contended that the learned Arbitrator, despite recording a categorical finding that the impugned domain name "www.exadata.in" is identical and/or confusingly similar to the Petitioner's registered Trade Mark "EXADATA" and in violation of the INDRP, erroneously refused to grant consequential relief in favour

of the Petitioner, thereby rendering the Award self-contradictory and legally unsustainable.

17. Learned senior counsel appearing on behalf of the Petitioner would submit that the Petitioner is the registered proprietor and prior adopter of the Trade Mark "EXADATA" in India as well as several jurisdictions worldwide and has been continuously and extensively using the said mark since the year 2008 in relation to database management systems, computing hardware, cloud computing, data warehousing and allied technological services. It would be submitted that the Petitioner holds registrations in India under Class 9 dated 28.05.2008 and under Class 42 dated 19.03.2018, whereas the Respondent registered the impugned domain name only on 21.12.2016 and, therefore, the Petitioner possesses prior statutory and proprietary rights in the said mark.

18. Learned senior counsel for the Petitioner would further contend that the learned Arbitrator failed to appreciate that the Petitioner's Trade Mark "EXADATA" is inherently distinctive and has acquired substantial goodwill and reputation owing to extensive and uninterrupted global use. It would be submitted that the learned Arbitrator failed to appreciate that the Respondent had adopted the entirety of the Petitioner's registered mark as part of the impugned domain name and that such adoption was bound to result in deception, confusion and false association amongst internet users and consumers.

19. It would further be contended that the learned Arbitrator committed patent illegality by relying upon considerations *dehors* the INDRP framework and settled principles governing Trade Mark and domain name disputes, including observations relating to "*scientific*

temper", "*national interest*" and alleged research-oriented activities of the Respondent. According to the Petitioner, such considerations were wholly irrelevant for the determination of rights under the INDRP mechanism and rendered the findings of the learned Arbitrator perverse and contrary to law.

20. Learned senior counsel appearing on behalf of the Petitioner would further submit that the learned Arbitrator failed to appreciate that the Respondent is admittedly a commercial entity engaged in activities relating to big data analytics, predictive analytics, artificial intelligence, data science and allied technological services. It would be contended that the Respondent's own website reflected offerings concerning data acquisition, data modelling, predictive analytics platforms, healthcare solutions, training programmes and technological services, thereby clearly establishing commercial use of the impugned domain name in the course of trade.

21. It would be further contended that the learned Arbitrator erroneously accepted the Respondent's plea that the impugned domain name had been adopted for research purposes without any pleading or material to substantiate such claim. Learned senior counsel for the Petitioner would submit that the alleged doctoral research project relied upon by the Respondent bore no reference to "EXADATA" and no material was placed on record to establish any nexus between the alleged research work and adoption of the impugned domain name. It would thus be contended that the findings recorded by the learned Arbitrator in this regard were based on assumptions contrary to the pleadings and evidence on record.

22. Learned senior counsel for the Petitioner would further contend that once the Petitioner had established a *prima facie* case under the INDRP, the burden shifted upon the Respondent to establish rights and legitimate interest in the impugned domain name in terms of Clause 6 of the INDRP. Reliance in this regard would be placed upon the judgment of this Court in ***Joseph Taheny v. Taktronix INC***[5]. It would be submitted that the Respondent failed to establish any *bona fide* or legitimate interests in the impugned domain name and further failed to demonstrate the absence of bad faith.

23. Learned senior counsel appearing on behalf of the Petitioner would further submit that the learned Arbitrator failed to appreciate that the Respondent was neither commonly known by the name "EXADATA" nor possessed any independent proprietary rights in the said expression. It would be contended that the Respondent had deliberately adopted the Petitioner's registered Trade Mark as part of the impugned domain name despite the Petitioner's prior adoption, use and reputation.

24. It would further be contended that the learned Arbitrator failed to appreciate the likelihood of consumer confusion and deceptive association arising from the Respondent's use of the impugned domain name. Reliance in this regard would also be placed upon the judgment of this Court in ***Thoughtworks Inc. v. Super Software Pvt.***[6] to contend that the learned Arbitrator had failed to properly appreciate the issue of deceptive similarity and confusion in the context of domain name disputes.

[5] 2023 SCC OnLine Del 7927
[6] 2017 SCC OnLine Del 6474

25. It would lastly be contended that the Impugned Award is unintelligible, internally inconsistent, contrary to the public policy of India and suffers from patent illegality inasmuch as the findings recorded therein are based on considerations dehors the pleadings and contrary to the material available on record. It would therefore be prayed that the Impugned Award be set aside and consequential directions be issued for the transfer of the domain name "www.exadata.in" in favour of the Petitioner.

CONTENTIONS ON BEHALF OF THE RESPONDENT:

26. ***Per contra***, learned counsel appearing on behalf of the Respondent would contend that the present Petition under Section 34 of the A&C Act is liable to be dismissed both on the ground of limitation as well as on merits.

27. Learned counsel for the Respondent would contend that the Petitioner admittedly received the signed copy of the Impugned Award on 26.12.2023 and, therefore, the statutory outer limit of one hundred and twenty (120) days prescribed under Section 34(3) of the A&C Act expired on 24.04.2024. It would be submitted that the purported filing dated 26.03.2024 was incomplete, defective and *non-est* in the eyes of law and the subsequent filing dated 17.05.2024 constituted a fresh filing beyond the prescribed period of limitation.

28. It would further be contended that the Petition subsequently filed by the Petitioner materially differed from the earlier filing inasmuch as there were changes in the Power of Attorney, verification, affidavits, Statement of Truth and vakalatnama and, therefore, the same could not be treated as a mere refiling for curing defects.

29. Learned counsel would submit that the Power of Attorney authorising institution of the present proceedings was itself executed subsequent to the alleged initial filing and, therefore, the present Petition is barred by limitation and liable to be dismissed on this ground alone.

30. Learned counsel appearing on behalf of the Respondent would further contend that the jurisdiction of this Court under Section 34 of the A&C Act is extremely limited and does not permit re-appreciation of evidence or substitution of the view taken by the learned Arbitrator merely because another view is possible. It would be submitted that the present Petition, in substance, seeks a review on the merits of the findings returned by the learned Arbitrator, which is impermissible within the limited scope of Section 34 of the A&C Act jurisdiction.

31. It would further be contended that the Petitioner has failed to establish any ground falling within Section 34(2) or Section 34(2A) of the A&C Act and has failed to demonstrate either patent illegality or conflict with the public policy of India. Learned counsel would submit that the objections raised by the Petitioner pertain merely to the appreciation of facts and evidence, which cannot furnish a ground for interference under Section 34 of the A&C Act.

32. Learned counsel for the Respondent would further contend that the learned Arbitrator, after due appreciation of the pleadings, documents and material placed on record, rightly concluded that the Respondent had neither registered nor used the impugned domain name in bad faith.

33. It would be submitted that the Respondent registered the domain name “www.exadata.in” in the year 2016 for activities

relating to big data analytics, predictive analytics and informational or research-oriented purposes and had never attempted to sell the said domain name either to the Petitioner or to any third party. Learned counsel would submit that the Respondent never claimed sponsorship, endorsement or affiliation with the Petitioner and had never attempted to divert customers through deceptive means.

34. Learned counsel appearing on behalf of the Respondent would further contend that under Clauses 4 and 6 of the INDRP, all the conditions stipulated therein are required to be cumulatively satisfied before any relief can be granted in favour of a complainant. It would further be contended that the requirements under Clause 7 of the INDRP relating to bad faith registration and use are also required to be established and the Petitioner failed to satisfy the said requirements before the learned Arbitrator.

