

BEFORE THE LD. SOLE ARBITRATOR,
MR. ROHAN SAVANT
IN THE MATTER OF ARBITRATION
BETWEEN

Libas Designs Limited

... Claimant

Versus

G.S. Majestic Developers Pvt. Ltd.

... Respondent

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महाराष्ट्र MAHARASHTRA

● 2021 ●

BE 580871



जिल्हा कोषागार कार्यालय, डाणे
15 JUL 2021
मुद्राक प्रमुख लिपीक / लिपीक

BEFORE THE LD. SOLE ARBITRATOR
MR. ROHAN R. SAVANT, ADVOCATE

Libas Designs Limited)
A company incorporated under)
the provisions of the Companies Act, 1956)
having its registered office at)
1103, Duplex Heights, Co-operative Society)
Yamuna Nagar, Andheri West,)
Mumbai – 400 053.)
At present registered office at)
401, Crescent Royale, Behind Morya Estate,)
Andheri (West), Mumbai – 400 053.)... Claimant

Versus

G.S. Majestic Developers Pvt. Ltd.)
A company incorporated under)

RS

जोडपत्र - २

116 JUL 2021

मुद्रांक विक्री नोंदवही अनु. क्रमांक 104692 दिनांक

दस्तावा प्रकार ARbitration

दस्त नोंदणी करणार आहेत का? :- होय / ना ही

मिळकतीचे थोडक्यात वर्णन Mumbai

मुद्रांक विकत घेणा-याचे नांव Adv. Rohan Sawant

हस्ते असल्यास त्यांचे नाव, पत्ता Self

सही

दुस-या पक्षकाराचे नाव

मुद्रांक शुल्क रक्कम 500/-

परवानाधारक मुद्रांक विक्रेत्याची सही - (श्री. शंकर साहेबराव यादव)

परवाना क्रमांक - 9209039

मुद्रांक विक्रीचे ठिकाण/पत्ता : जिल्हा सत्र न्यायालय, ठाणे.

ज्या कारणासाठी ज्यांनी मुद्रांक खरेदी केला त्यांनी त्याच कारणासाठी मुद्रांक खरेदी केल्यापासून ६ महिन्यात वापरणे बंधनकारक आहे.

the provisions of the Companies Act, 1956)
 having its registered office at)
 Near Pull Jawaddi, Pakhowal Road,)
 Ludhiana, Punjab.)

And

Branch office at Lodhi Club Chowk,)
 Ferozpur Road, H Block, BRS Nagar,)
 Ludhiana, Punjab.) ... Respondent

APPEARANCES:

For Claimant:

Mr. Pradeep Samant, Advocate for Claimant.

For Respondent/Counter Claimant:

Ms. Deepti Panda, Counsel a/w. Ms. Akanksha Patil, Advocate
 i/b. Ms. Apurva Mehta, Advocates for the Respondent.

A W A R D

(DATED: 9 AUGUST 2021)

FACTS

1. The Claimant is a public listed company, engaged in the manufacturing and marketing of apparel and accessories under the trademark /name “*Libas Riyaz Gangji*” (said ‘*brand*’). The Claimant runs saloons and spas. The Respondent is a private limited company engaged in the business of setting up and operating retail stores located in various parts of Punjab.
2. The Respondent is the owner and running a mall under the name “Grand Walk Mall” (said ‘**mall**’) situated at Ludhiana, Punjab.

RS

3. The Claimant was desirous of establishing an exclusive retail outlet in Punjab for marketing apparel and accessories sold under the said brand. Towards this end, the parties entered into a Franchisee Agreement dated 20 May 2014 with respect to Shop No.6 in the said mall where the apparel and accessories bearing the said brand were to be sold (said '**showroom**'). Under the Franchisee Agreement, the Claimant granted to the Respondent a non-exclusive license to buy from the Claimant and to display and sell in the said showroom, apparel bearing the said brand. The Respondent was to exclusively deal with only goods bearing the said brand in the said showroom. The period of license was 5 years. The Respondent agreed to pay a one-time non-refundable franchise fee of Rs. 15,00,000 and marketing expense of Rs. 5,00,000 to the Claimant. Under the Franchisee Agreement, the Claimant was to employ its staff. The maintenance and electricity charges with respect to the said showroom were to be borne by the Claimant. The Claimant was required to maintain a minimum stock level of Rs 5,00,00,000 in the said showroom. The Respondent was entitled to a commission of 21% on the MRP of the goods sold. In the event the gross sale exceeded Rs. 30,00,000 in any month or exceeded Rs. 3,60,00,000 in a year, the Respondent would be entitled to 23% on the gross sale for that particular month or year. The Respondent was entitled to a minimum commission of Rs. 3,75,00,000 per month. The Franchisee Agreement provided for a clause for



termination by the Respondent, on breach by the Claimant of the clauses stated therein. The Respondent was required to issue a notice of termination calling upon the Claimant to rectify the breach within a period of 15 days.

