

**(2016) 03 BOM CK 0013**

**In the Bombay High Court**

**Case No :** Appeal No. 536 of 2014 in Arbitration Petition No.841 of 2012 A/w  
Notice of Motion No. 1324 of 2014

Shree Sati Travels Pvt. Ltd.

APPELLANT

Vs

Amadeus India Pvt Ltd.

RESPONDENT

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**Date of Decision :** 02-03-2016

**Acts Referred:**

Arbitration and Conciliation Act, 1996 — Section 34

**Citation :** (2016) 3 MhLJ 412 : (2016) 5 RAJ 447

**Hon'ble Judges :** Anoop V. Mohta;G.S. Kulkarni, JJ

**Bench :** Division Bench

**Advocate :** Anand Mishra i/b Ashok Saraogi, Advocate, for the Respondent

**Final Decision :** Dismissed

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**Judgement**

Anoop V. Mohta, J. (Oral) - This Appeal is filed by the Original Respondent/Petitioner under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the "Act") whereby a challenge is made to the order dated 31 January 2014 passed by the learned Judge after hearing the parties and rejected the Petition and thereby maintained the reasoned award passed by the Arbitrator who was appointed based upon an Agreement between the parties referring to the transaction/contract in question. Admittedly, the Appellant in spite of due service of notice by the Arbitrator including paper publication with full knowledge about the arbitration proceedings deliberately not participated before the Tribunal. Instead preferred a suit in the Bombay City Civil Court seeking a perpetual injunction restraining the Arbitrator from conducting the Arbitration proceedings. A statement is made after hearing the parties that the Suit is also dismissed so also Notice of motion taken out for injunction. The learned Arbitrator after considering the un-controverted statement of claim supported by documents including evidence so laid by a reasoned order passed the award. The appropriate part of the Award reads as under :

" This Forum of Arbitration on being satisfied with Evidence, Documents, accept

the claim of the Claimant and awards the claim of refund of RS. 9,26,975/- (Rupees Nine lacs Thirty seven thousand nine hundred seventy five only) along with the claim of interest at the rate of 24% per annum from 09.01.2008 to be aid by Respondent to the Claimant till the realisation of both the amounts awarded. So far as the rate of interest is concerned on the amount of RS. 9,26,975/- this Forum by this award allows the Claimant to be entitled to recover interest @ 15% per annum in view of the average of Bank and Market interest rate from 09.01.2008 till the realisation of the Principal Claimed Refund Amount. Claimant is entitled to seek the enforcement of this award/order through the competent court of law at Delhi having jurisdiction as per terms of the Agreement. Announced in open Court.Claimant may apply for the issue of copy of the Award which will be issued to him on 08.09.2009 along with Attested Award Annexures."

Place: Delhi

Dated: 07.09.2009

S/d H.R.Banga

Advocate/Arbitrator

2. The submission that as the Award was passed ex-parte and therefore, in breach of principles of natural justice and further that no specific reasons are given by the learned Arbitrator while awarding the amount in the present Petition and the circumstances are unacceptable. The learned Arbitrator after following due procedure as required under the said Act based upon the Agreement between the parties has correctly observed that the Appellant has intentionally defaulted and not appeared before the Tribunal though served with the claim as well as the supporting documents. Therefore the Award so passed in the present circumstances in no way, can be stated to be against provisions of law and/or even settled principles of natural justice. This is in the background of the said Act itself which provides the powers to the Arbitrators to proceed in case of such defaults. Therefore, we see no reason to interfere with the reasoned order so passed by the learned Arbitrator, who after considering the rival contentions, as well as, submissions based upon material available along with reasons so recorded, rejected the Petition filed by the Petitioner under section 34 of the said Act.

3. Therefore, Appeal is dismissed. No costs. Notice of Motion also stands disposed of accordingly.