35. It would further be submitted that mere ownership of a registered Trade Mark does not automatically entitle the proprietor to seek transfer of a domain name and that registration of a Trade Mark merely confers a right to use the mark in connection with the goods and services for which registration has been obtained. Learned counsel would contend that despite possessing registration of the Trade Mark "EXADATA" since 2008 under Class 9, the Petitioner itself never registered or acquired the domain name "www.exadata.in".

36. It would further be contended that the Petitioner's registration under Class 42 was obtained only on 19.03.2018, whereas the Respondent had registered the impugned domain name on 21.12.2016 and, therefore, the Respondent possesses prior usage rights *qua* the activities allegedly falling within Class 42.

37. Learned counsel appearing on behalf of the Respondent would further submit that the expression "EXADATA" is not a well-known Trade Mark in India and has not been declared as such under the provisions of the Trade Marks Act, 1999. It would further be contended that the Respondent adopted the expression "EXADATA" by combining the generic expressions "EXA" and "DATA" in connection with data science and analytical activities and not with any intention to exploit the goodwill of the Petitioner.

38. Learned counsel for the Respondent would further contend that the observations of the learned Arbitrator relating to scientific temper, dissemination of knowledge or research-oriented use were merely ancillary observations and do not constitute the sole basis of the Impugned Award. It would be submitted that the Impugned Award is fundamentally premised upon the learned Arbitrator's finding that the Petitioner had failed to establish bad faith registration and use as contemplated under the INDRP framework.

39. It would additionally be contended that the learned Arbitrator passed a reasoned and plausible award upon consideration of the pleadings and evidence on record and the same does not suffer from perversity, patent illegality or conflict with the public policy of India, warranting interference under Section 34 of the A&C Act.

40. Learned counsel appearing on behalf of the Respondent would lastly contend that this Court, while exercising jurisdiction under Section 34 of the A&C Act, may either uphold or set aside the arbitral award and cannot modify or substitute the award by granting substantive relief in favour of the Petitioner.

41. It would therefore be submitted that the prayer seeking direct transfer of the domain name "www.exadata.in" in favour of the Petitioner is itself beyond the scope of proceedings under Section 34 of the A&C Act.

ANALYSIS:

42. This Court has heard the learned counsel appearing for the parties at length and, with their able assistance, has carefully perused the Impugned Award and the other material placed on record.

43. At the outset, this Court deems it appropriate to deal with the preliminary objection raised by the Respondent with respect to limitation. The Respondent has contended that the initial filing dated 26.03.2024 was *non-est* and that the subsequent filing dated 17.05.2024 constituted a fresh filing beyond the period prescribed under Section 34(3) of the A&C Act.

44. This Court, however, is unable to accept the said objection raised by the learned counsel for the Respondent.

45. The record reflects that the Petition had initially been instituted on 26.03.2024 within the prescribed period of limitation, since 25.03.2024, being the last date thereof, was a public holiday on account of Holi.

46. The subsequent filing undertaken pursuant to office objections, in the facts of the present case, cannot be construed as a fresh filing. The explanation furnished by the Petitioner that the defects came to be cured subsequently, owing to the execution of authorisation documents and logistical formalities concerning its overseas entity, cannot be said to be lacking in *bona fides*.

47. Significantly, the application seeking condonation of delay in refilling being *I.A. 29908/2024* also came to be allowed by this Court *vide* Order dated 06.08.2024, pursuant to which notice in the present Petition was issued.

48. In the considered opinion of this Court, the objections pointed out by the Respondent substantially pertain to curable procedural defects arising at the stage of refiling and do not warrant dismissal of the petition at the threshold, particularly when the initial filing itself had been made within the prescribed period of limitation.

49. This Court also does not find merit in the Respondent's contention that the subsequent filing pursuant to curing of defects amounted to a fresh filing merely because a different authorised representative had signed the pleadings and a fresh Power of Attorney came to be placed on record. This Court is of the considered opinion that the Petitioner, being a corporate entity, necessarily acts through authorised representatives and mere substitution of an authorised signatory or execution of a fresh Power of Attorney at the stage of refiling would not render the original institution of the Petition *non-est*, particularly when the petition had already been filed within the prescribed period of limitation.

50. In this regard, this Court is guided by the principles laid down by the Hon'ble Supreme Court in ***United Bank of India v. Naresh Kumar***[7], wherein it was held that procedural irregularities relating to authorisation and representation of juristic entities are curable in nature and ought not to defeat substantive adjudication. The Hon'ble Supreme Court further observed that procedural defects which do not

[7] 1996 (6) SCC 660

go to the root of the matter ought not to defeat a just cause. The relevant portion of the said judgment reads as follows:

> "**8.** In this appeal, therefore, the only question which arises for consideration is whether the plaint was duly signed and verified by a competent person.
> **9.** In cases like the present where suits are instituted or defended on behalf of a public corporation, public interest should not be permitted to be defeated on a mere technicality. Procedural defects which do not go to the root of the matter should not be permitted to defeat a just cause. There is sufficient power in the Courts, under the Code of Civil Procedure, to ensure that injustice is not done to any party who has a just case. As far as possible a substantive right should not be allowed to be defeated on account of a procedural irregularity which is curable.
> **10.** It cannot be disputed that a company like the appellant can sue and be sued in its own name. Under Order 6 Rule 14 of the Code of Civil Procedure a pleading is required to be signed by the party and its pleader, if any. As a company is a juristic entity it is obvious that some person has to sign the pleadings on behalf of the company. Order 29 Rule 1 of the Code of Civil Procedure, therefore, provides that in a suit by against a corporation the Secretary or any Director or other Principal officer of the corporation who is able to depose to the facts of the case might sign and verify on behalf of the company. Reading Order 6 Rule 14 together with Order 29 Rule 1 of the Code of Civil Procedure it would appear that even in the absence of any formal letter of authority or power of attorney having been executed a person referred to in Rule 1 of Order 29 can, by virtue of the office which he holds, sign and verify the pleadings on behalf of the corporation. In addition thereto and de hors Order 29 Rule 1 of the Code of Civil Procedure, as a company is a juristic entity, it can duly authorise any person to sign the plaint or the written statement on its behalf and this would be regarded as sufficient compliance with the provisions of Order 6 Rule 14 of the Code of Civil Procedure. A person may be expressly authorised to sign the pleadings on behalf of the company, for example by the Board of Directors passing a resolution to that effect or by a power of attorney being executed in favour of any individual. In absence thereof and in cases where pleadings have been signed by one of it's officers a Corporation can ratify the said action of it's officer in signing the pleadings. Such ratification can be express or implied. The Court can, on the basis of the evidence on record, and after taking all the circumstances of the case, specially with regard to the conduct of the trial, come to the conclusion that the corporation had ratified the act of signing of the pleading by it's officer."

51. Accordingly, this Court is satisfied that sufficient cause has been shown by the Petitioner and the delay, if any, deserves to be condoned.

52. It is also noted that at the culmination of the oral submissions, in this case, learned counsel for the Respondent also fairly conceded that the objection raised on account of execution of the Power of Attorney would not render the present Petition barred by limitation.

53. In view thereof, the objection raised by the Respondent in respect of the limitation stands rejected.

54. Now, before proceeding to examine the merits of the rival submissions advanced on behalf of the parties, this Court considers it apposite to reiterate the well-settled limitations governing the exercise of jurisdiction under Section 34 of the A&C Act. The jurisdiction exercised by this Court under Section 34 of the A&C Act is supervisory and not appellate in nature, and consequently does not permit a reappreciation of evidence or a reconsideration of the merits of the dispute as though this Court were sitting in appeal over the arbitral award.

