

An Arbitration Clause Confined To Work Within A Specified City Cannot Be Extended By Conduct To Cover Work Done Elsewhere: Allahabad High Court

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Introduction

In *M/s Regenvo Mobile Private Limited v. M/s Siyogi Enterprises* [Appeal Under Section 37 of Arbitration and Conciliation Act 1996 No. 75 of 2024, decided on 12 December 2025], the Allahabad High Court (Lucknow Bench) allowed an appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (the "**Act**") and set aside an arbitral award as well as the order of the Commercial Court which had dismissed the challenge under Section 34 of the Act.

The High Court held that where an agreement expressly confined the engagement of an advertising agency to the city of Lucknow, the arbitration clause therein could only cover disputes arising from work done within Lucknow. The Sole Arbitrator's finding that the scope of the arbitration clause extended to disputes relating to work done across all districts of Uttar Pradesh – based merely on the parties' conduct of issuing and paying for work orders beyond Lucknow – was held to be a patent illegality, as it effectively modified the agreed terms of the contract without any supporting evidence of a formal variation or supplementary agreement.

Facts

The appellants were a corporation engaged in the sale and distribution of mobile phones and accessories under the brand 'VIVO Mobile' and were the exclusive dealer for the State of Uttar Pradesh. The first respondent was a partnership firm engaged in the business of advertising and marketing services.

On 1 August 2016, the parties entered into an agreement whereby the respondents agreed to act as an advertising agent for the appellants. The introductory covenants of the agreement stated that the appellants were the exclusive dealer for 'VIVO' products in the State of Uttar Pradesh and were "desirous to engage the services of an advertising agency for the purpose of advertisement of their products in the City of Lucknow." The agreement also contained an arbitration clause (Clause 11) providing that all disputes arising out of the agreement or in relation thereto would be referred to an arbitrator appointed by the Indian Council of Arbitration.

The agreement was acted upon, and the appellants assigned advertising work to the respondents from time to time. Work orders were executed, invoices were raised, and payments were made. Notably, some of these work orders and payments related to advertising work done not only in Lucknow but also in other districts across Uttar Pradesh.

Disputes arose between the parties, and by email dated 28 March 2017, the appellants terminated the agreement. The respondents invoked the arbitration clause, and the Indian Council of Arbitration appointed the Sole Arbitrator.

In their statement of claim, the respondents raised money claims for unpaid invoices relating to work done both within Lucknow and in other districts of Uttar Pradesh. The appellants, in their statement of defence, specifically raised the plea that the agreement was confined to advertising work in the city of Lucknow, and therefore only disputes relating to Lucknow could be adjudicated by the Arbitrator. Claims relating to work done outside Lucknow, the appellants argued, fell beyond the scope of the arbitration clause.

The Sole Arbitrator, vide award dated 31 December 2018, rejected the appellants' plea regarding the limited scope of the arbitration clause. The Arbitrator reasoned that while the introductory covenant mentioned Lucknow, the subsequent terms and conditions did not restrict work to Lucknow alone; that the agreement did not bar the respondents from working outside Lucknow; that the appellants had regularly paid bills for work done in cities other than Lucknow; and that the appellants had granted design approvals at site locations across the State. The Arbitrator awarded a total sum of approximately Rs. 5,55,39,992 (including pending bills, interest, TDS amounts, and costs).

The appellants challenged the award under Section 34 before the Commercial Court No. 1, Lucknow. The Commercial Court, vide order dated 6 November 2024, dismissed the petition and upheld the award. The appellants then filed the present appeal under Section 37 of the Act.

Contentions of the Appellants

The appellants contended that the scope of the agreement dated 1 August 2016 was expressly confined to advertising services in the city of Lucknow. The arbitration clause, being part of the agreement, could therefore only cover disputes arising from work done within Lucknow. Both the Sole Arbitrator and the Commercial Court exceeded their jurisdiction by allowing claims relating to work done in districts other than Lucknow.

It was further submitted that there was no corrigendum, supplementary agreement, or office note on record which could indicate that the parties had extended the scope of the arbitration clause beyond Lucknow. In the absence of any such evidence, the Arbitrator and the Commercial Court committed a patent illegality by entering into disputes that were not arbitrable under the agreement.

The appellants argued that the award suffered from patent illegality and perversity, and the Commercial Court compounded the error by affirming a perverse award, which was contrary to law and public policy.

Contentions of the Respondents

The respondents submitted that it was undisputed that the appellants had issued work orders for advertising work beyond Lucknow, that the respondents had executed such work, and that the appellants had paid for such work without raising any objection during the subsistence of the agreement. The respondents pointed to Clauses 7 and 9 of the agreement, which envisaged the concept of variation and special advertisement campaigns, to argue that the parties clearly understood the agreement to extend beyond Lucknow.

It was urged that the appellants' objection regarding the scope of the arbitration clause was an afterthought, raised only after the agreement was terminated and the appellants

were required to settle outstanding bills. The respondents relied on Section 28(3) of the Act, which mandates adherence to the terms of a contract keeping in mind the principle of party autonomy, to argue that the Arbitrator was justified in giving a complete meaning to the contract by reference to the parties' conduct.

The respondents further submitted that the appellants did not dispute the quantum of their liability or deny that the work was actually done; the objection was raised solely on the technical ground of the arbitration clause's scope and could not be sustained.