4. Subsequently, on the same day, the parties entered into a Management and Operations Agreement dated 20 May 2014. Under this Agreement, it was clear that the Claimant was to operate the said showroom and a number of obligations of the Respondent under the Franchisee Agreement were taken over by the Claimant. The clause relating to the commission payable to the Respondent remained the same. The Respondent was to provide an amount of Rs. 44,00,000 for the interior work in respect of the said showroom. The said amount was to be provided in tranches commencing from the date of execution of the Management and Operations Agreement till 10 days after the completion of the interior work of the showroom. The Agreement provided that the common area maintenance (“CAM”) would be paid by the Claimant, on actual basis. Apart from the obligation to pay Rs. 44,00,000 towards renovation, it was the obligation of the Respondent to furnish an aggregate amount of Rs. 1,55,00,000 as deposit and fees. Out of Rs. 1,55,00,000, Rs. 20,00,000 was towards non-refundable payments with respect to franchise fee and marketing fees respectively. The payment of Rs. 20,00,000 was made before the execution of the both the agreements. The balance of Rs. 1,35,00,000 was an advance against stock, in the form of a security, against a

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minimum stock of Rs. 5,00,00,000 being maintained by the Claimant. Out of this Rs. 1,35,00,000, it is an admitted position that, an amount of Rs. 1,16,00,000 has been deposited by the Respondent with the Claimant and the balance amount of Rs. 19,00,000 according to the Respondent and Rs. 25,00,000 according to the Respondent remained to be deposited, for reasons which shall be considered herein below. The Management and Operations Agreement provided that the Respondent shall have access to the daily sales information and books of account including cash book and other relevant record through its duly authorised person/ accountant during the period of the Franchisee Agreement.

5. The Management and Operations Agreement records that the Claimant shall commence operations in the said showroom within 15 days of satisfactory handover of the said showroom along with furniture, fixtures, equipment, government license and approval. It is common ground that there was a delay in the commencement of operation from the said showroom and operations commenced only in July 2015.
6. Thereafter, on 11 September 2015, the parties executed an Addendum Agreement (**"Addendum Agreement"**) whereby the commission payable to the Respondent was increased from 21 percent to 23 percent subject to a minimum payment of Rs. 3,75,00,000. The minimum payment of Rs. 3,75,00,000 was to take effect from 1

November 2015. The commission was to be deposited by the Claimant on a daily basis in an escrow account. The Claimant was responsible for the CAM Charges at the rate of Rs. 12 per square feet plus service tax and the same was subject to an annual increase of 5%. It was the Claimant's obligation to ensure that the stock level would not fall below Rs. 5,00,00,000 and the Claimant would synchronize its accounts, sales and inventory data with the Respondent and would not make any manual sale bills, cash receipts, etc. The Franchisee Agreement, Management and Operations Agreement and Addendum are collectively referred to as "**the said Contract**".

7. On a conjoint reading of the said Contract, the gist of the rights and obligations of the parties are as under.

A. Obligations of GSM:

- (i) To make phase wise payment of Rs. 44.00 Lakhs towards capital expenditure for interiors of the showroom (Clause 4 of the Management and Operations Agreement).
- (ii) To pay Rs. 15.00 Lakhs as franchisee fee (Clause 9 of the Management and Operations Agreement).
- (iii) To pay Rs. 5.00 Lakhs as amount towards marketing fee. (Clause 9 of the Management and Operations Agreement).

- (iv) To provide a refundable advance deposit to the Respondent of Rs. 1.35 crores towards stock of Rs. 5,00,00,000. (Clause 9 of the Management and Operations Agreement).