55. It is also relevant to note that the Petitioner is a U.S.-based entity and, in view of Section 2(1)(f)(ii) of the A&C Act, the disputes arising between the parties would qualify as an International Commercial Arbitration. In this regard, there exists a consistent and authoritative line of decisions rendered by the Hon'ble Supreme Court, which has clearly delineated the contours of judicial interference under Section 34 of the A&C Act. The aforesaid precedents repeatedly emphasise that the scope of interference with an arbitral award arising out of an International Commercial Arbitration

is considerably narrower than that applicable in the case of a purely domestic award, and interference is warranted only within the limited parameters expressly contemplated under the statute.

56. This Court considers it apposite to refer to the decision of the Hon'ble Supreme Court in ***Ssangyong Engineering*** (*supra*), wherein the Apex Court, while examining the scope of interference with an arbitral award arising out of an International Commercial Arbitration, reiterated that, by virtue of Section 34(2A) read with Section 2(1)(f) of the A&C Act, the ground of '*patent illegality*' is not available as a basis for challenging an award rendered in an International Commercial Arbitration. The Apex Court further clarified that the additional ground introduced under Section 34(2A) of the A&C Act is confined only to domestic arbitral awards and does not extend to awards arising from International Commercial Arbitrations seated in India. The relevant extracts from the said judgment are reproduced hereunder:

> "**34.** What is clear, therefore, is that the expression "public policy of India", whether contained in Section 34 or in Section 48, would now mean the "fundamental policy of Indian law as explained in paragraphs 18 and 27 of Associate Builders (supra), i.e., the fundamental policy of Indian law would be relegated to the "Renusagar understanding of this expression. This would necessarily mean that the ***Western Geco*** (supra) expansion has been done away with. In short, ***Western Geco*** (supra), as explained in paragraphs 28 and 29 of ***Associate Builders*** (supra), would no longer obtain, as under the guise of interfering with an award on the ground that the arbitrator has not adopted a judicial approach, the Court's intervention would be on the merits of the award, which cannot be permitted post amendment. However, insofar as principles of natural justice are concerned, as contained in Sections 18 and 34(2)(a)(iii) of the 1996 Act, these continue to be grounds of challenge of an award, as is contained in paragraph 30 of ***Associate Builders*** (supra).
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> **36.** Thus, it is clear that public policy of India is now constricted to mean firstly, that a domestic award is contrary to the

fundamental policy of Indian law, as understood in paragraphs 18 and 27 of ***Associate Builders*** (supra), or secondly, that such award is against basic notions of justice or morality as understood in paragraphs 36 to 39 of ***Associate Builders*** (supra). Explanation 2 to Section 34(2)(b)(ii) and Explanation 2 to Section 48(2)(b)(ii) was added by the Amendment Act only so that ***Western Geco*** (supra), as understood in ***Associate Builders*** (supra), and paragraphs 28 and 29 in particular, is now done away with.

37. Insofar as domestic awards made in India are concerned, an additional ground is now available under sub-section (2A), added by the Amendment Act, 2015, to Section 34. Here, there must be patent illegality appearing on the face of the award, which refers to such illegality as goes to the root of the matter but which does not amount to mere erroneous application of the law. In short, what is not subsumed within "the fundamental policy of Indian law", namely, the contravention of a statute not linked to public policy or public interest, cannot be brought in by the backdoor when it comes to setting aside an award on the ground of patent illegality.

38. Secondly, it is also made clear that re-appreciation of evidence, which is what an appellate court is permitted to do, cannot be permitted under the ground of patent illegality appearing on the face of the award.

39. To elucidate, paragraph 42.1 of ***Associate Builders*** (supra), namely, a mere contravention of the substantive law of India, by itself, is no longer a ground available to set aside an arbitral award. Paragraph 42.2 of ***Associate Builders*** (supra), however, would remain, for if an arbitrator gives no reasons for an award and contravenes Section 31(3) of the 1996 Act, that would certainly amount to a patent illegality on the face of the award.

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41. What is important to note is that a decision which is perverse, as understood in paragraphs 31 and 32 of ***Associate Builders*** (supra), while no longer being a ground for challenge under "public policy' of India, would certainly amount to a patent illegality appearing on the face of the award. Thus, a finding based on no evidence at all or an award which ignores vital evidence in arriving at its decision would be perverse and liable to be set aside on the ground of patent illegality. Additionally, a finding based on documents taken behind the back of the parties by the arbitrator would also qualify as a decision based on no evidence inasmuch as such decision is not based on evidence led by the parties, and therefore, would also have to be characterised as perverse.

42. Given the fact that the amended Act will now apply, and that the "patent illegality" ground for setting aside arbitral awards in international commercial arbitrations will not apply."

(emphasis supplied)

57. In view of the aforesaid settled principles governing the limited scope of judicial interference under Section 34 of the A&C Act in matters arising out of International Commercial Arbitration, this Court now proceeds to examine the Impugned Award strictly within the narrow confines permissible under the said provision. In proceedings of the present nature, the scope of interference remains circumscribed by the grounds expressly enumerated under Section 34(2) of the A&C Act, including Section 34(2)(b)(ii), *namely*, whether the award is in conflict with the public policy of India.

58. The significant facet of Section 34 of the A&C Act, namely, "*conflict with the public policy of India*", which constitutes the core fulcrum for testing an arbitral award arising out of an International Commercial Arbitration, has been comprehensively explained and authoritatively summarised by a three-Judge Bench of the Hon'ble Supreme Court in ***OPG Power Generation (P) Ltd. v. Enexio Power Cooling Solutions (India) (P) Ltd.***[8].

59. The said judgment, after undertaking an exhaustive examination of a catena of prior decisions rendered on the subject, lucidly delineates the contours, limitations, and permissible extent of judicial interference on the ground of "*public policy of India*", particularly after the amendments introduced by the Arbitration and Conciliation (Amendment) Act, 2015.

60. The Hon'ble Supreme Court, in that judgment, while summarising the legal position in paragraph nos. 55 and 56 of the said judgment, reiterated that following the 2015 Amendments to Sections 34(2)(b)(ii) and 48(2)(b) of the A&C Act, the expression "*conflict*

[8] (2025) 2 SCC 417

with the public policy of India" has been accorded a narrow and restricted interpretation, and since mere contravention of law is insufficient to invalidate an arbitral award unless such contravention affects the fundamental policy of Indian law governing the administration of justice and enforcement of law, only violations such as breach of natural justice, disregard of binding judgments or orders of superior courts, or contravention of laws linked to public interest or public good may justify interference, though even such scrutiny cannot extend into a review on merits. Certain pertinent observations from ***OPG Power*** (*supra*) are reproduced hereunder:

> *"**Public policy***
> **31.** "Public policy" is a concept not statutorily defined, though it has been used in statutes, rules, notification, etc. since long, and is also a part of common law. Section 23 of the Contract Act, 1872 uses the expression by stating that the consideration or object of an agreement is lawful, unless, inter alia, opposed to public policy. That is, a contract which is opposed to public policy is void.
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> **36.** In fact, in ***Renusagar Power Co. Ltd.* v. *General Electric Co.*, 1994 Supp (1) SCC 644]**, this Court was dealing with the enforceability of a foreign award. For that end, it had to interpret the expression "contrary to public policy" in the context of Section 7(1)(*b*)(*ii*) of the Foreign Awards (Recognition and Enforcement) Act, 1961. While doing so, this Court held that:
> (*a*) contravention of law alone will not attract the bar of public policy, and something more than contravention of law is required [***Renusagar Power Co. case*, 1994 Supp (1) SCC 644, para 65**]; and
> (*b*) the expression "public policy" must be construed in the sense the doctrine of public policy is applied in the field of private international law.
> Applying the said criteria, it was held that enforcement of a foreign award could be refused on the ground of being contrary to public policy if such enforcement would be contrary to:
> (*a*) fundamental policy of Indian law, or
> (*b*) the interests of India, or
> (*c*) justice or morality [***Renusagar Power Co. case*, 1994 Supp (1) SCC 644, para 66**].
> The Court thereafter proceeded to hold that a contravention of the provisions of the Foreign Exchange Regulation Act would be

contrary to the public policy of India as that statute is enacted for the national economic interest to ensure that the nation does not lose foreign exchange which is essential for the economic survival of the nation [***Renusagar Power Co. case*, 1994 Supp (1) SCC 644, para 75**].