Decision of the High Court

The Allahabad High Court allowed the appeal and set aside both the arbitral award and the Commercial Court's order.

First, the Court set out the narrow scope of interference available under Sections 34 and 37 of the Act, relying on the Supreme Court's decision in ***UHL Power Co. Ltd. v. State of Himachal Pradesh*** [(2022) 4 SCC 116] and a series of precedents establishing that courts do not sit in appeal over arbitral awards and may interfere only on limited grounds such as patent illegality, contravention of public policy, or perversity going to the root of the matter.

Secondly, the Court examined the agreement dated 1 August 2016 and noted that its introductory covenants clearly defined the appellants as the exclusive dealer for the State of Uttar Pradesh but expressly confined the engagement of the respondents' advertising services to the city of Lucknow. The Court observed that had the parties intended to engage the respondents for the entire State, they could easily have stated so in the agreement, but this was "conspicuously left out."

Thirdly, the Court considered the principles governing interpretation of arbitration clauses. Relying on the Supreme Court's decisions in ***Harsha Constructions v. Union of India*** [(2014) 9 SCC 246], ***Oriental Insurance Co. Ltd. v. Narbheram Power and Steel (P) Ltd.*** [(2018) 6 SCC 534], ***Indian Oil Corporation Ltd. v. NCC Ltd.*** [(2023) 2 SCC 539], and ***Emaar (India) Ltd. v. Tarun Aggarwal Projects LLP*** [(2023) 13 SCC 661], the Court held that an arbitration clause must be strictly construed. A party cannot claim anything more than what is covered by the terms of the contract, and it is not permissible for a court or arbitrator to make a new contract, however reasonable, if the parties have not made it themselves. If a non-arbitrable dispute is referred to an arbitrator, even if an issue is framed thereon, no presumption can arise that the parties had agreed to refer that dispute.

Fourthly, the Court held that the arbitration clause, when read with the introductory covenant, limited arbitrable disputes to those arising from work done in the city of Lucknow. The Sole Arbitrator's reasoning – that the agreement did not "debar" the respondents from working outside Lucknow and that the appellants had approved and paid for such work – was found to be neither sound nor cogent. The Court observed that absent any evidence of a corrigendum, supplementary agreement, or formal variation, the parties' conduct of issuing and paying for work orders beyond Lucknow could not by itself expand the scope of the arbitration clause. The Arbitrator's finding was based on presumption rather than evidence and had the impermissible effect of modifying the agreed terms of the contract.

Fifthly, relying on the Supreme Court's decision in ***Pam Development Private Limited v. State of West Bengal*** [(2024) 10 SCC 715], the Court held that the contract clauses spoke for themselves and that it was the duty of every arbitral tribunal and court to examine what the contract provides. The Arbitrator's exercise of reading into the clause what the parties had conspicuously left out was beyond his jurisdiction and vitiated the award.

Finally, the Court considered whether the claims relating to Lucknow could be severed from the rest, applying the principles laid down in ***Gayatri Balasamy v. ISG Novasoft Technologies Limited*** [(2025) 7 SCC 1]. However, upon examining the statement of claim, evidence, and award, the Court found that the conditions for severance were not met, and was therefore constrained to set aside the award as a whole.

The Court held that it would be open for the parties to get disputes relating to money claims for work done in the city of Lucknow settled through arbitration, and that money claims relating to work done in other districts of Uttar Pradesh could be agitated before an appropriate forum.

Key Takeaways

The decision of the Allahabad High Court in ***Regenvo Mobile*** (*supra*) is significant as it reinforces the following principles:

An arbitration clause must be strictly construed. Where an agreement expressly confines the scope of engagement to a specific geographical area, the arbitration clause therein is correspondingly limited to disputes arising from work within that area. An arbitrator cannot expand the scope of arbitrable disputes beyond the express terms of the agreement.

The parties' conduct of issuing and paying for work orders outside the agreed area of operation does not, by itself, amount to a variation or modification of the arbitration clause. For the scope of an arbitration clause to be expanded, there must be clear evidence of a formal variation, such as a corrigendum, supplementary agreement, or written modification. Mere conduct, without more, cannot be treated as enlarging the scope of arbitrable disputes.

An arbitration clause is treated as a separate and independent clause. Its scope of applicability is determined by the agreed terms of the agreement in which it is incorporated. Unless there is clear evidence that the principal agreement was modified to enhance the area of operation, the arbitration clause cannot be presumed to extend to disputes arising beyond the agreed terms.

Where an arbitrator returns a finding expanding the scope of the arbitration clause that is not based on evidence but merely on presumption, and that has the effect of modifying the contract's terms or reading into the clause what the parties conspicuously left out, such a finding amounts to a patent illegality that vitiates the award and warrants interference under Sections 34 and 37 of the Act.

Where an award covering disputes both within and beyond the scope of the arbitration clause cannot be severed in accordance with the principles laid down in ***Gayatri***

Balasamy v. ISG Novasoft Technologies Limited [2025 SCC OnLine SC 986], the court is constrained to set aside the award as a whole, while preserving the parties' right to pursue arbitrable claims through fresh arbitration and non-arbitrable claims before appropriate forums.

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