37. What is clear from above is that for an award to be against public policy of India a mere infraction of the municipal laws of India is not enough. There must be, inter alia, infraction of fundamental policy of Indian law including a law meant to serve public interest or public good.

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41. In ***Associate Builders* v. *DDA*, (2015) 3 SCC 49**, a two-Judge Bench of this Court, held that *audi alteram partem* principle is undoubtedly a fundamental juristic principle in Indian law and is enshrined in Sections 18 and 34(2)(*a*)(*iii*) of the 1996 Act. In addition to the earlier recognised principles forming fundamental policy of Indian law, it was held that disregarding:

(*a*) orders of superior courts in India; and

(*b*) the binding effect of the judgment of a superior court would also be regarded as being contrary to the fundamental policy of Indian law [See ***Associate Builders case*, (2015) 3 SCC 49, para 27**].

Further, elaborating upon the third juristic principle (i.e. qua perversity), as laid down in ***ONGC Ltd.* v. *Western Geco International Ltd.*, (2014) 9 SCC 263**, it was observed that where:

(*i*) a finding is based on no evidence; or

(*ii*) an Arbitral Tribunal takes into account something irrelevant to the decision which it arrives at; or

(*iii*) ignores vital evidence in arriving at its decision, such decision would necessarily be perverse [***Associate Builders case*, (2015) 3 SCC 49, para 31**].

To this a caveat was added by observing that when a court applies the "public policy test" to an arbitration award, it does not act as a court of appeal and, consequently, errors of fact cannot be corrected; and a possible view by the arbitrator on facts has necessarily to pass muster as the arbitrator is the ultimate master of the quantity and quality of evidence to be relied upon when he delivers his arbitral award. It was also observed that an award based on little evidence or on evidence which does not measure up in quality to a trained legal mind would not be held to be invalid on that score. Thus, once it is found that the arbitrator's approach is not arbitrary or capricious, it is to be taken as the last word on facts [***Associate Builders case*, (2015) 3 SCC 49, para 33**] .

The 2015 Amendment in Sections 34 and 48

42. The aforementioned judicial pronouncements were all prior to the 2015 Amendment. Notably, prior to the 2015 Amendment the expression "in contravention with the fundamental policy of Indian

law" was not used by the legislature in either Section 34(2)(*b*)(*ii*) or Section 48(2)(*b*). The pre-amended Section 34(2)(*b*)(*ii*) and its Explanation read:

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44. By the 2015 Amendment, in place of the old Explanation to Section 34(2)(*b*)(*ii*), *Explanations 1 and 2* were added to remove any doubt as to when an arbitral award is in conflict with the public policy of India.

45. At this stage, it would be pertinent to note that we are dealing with a case where the application under Section 34 of the 1996 Act was filed after the 2015 Amendment, therefore the newly substituted/added Explanations would apply [***Ssangyong Engg. & Construction Co. Ltd.* v. *NHAI*, (2019) 15 SCC 131**].

46. The 2015 Amendment adds two Explanations to each of the two sections, namely, Section 34(2)(*b*)(*ii*) and Section 48(2)(*b*), in place of the earlier Explanation. The significance of the newly inserted *Explanation 1* in both the sections is two-fold. First, it does away with the use of words: (*a*) "*without prejudice to the generality of sub-clause (ii)*" in the opening part of the pre-amended Explanation to Section 34(2)(b)(ii); and (b) "*without prejudice to the generality of clause (b) of this section*" in the opening part of the pre-amended Explanation to Section 48(2)(*b*); secondly, it limits the expanse of public policy of India to the three specified categories by using the words "*only if*". Whereas, *Explanation 2* lays down the standard for adjudging whether there is a contravention with the fundamental policy of Indian law by providing that a review on merits of the dispute shall not be done. This limits the scope of the enquiry on an application under either Section 34(2)(*b*)(*ii*) or Section 48(2)(*b*) of the 1996 Act.

47. The 2015 Amendment by inserting sub-section (2-A) in Section 34, carves out an additional ground for annulment of an arbitral award arising out of arbitrations other than international commercial arbitrations. Sub-section (2-A) provides that the Court may also set aside an award if that is vitiated by patent illegality appearing on the face of the award. This power of the Court is, however, circumscribed by the proviso, which states that an award shall not be set aside merely on the ground of an erroneous application of the law or by reappreciation of evidence.

48. *Explanation 1* to Section 34(2)(*b*)(*ii*), specifies that an arbitral award is in conflict with the public policy of India, *only if*:

(*i*) the making of the award was induced or affected by fraud or corruption or was in violation of Section 75 or Section 81; or

(*ii*) it is in contravention with the fundamental policy of Indian law; or

(*iii*) it is in conflict with the most basic notions of morality or justice.

49. In the instant case, there is no allegation that the making of the award was induced or affected by fraud or corruption, or was in violation of Section 75 or Section 81. Therefore, we shall confine our exercise in assessing as to whether the arbitral award is in contravention with the fundamental policy of Indian law, and/or whether it conflicts with the most basic notions of morality or justice. Additionally, in the light of the provisions of sub-section (2-A) of Section 34, we shall examine whether there is any patent illegality on the face of the award.

50. Before undertaking the aforesaid exercise, it would be apposite to consider as to how the expressions:

(*a*) "in contravention with the fundamental policy of Indian law";

(*b*) "in conflict with the most basic notions of morality or justice"; and

(*c*) "patent illegality" have been construed.

In contravention with the fundamental policy of Indian law

51. As discussed above, till the 2015 Amendment the expression "in contravention with the fundamental policy of Indian law" was not found in the 1996 Act. Yet, in ***Renusagar Power Co. Ltd.* v. *General Electric Co.*, 1994 Supp (1) SCC 644**, in the context of enforcement of a foreign award, while construing the phrase "contrary to the public policy", this Court held that for a foreign award to be contrary to public policy mere contravention of law would not be enough rather it should be contrary to:

(*a*) the fundamental policy of Indian law; and/or

(*b*) the interest of India; and/or

(*c*) justice or morality.

52. In the judicial pronouncements that followed ***Renusagar Power Co. Ltd.* v. *General Electric Co.*, 1994 Supp (1) SCC 644**, already discussed above, the domain of what could be considered contrary to the "public policy of India"/"fundamental policy of Indian law" expanded, resulting in much greater interference with arbitral awards than what the lawmakers intended. This led to the 2015 Amendment in the 1996 Act.

53. In ***Ssangyong Engg. & Construction Co. Ltd.* v. *NHAI*, (2019) 15 SCC 131**, this Court dealt with the effect of the 2015 Amendment. While doing so, it took note of a supplementary report of February 2015 of the Law Commission of India made in the context of the proposed 2015 Amendments. The said supplementary report has been extracted in para 30 of that judgment. The key features of it are summarised below:

(*a*) Mere violation of law of India would not be a violation of public policy in cases of international commercial arbitrations held in India.

(*b*) The proposed 2015 Amendments in the 1996 Act [i.e. in Sections 34(2)(*b*)(*ii*) and 48(2)(*b*) including insertion of sub-section (2-A) in Section 34] were on the assumption that the

terms, such as, "fundamental policy of Indian law" or conflict with "most basic notions of morality or justice" would not be widely construed.

(*c*) The power to review an award on merits is contrary to the object of the Act and international practice.

(*d*) The judgment in ***ONGC Ltd.* v. *Western Geco International Ltd.*, (2014) 9 SCC 263** would expand the court's power, contrary to international practice. Hence, a clarification needs to be incorporated to ensure that the term "fundamental policy of Indian law" is narrowly construed. The applicability of ***Wednesbury* [*Associated Provincial Picture Houses Ltd.* v. *Wednesbury Corpn.*, (1948) 1 KB 223 (CA)]** principles to public policy will open the floodgates. Hence, Explanation 2 to Section 34(2)(*b*)(*ii*) has been proposed.

*****

55. The legal position which emerges from the aforesaid discussion is that after "the 2015 Amendments" in Section 34(2)(*b*)(*ii*) and Section 48(2)(*b*) of the 1996 Act, the phrase "in conflict with the public policy of India" must be accorded a restricted meaning in terms of *Explanation 1*. The expression "in contravention with the fundamental policy of Indian law" by use of the word "fundamental" before the phrase "policy of Indian law" makes the expression narrower in its application than the phrase "in contravention with the policy of Indian law", which means mere contravention of law is not enough to make an award vulnerable. To bring the contravention within the fold of fundamental policy of Indian law, the award must contravene all or any of such fundamental principles that provide a basis for administration of justice and enforcement of law in this country.

56. Without intending to exhaustively enumerate instances of such contravention, by way of illustration, it could be said that:

(*a*) violation of the principles of natural justice;

(*b*) disregarding orders of superior courts in India or the binding effect of the judgment of a superior court; and

(*c*) violating law of India linked to public good or public interest, are considered contravention of the fundamental policy of Indian law.

However, while assessing whether there has been a contravention of the fundamental policy of Indian law, the extent of judicial scrutiny must not exceed the limit as set out in *Explanation 2* to Section 34(2)(*b*)(*ii*)."

(emphasis supplied)

61. In the backdrop of the aforesaid well-settled contours governing the exercise of jurisdiction by this Court under Section 34 of the A&C

Act, which is applicable in the present case, this Court now proceeds to examine the validity and sustainability of the Impugned Award.

62. It is pertinent to note that the challenge in respect of the Impugned Award mounted by the Petitioner fundamentally proceeds on a dissatisfaction with the factual findings and conclusions arrived at by the learned Arbitrator, particularly on the issues concerning the existence of legitimate interest, allegations of bad faith registration, and the purported deceptive use of the impugned domain name. The submissions advanced on behalf of the Petitioner essentially seek a reconsideration and reassessment of the evidentiary material forming part of the arbitral record, with a view to displacing the conclusions returned by the learned Arbitrator.

63. In the considered opinion of this Court, *ex facie*, the challenge as structured by the Petitioner unmistakably traverses beyond the statutorily circumscribed contours of interference permissible under Section 34 of the A&C Act, particularly in relation to the limited grounds available under the head of conflict with the public policy of India.

64. The principal submission advanced by the Petitioner is that the learned Arbitrator, having recorded a finding that the impugned domain name "www.exadata.in" is identical or deceptively similar to the Petitioner's registered Trade Mark "EXADATA", could not thereafter have declined transfer of the domain name in favour of the Petitioner.

65. The aforesaid submission proceeds on the premise that mere similarity between a Trade Mark and a domain name, by itself, necessarily entitles a complainant to transfer of the disputed domain

name. Such an interpretation, in the considered opinion of this Court, would fundamentally dilute the scheme and object of the INDRP framework, which does not envisage automatic transfer solely on the basis of deceptive similarity.

66. The policy framework contemplates a broader and cumulative examination, requiring the arbitral tribunal to assess not merely the issue of confusing similarity, but additionally the existence of legitimate interest, *bona fide* usage, and the element of bad faith in the registration and use of the impugned domain name, particularly in the context of Clauses 4(b) and 4(c) read conjointly with Clauses 6 and 7 of the INDRP. The inquiry envisaged under the INDRP framework is, therefore, neither singular nor mechanical in nature, but is inherently contextual, fact-sensitive, and dependent upon an overall evaluation of the surrounding circumstances and evidentiary material placed on record.

67. A careful reading of the Impugned Award demonstrates that the learned Arbitrator remained alive to the aforesaid legal position and consciously undertook an examination not merely of similarity, but also of the allied requirements concerning legitimate interest and bad faith registration and use. The Award unmistakably reflects that the learned Arbitrator evaluated the rival pleadings, examined the explanation furnished by the Respondent for adoption of the impugned domain name, considered the nature of activities being undertaken through the domain, and ultimately arrived at the factual conclusion that the ingredients necessary for transfer under the INDRP framework had not been established to his satisfaction.

68. In arriving at the aforesaid conclusion, the learned Arbitrator took note of the Respondent's explanation that the impugned domain name had been adopted in connection with research-oriented and informational activities pertaining to data analytics, epidemiology, predictive modelling and artificial intelligence. The learned Arbitrator additionally noticed that the Respondent had neither attempted to sell the impugned domain name nor sought sponsorship from the Petitioner, and that material demonstrating deliberate impersonation, intentional diversion of consumers or commercial exploitation targeting the goodwill of the Petitioner had not been established to his satisfaction.

69. Significantly, the learned Arbitrator also consciously distinguished between mere usage of a similar expression in a domain name and actual misuse thereof in a commercially deceptive or competitive sense. The Impugned Award clearly reflects that the learned Arbitrator was of the view that if the Respondent were to initiate or carry out business activities in direct competition with the Petitioner through the impugned domain name, such conduct may legitimately furnish a fresh cause of action under the INDRP framework. However, on the factual material then placed before him, the learned Arbitrator was not persuaded that the threshold of bad faith registration and use had been established. The aforesaid reasoning cannot be said to be either irrational or legally impermissible merely because another conclusion may also have been possible on the same material.

70. It also cannot be lost sight of that the issue as to whether the material on record sufficiently establishes bad faith or deceptive intent

is quintessentially a matter falling within the exclusive domain of factual appreciation by the arbitral tribunal. This Court, while exercising jurisdiction under Section 34 of the A&C Act, especially in respect of Section 34(2)(b)(ii), does not sit as a Court of appeal over arbitral findings. The supervisory jurisdiction vested under Section 34 of the A&C Act does not permit the Court to undertake a *de novo* appreciation of evidence or substitute its own factual assessment merely because a different view may appear preferable.

71. The learned Arbitrator, in the present case, cannot be faulted for declining relief in the absence of cogent material demonstrating a deliberate intention to mislead consumers, intentionally divert internet traffic, impersonate the Petitioner or deceptively exploit its goodwill.

72. It is a well settled mandate of the law that the Court must remain conscious that arbitral autonomy and finality constitute foundational principles underlying the arbitral regime. Once the learned Arbitral Tribunal adopts a view which is plausible, reasoned and capable of being sustained on the material placed before it, judicial interference would stand excluded, notwithstanding that another view may also be possible. The relevant portion of the Impugned Award reads as follows:

> "**G.** Analysis of the issues on Merit: ……
>
> *****
>
> **2.** ……. (iii) Whether the Respondent has registered the disputed domain name in bad faith? [Rule - Clause 4(b)(vi)(3)]
>
> A) The respondent has averred that he registered the domain while pursuing the Ph.D (Doctoral Work), "….*Primarily, the establishment of the domain EXADATA.IN is all for my research work around my Doctoral topic of "Big Data Analytics in Epidemiology: Modelling Healthcare Management Systems in India", synopsis of which was submitted with Punjabi University, Patiala on Mar 10, 2016. This domain stands as an invaluable resource for me, my team and fellow fraternity. It functions as the central repository for my research data, its*

preparations, cleansing and the multifaceted outcomes of my Investigations after due analysis find their rightful place. Through meticulous organization, categorization and association across a myriad of pertinent topics, it act as a knowledge-base and provides not only a comprehensive reference for my own scholarly pursults but also serves as a platform from which I can share my understandings, potentially benefiting fellow researchers and the broader academic and professional community in the realm of Big Data analysis around my research topic. This documentation serves as a valuable, resource throughout my doctoral thesis. The doctoral Synopsis is attached as ANNEXURE-I....

... EXADATA.IN originally represents my research work and providing solutions in the domains of Data Science: Big Data, Artificial Intelligence, and Predictive Analytics only. And requires no authorization to showcase its original research and development work on one of its most pertinent domain names, chosen from the freely available pool, determined by a generic and primary name. Data acquisition, data modeling, and visualization are fundamental steps in any data science project, serving as the foundation for Al and machine learning-based analytics projects. These processes are distinctly different from the services outlined in the complainant's trademark. Further, since it neither competes with similar offerings nor shares clientele interests of the complainant or products & services of its trademark.....

B) The complainant has not denied the fact averred but replied that, *…The Respondent's submission that the <exadata.in> domain name creation is in relation to his research work as a Ph.D. scholar, and that he has consistently used this domain name for his research work, is absolutely vague, baseless and misleading as explained below.*

A detailed review of the Respondent's doctoral synopsis titled "Big Data Analytics in Epidemiology: Modelling Healthcare Management Systems in India", does not reveal a single reference to the term EXADATA or the domain name <exadata.in>, nor provides any valid justification for him to adopt the infringing domain name. Further, the Respondent's website does not appear to discuss or show any doctoral synopsis, research project, central data repository for the respondent's research, or a purported knowledge base for researchers or the academic community. Instead, it appears to simply promote data solutions and related services under the infringing EXADATA trade mark.

Further, a quick search on Wayback Machine (a reputable internet archive that stores historical webpages) for the

Respondent's website has revealed that the Respondent has not made any amendments to his website in the past several years, and the extracts of the Respondent's website from 2019 appear to be identical to the Respondent's current website version as of today. This abundantly substantiates that the Respondent's website with the infringing domain name <exadata.in> never had any reference to the Respondent's research work or doctoral synopsis. Therefore, the Respondent has failed to establish a link between his research work and the infringing trade mark and domain name, and his reliance on unrelated doctoral synopsis appears to be an afterthought and a clear attempt to mislead the Hon'ble Arbitrator...."

C) It is an admitted fact that the complainant is owner of trademark "EXADATA" but it is also a fact that the domain names are registered on first come first serve basis and need no prior *approval* from any authority about the proprietary rights over the trade name. Which means any person can register a domain name without showing ownership of the trademark/ name used in the domain name. To my knowledge and belief, the objective behind this is to decide matter on case-to-case basis based on the facts & merits of each case.

D) While proceeding further we should also keep in mind the objectives propounded by Drafting Committee of our constitution. Our constitution provided fundamental duties under Part IV, Article 51 A(h) which reads, "...It shall be the duty of every citizen of India to develop the scientific temper, humanism and the spirit of inquiry and reform...". To further illustrate this, the Scientific temperament refers to an individual's attitude of logical and rational thinking. An individual is considered to have scientific temper if s/he employs a scientific method of decision-making in everyday life. Therefore, I am of opinion that in our national interest we should strive to promote scientific temper for growth of our country.

E) It is also admitted that the respondent is not carrying out any business competing with the complainant through disputed domain and that he is carrying out/ propounding his research work which cannot, in any manner, be said to be in bad faith.

F) That in case respondent initiates/ carries out business through the disputed domain name in competition of complainant it would amount to contravention of business of complainant's trademark in violation of INDRP Rules & Policies; and that would also imply that the respondent acted in violation of trademark the complainant, that would usher right to complainant to initiate fresh arbitral proceedings before NIXI.

G) The complainant raised the issues through the instant complaint being in violation of INDRP Policy; But I am of opinion of the

fact that since the respondent is not using the disputed domain [www.exadata.in] for carrying out business through the disputed domain [www.exadata.in] in violation of contravening rights or legitimate interests of the complainant through the domain name [www.exadata.in] (INDRP Policy, Paragraph 4(b)).

H) I am satisfied with the submissions that the respondent is not carrying out any business activities or commercial activities through the domain [www.exadata.in] in violation of Rule - Clause 4(b)(vi) (1) & [Rule Clause 4(b)(vi)(3)].

I) I conclude that Respondent has registered the disputed domain name primarily for the purpose of research work through the domain name [www.exadata.in] thus I also conclude that Respondent be permitted to spreading out his knowledge through his research work using registered the domain name [www.exadata.in]. Thus I conclude that the respondent/ the Registrant has not contravened Rule – Clause 4(b)(vi)(1) & [Rule - Clause 4(b)(vi)(3)] by registering disputed domain name [www.exadata.in]"

73. At this juncture, it becomes necessary to emphasise that the correctness or otherwise of the factual conclusions arrived at by the learned Arbitrator is not the issue falling for consideration before this Court in proceedings under Section 34 of the A&C Act. The limited question requiring determination is whether the view adopted by the arbitral tribunal is so perverse, irrational, or fundamentally flawed as to contravene the fundamental policy of Indian law, thereby rendering the Impugned Award susceptible to interference on the ground of conflict with the public policy of India within the meaning of Section 34 of the A&C Act.

74. In the considered opinion of this Court, the answer must necessarily be in the negative. The findings returned by the learned Arbitrator are based upon an appreciation of the material placed on record and represent a plausible and reasonably possible view arising from the evidence before the tribunal. Once the threshold of arbitral plausibility stands satisfied, this Court would be wholly unjustified in substituting the arbitral assessment with its own judicial preference

merely because another view may also be possible on the same set of facts.

75. Considerable emphasis was further placed by the Petitioner on the submission that the learned Arbitrator travelled beyond the confines of Trade Mark jurisprudence and the INDRP framework by referring to concepts such as "scientific temper" and research-oriented usage, while declining relief. According to the Petitioner, such conditions are *dehors* the framework of Trade Mark law and the INDRP framework.

76. This Court is, however, unable to subscribe to the aforesaid submission as constituting a ground warranting interference under Section 34 of the A&C Act.

77. A holistic and balanced reading of the Impugned Award demonstrates that the learned Arbitrator did not base his conclusions solely upon Directive Principles of State Policy or abstract constitutional philosophy.

78. The Arbitral Award, when read in its entirety, clearly demonstrates that the learned Arbitrator considered the Respondent's explanation regarding adoption of the impugned domain name, the asserted research-oriented background, the absence of material indicating attempts to sell the domain name, and the absence of evidence demonstrating intentional diversion or deceptive targeting of the Petitioner. The learned Arbitrator cannot be said to have granted immunity to the Respondent merely on the basis of abstract constitutional ideals.

79. The observations relating to scientific temper or research-oriented activities appear to be ancillary observations made while

evaluating the Respondent's explanation concerning the adoption and usage of the impugned domain name. That the relevant portion of the Impugned Award is reproduced herein below for reference:

> "**G.** Analysis of the issues on Merit: ……
>
> *****
>
> **2.** …….
>
> *****
>
> D) While proceeding further we should also keep in mind the objectives propounded by Drafting Committee of our constitution. Our constitution provided fundamental duties under Part IV, Article 51 A(h) which reads, "...It shall be the duty of every citizen of India to develop the scientific temper, humanism and the spirit of inquiry and reform...". To further illustrate this, the Scientific temperament refers to an individual's attitude of logical and rational thinking. An individual is considered to have scientific temper if s/he employs a scientific method of decision-making in everyday life. Therefore, I am of opinion that in our national interest we should strive to promote scientific temper for growth of our country.
>
> ***
>
> **3.** Analysis of the issue (v): Whether complainant entitled to Relief 4 In accordance with Para 11 of the Policy and for the grounds described in Section V above, the Complainant requests the Arbitrator appointed in this administrative proceeding to grant the following relief to the Complainant: (i) Transfer the disputed domain name [vwvvv.exadata.in] in the Complainant's name; and (ii) Award cost of the proceedings to the Complainant, as deemed fit..
>
> A) I have perused the complaint, affidavit & documents/ Annexures placed on record and after analyzing & discussing them in details herein-before concluded that the it would not be in the interest of our nation to restrain the respondent from prospering/ propounding scientific knowledge/ temper through the Disputed Domain Name [www.exadata.in].
>
> ……."

80. The said observations, in the considered opinion of this Court, cannot be read divorced from the broader factual reasoning contained in the Impugned Award. The learned Arbitrator essentially appears to have proceeded on the premise that in the absence of demonstrable commercial exploitation, deceptive targeting or dishonest intent, mere

existence of research-oriented or informational usage could not automatically be equated with bad faith within the meaning of the INDRP framework. Whether the said reasoning is ultimately preferable or not is wholly immaterial within the limited confines of Section 34 scrutiny, so long as the reasoning remains intelligible, plausible and anchored in the material placed before the tribunal.

81. Merely because certain observations may not have been strictly necessary or may have been articulated in broader terms would not render the Award patently illegal or contrary to public policy.

82. An arbitral award cannot be dissected by isolating stray observations divorced from the Award as a whole. The Impugned Award is required to be read holistically and meaningfully. The Hon'ble Supreme Court in a catena of judgments, has cautioned Courts against approaching arbitral awards with a hyper-technical or dissective approach while exercising jurisdiction under Section 34 of the A&C Act. The Court is not required to search for errors in isolated sentences nor reinterpret the Impugned Award as though sitting in appeal over the reasoning adopted by the tribunal. Minor inadequacies in reasoning, imperfect articulation or stray observations cannot be transmuted into grounds for annulment unless they strike at the very root of the arbitral determination and render the Award wholly unsustainable in law.

83. The Impugned Award, when read as a whole, sufficiently discloses the reasons that weighed with the learned Arbitrator while rejecting the Petitioner's claim for transfer of the domain name and arriving at the conclusion that the Petitioner had failed to establish bad faith registration and use within the meaning of the INDRP. The

learned Arbitrator has clearly indicated that despite the similarity between the mark and the domain name, the Petitioner had failed to establish the additional ingredients relating to bad faith and lack of legitimate interest to the satisfaction of the Tribunal. The reasoning may not be elaborate to the extent desired by the Petitioner; however, inadequacy of reasoning is not synonymous with patent illegality.

84. This Court further notes that substantial emphasis was placed by the Petitioner upon Clause 6(c) of the INDRP and the alleged "likelihood of tarnishment" and diversion of customers.

85. This Court has carefully considered the aforesaid submissions. The record reveals that the Petitioner's assertions, in this regard, before the learned Arbitrator, were largely founded upon speculative averments that the Respondent's activities "*may tarnish*" the Petitioner's reputation or "*may*" lead to confusion amongst the consumers, without any cogent material having been placed on record to substantiate the same. The relevant portion of the Impugned Award recording the same is reproduced herein below for ready reference:

> "**E.** PLEADINGS:
> **1.** ……
>
> *****
>
> A) The Complainant contended under the head ***A. The domain name is identical or confusingly similar to a name or trade mark in which the Complainant has rights:***
>
> - *The Complainant has been extensively, continuously, and uninterruptedly using the trade mark "EXADATA globally since 2008. The Complainant's trade mark "EXADATA" is an invented trade mark and inherently distinctive. As a result of the widespread use and publicity, both the public and the traders identify the "EXADATA" trade mark exclusively with the Complainant and the Complainant's goods and services. Therefore, the Complainant's trade mark "EXADATA has acquired a secondary meaning in respect of its goods and services.*
> - *As explained in the previous section, the Complainant has registered the "EXADATA trade mark in class 9 (Reg. No.*

1692218) since 2008, and in class 42 (Reg. No. 3896540) since 2018 in India.

- *Therefore, the Complainant has a legal, vested, and statutory right to the exclusive use of the EXADATA trade mark, and it has a further right to restrain the use of the same, deceptive, or Identical trade mark through the process of law being infringement/passing off of its rights.*
- *The Complainant submits that the second level domain name of Respondent's domain name www.exadata.in contains the Complainant's registered and well-known trade mark "EXADATA" entirely. The Respondent's domain name is bound to create consumer confusion and dilution of the Complainant's well-known trade mark.*
- *In view of the foregoing, it is highly likely that the general public, users, consumers, and businesses intending to visit the Complainant's website may be misled by the Respondent's conflicting domain name. The consumers and the general public will mistakenly be redirected to the Respondent's website which contains the Complainant's "EXADATA" trade mark believing that it belongs to the Complainant. This will not only result in dilution of the Complainant's well-known brand but will also cause serious and irreparable damage to the Complainant's goodwill and reputation in its "EXADATA trade mark.*
- *Therefore, the Complainant submits that the Respondent's conflicting domain name should be immediately transferred to the Complainant.*

B) ……

*****

C) The domain name was registered and is used in bad faith

- *The Respondent has registered and has been using the disputed domain name www.exadata.in, containing the Complainant's EXADATA trade mark in bad faith.*
- *The Respondent has adopted and registered a domain name which contains the Complainant's registered EXADATA trade mark, thereby wrongfully. illegally and dishonestly trading upon the Complainant's valuable goodwill and reputation. The Respondent has done so to derive illegal pecuniary benefit from the unauthorized use of the Complainant's trade mark, and also to disrupt the Complainant's business.*
- *The Complainant's trade mark "EXADATA" is an inventive, inherently distinctive and unique trade mark, and it is quite unlikely that any other trader would choose to use the same word as a trade mark or a domain name. Therefore, the Respondent could not have coined the domain name www.exadata.in without prior knowledge of the*

Complainant's well-known "EXADATA" brand, and without an intention to benefit from the Complainant's goodwill and reputation in the EXADATA trade mark.

- *In the present case, the Respondent has registered the domain name www.exadata.in, using an address located in Patiala, Punjab (IN) ("375, Street No. 6. Ghuman Nagar A. Patiala 147001. Punjab (IN)"), as revealed in the details provided by the. In Registry on 19 September 2023. However, the Respondent's website reflects a completely different address located in Gurgaon (IN) ("B 17/1, DLF-1, GURGAON IN"), which appears to be either a virtual business office address or an individual's apartment, as revealed on the Google search. Additionally. the other address specified on the Respondent's website ("B-811, Advent, Sector-142, NOIDA IN") appears to belong to, or be used by a third-party company called Ingenious Corporate Solutions Private Limited. This demonstrates that the Respondent has a questionable business and may not be a legitimate business owner. Annexed hereto and marked as Annexure-X are the website extracts showing the Respondent's questionable addresses.*
- *Therefore, the Respondent created the website and domain name www.exadata.in solely with the intention of deriving undue advantage from the Complainant and not for any genuine or legitimate use. The Respondent has no bona fide interest in registering the domain name www.exadata.in, and the Respondent has done so in absolute bad faith.*
- *The Respondent's foregoing unlawful act is intended to, and is likely to, blur and erode the distinctiveness of the Complainant's registered and well-known "EXADATA" trade mark, and may tarnish the reputation of the Complainant and its well-known "EXADATA" trade mark and its services.*
- *The Respondent's foregoing unlawful act has caused, and will continue to cause irreparable harm to the Complainant and its "EXADATA" trade mark, and to the business and substantial goodwill represented thereunder, unless the Respondent's domain name www.exadata.in is disabled and transferred to the Complainant immediately.*
- *The Complainant has not granted any right to the Respondent to use its registered trade mark "EXADATA" in any form. Further, the Respondent does not have any bona fides in adopting a domain name that contains the Complainant's registered and internationally well-known "EXADATA" trade mark. As the Respondent does not have any legal right or legitimate interest over the trade mark "EXADATA", its adoption is with clear and absolute bad faith.*

- *Upon information and belief, the Complainant states that the Respondent has bad faith intent to profit from the registration and use of the domain name www.exadata.in, by creating a false association with the Complainant's well-known "EXADATA" trade mark as to source or any kind of affiliation.*
- *Therefore, if the Respondent is allowed to maintain its registration of the domain name www.exadata.in, it will cause irreparable loss and damage to the Complainant and its goodwill and reputation. Further, there is a strong likelihood of confusion among the consumers and general public that the Respondent's domain name is sourced, sponsored, affiliated, approved, authorized, or endorsed by the Complainant, which is not true."*

(emphasis supplied)

86. A careful reading of the aforesaid pleadings, as recorded in the Impugned Award, leaves little room for doubt that the learned Arbitrator was not fully conscious of, nor did the Impugned Award meaningfully engage with, the allegations of dilution, tarnishment, and diversion advanced by the Petitioner.

87. The Impugned Award reflects that the learned Arbitrator examined the nature of the Respondent's usage, the explanation furnished regarding adoption of the impugned domain name, and the absence of material indicative of intentional consumer diversion, impersonation, or commercial exploitation targeting the Petitioner's mark. The learned Arbitrator thus undertook the precise evaluative exercise contemplated under the INDRP framework and ultimately arrived at a plausible factual conclusion that the threshold necessary for establishing bad faith had not been met.

88. To support its assertions, reliance has been placed by the Petitioner on the Judgment of ***Joseph Taheny*** (*supra*) to contend that once a *prima facie* case regarding similarity of the domain name was

established, the burden shifted upon the Respondent to demonstrate legitimate interest.

89. In the opinion of this Court, there can be no quarrel with the aforesaid proposition. However, the applicability of the principle necessarily depends upon the peculiar factual backdrop of each case.

90. In the present matter, the learned Arbitrator did consider the Respondent's explanation regarding adoption and usage of the impugned domain name and, upon appreciation of the material placed on record, arrived at the factual conclusion that the Respondent had sufficiently disclosed the basis of its claimed usage and that bad faith had not been established to the requisite threshold.

91. Whether such an explanation ought to have been accepted or rejected falls squarely within the domain of factual appreciation by the arbitral tribunal and cannot be reopened in proceedings under Section 34 of the A&C Act.

92. Furthermore, this Court also finds considerable substance in the submission advanced on behalf of the Respondent that the jurisdiction exercisable under Section 34 of the A&C Act is confined to either sustaining or setting aside an arbitral award and does not extend to modification of the Award by granting substantive reliefs dehors the arbitral determination. The scope of jurisdiction under Section 34 being supervisory and not appellate in nature, this Court cannot assume the role of the arbitral tribunal by moulding reliefs or issuing fresh substantive directions in substitution of the Award.

93. Accordingly, Prayer (b) in the present Petition, insofar as it seeks a direction for transfer of the impugned domain name in favour of the Petitioner, clearly traverses beyond the limited remedial

framework contemplated under Section 34 of the A&C Act and is, therefore, not maintainable in law.

94. This Court also takes note that during the course of oral arguments, a suggestion had been mooted regarding the incorporation of an appropriate disclaimer on the Respondent's website so as to obviate any possible confusion concerning association or affiliation with the Petitioner.

95. However, learned senior counsel for the Petitioner declined the said course and instead sought to place reliance upon ***Dean Chandler v. Sazerac Brands LLC & Anr.***[9] to contend that domain names are entitled to protection equivalent to trademarks and that likelihood of confusion or diversion of internet users would itself justify transfer of the disputed domain name.

96. In the opinion of this Court, there can be no quarrel with the proposition laid down in ***Dean Chandler*** *(supra)* that a domain name is not merely an internet address but also functions as a business identifier capable of attracting protection akin to a trade mark, particularly where deceptive similarity results in diversion of consumers or passing off.

97. However, the said judgment arose in the context of distinct peculiar facts, where the Court found a clear likelihood of confusion and misrepresentation affecting the plaintiff's business interests. The factual matrix of the present case stands on an entirely different footing. In the present matter, the learned Arbitrator, upon appreciation of the material placed on record, arrived at a factual conclusion that the requisite threshold concerning bad faith

[9] 2022 SCC OnLine Del 1062

registration, deceptive diversion and dishonest exploitation had not been established within the meaning of the INDRP framework. Consequently, the reliance placed by the Petitioner upon the aforesaid judgment does not advance its case any further, particularly within the limited confines of scrutiny permissible under Section 34 of the A&C Act.

98. Learned senior counsel for the Petitioner also sought to place reliance upon ***Gayatri Balasamy v. M/s ISG Novasoft Technologies Limited***[10] to contend that the issue concerning legitimate interest deserved remand for fresh consideration.

99. This Court, however, finds no merit in the aforesaid submission.

100. A careful reading of the Impugned Award clearly demonstrates that the learned Arbitrator had consciously examined the Respondent's explanation regarding adoption and usage of the impugned domain name while returning findings on legitimate interest and absence of bad faith. Merely because the learned Arbitrator arrived at a conclusion unfavourable to the Petitioner would not justify remand or reopening of factual adjudication.

101. In the considered opinion of this Court, Section 34 jurisdiction cannot be converted into a mechanism for reappreciation of facts or for securing a second merits determination under the guise of remand.

102. The present Petition is, in substance, an invitation to this Court to undertake a merits review of the arbitral determination rendered under the INDRP framework. Such an exercise would strike at the very heart of arbitral finality and would amount to converting Section

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34 proceedings into a full-fledged appellate forum, which the statute consciously does not permit. The findings returned by the learned Arbitrator constitute plausible conclusions arising from the material and evidence placed before the learned Arbitrator and cannot be characterised as being in conflict with the public policy of India within the meaning and contemplation of Section 34 of the A&C Act.

CONCLUSION:

103. In view of the foregoing discussion, this Court finds no merit in the challenge laid by the Petitioner to the Impugned Award dated 23.12.2023. The grounds urged by the Petitioner do not disclose any legitimate or compelling basis so as to warrant interference by this Court in the exercise of its limited and supervisory jurisdiction under Section 34 of the A&C Act. The challenge essentially seeks a reappreciation of factual findings and substitution of the arbitral tribunal's view with an alternate judicial assessment, which is impermissible within the narrow confines of Section 34 of the A&C Act.

104. In light of the above, the present Petition, along with pending application(s), if any, stands dismissed.

105. No order as to costs.

HARISH VAIDYANATHAN SHANKAR, J.

MAY 29,2026/sm/kr/ma