B. Obligations of LIBAS:

- (i) To pay monthly commission on sales equivalent to 21% if monthly sales are less than Rs. 30,00,000 or 23% if monthly sales exceed Rs. 30,00,000 or annual sales exceed Rs. 3.60 crores; subject to a minimum guarantee of Rs. 3,75,000. (Clause 3 of the Management and Operations Agreement).
- (ii) To pay increased commission of 23% as per the Addendum Agreement dated 11.09.2015 through escrow account for depositing daily cash sales. All other clauses of agreement remained unchanged.
- (iii) To pay the electricity and common area maintenance charges (clause 6 and clause 8 of the Management and Operations Agreement; clause 3.6 of the Franchisee Agreement).
- (iv) To undertake and pay for all operational expenses of the showroom (Clause 3.6 of the Franchisee Agreement).
- (v) To maintain a stock of Rs. 5,00,00,000 at all times. (clause 4.2 of the Franchisee Agreement; clause 4 of the Addendum Agreement).



(vi) To provide monthly stock report (clause 4 of the Addendum Agreement and clause 18 of the Management and Operations agreement).

8. It is the Claimant's case that the Claimant abided by the terms of the Agreement and was carrying on business at the said showroom in terms of the said Contract. The Claimant, inter alia, contends that the Claimant maintained the minimum stock of Rs. 5,00,00,000 at the said showroom. It is the Claimant's case that the Respondent did not complain regarding any breach of the said clause. The Claimant has relied upon copies of invoices along with transport receipts and inter branch transfer challan at Exhibit C-2 (Colly), Exhibit C-3 (Colly) and Exhibit C-16 respectively to substantiate its case that the Claimant was maintaining the requisite quantum of stocks at the said showroom.

9. It is the Claimant's case that the delay in opening the said showroom was on account of the conduct of the Respondent and this was primarily on account of the fact that the Respondent did not pay the balance amount of security deposit as contemplated under the Management and Operations Agreement. According to the Claimant, the Respondent had furnished a cheque dated 12 November 2015 of Rs. 25,00,000 towards its obligation for payment of the balance amount of security without giving any instructions to the Claimant to deposit the said cheque. It is the Claimant's case that the Respondent did not permit



the Claimant to encash this amount. The Claimant has also contended that the Respondent was arrested in some criminal cases, as a result of which the operations started at a belated case. The customers who were assured their product, had to go back on seeing the said showroom locked. False rumours were spread against the Claimant which jeopardized the business of the Claimant. The said showroom did not have adequate infrastructure and the Claimant had to incur an additional amount of Rs. 33,20,00,000 towards renovation.

10. It is the Respondent's case that the Claimant was in breach of its obligation under the said Contract, inter alia, by (a) not maintaining the minimum stock level of Rs. 5,00,00,000, (b) not providing the Respondent with particulars and information as regards the inventory maintained at the said showroom, (c) not commencing operations on time, despite the Respondent making payments towards renovations and security deposit in terms of the said Contract, (d) delayed payments of maintenance and commission to the Respondent. The Respondent has relied upon correspondence at Exhibits R-6 to R-14 in support of the aforesaid contention. It is the Respondent's case that as the Claimant failed to maintain a minimum inventory of Rs. 5,00,00,000, at the said showroom, the Respondent did not pay the balance amount of Rs. 19,00,000.



11. It is the Claimant's case that on 18 July 2017, the Respondent disconnected the electricity to the said showroom as the Claimant had not paid its electricity dues. The Claimant requested the Respondent to reconnect the electricity and to adjust the electricity charges from the daily collection towards commission, which the Respondent took from the said showroom.
12. According to the Claimant, as on 18 July 2017, there was stock of Rs. 5,48,95,800 lying at the said showroom.
13. It is the Claimant's case that on 26 July 2017, the Respondent called the Claimant and threatened the Claimant in order to secure the return of the keys of the said showroom without stating anything about returning of the stock worth Rs. 5,00,00,000 lying at the said showroom. On 28 July 2017, the Claimant addressed a legal notice to the Respondent, inter alia stating that stocks worth Rs. 5,00,00,000 was lying at the said showroom and the same ought to be returned to the Claimant. The Claimant requested the Respondent to fix an appointment at which point of time the keys of the said showroom which were in the Claimant's possession, would be returned to the Respondent. The Claimant called upon the Respondent to pay an amount of Rs. 1,90,00,000 towards loss of sales and Rs. 33,20,000 towards the additional renovation expenses incurred by the Claimant. In the legal notice, the Claimant contended that certain clauses were added in the Addendum Agreement against the Claimant's



will and that the Claimant was compelled to agree with the clauses against its free will. The Claimant stated that the Respondent was wrongfully withholding the stock of the Claimant and by disconnecting the electricity the Respondent had wrongfully restrained not only the Claimant, but its employees from entering the said showroom. The Claimant recorded that the Respondent was threatening the Claimant in order to secure the return of the keys of the said showroom.

14. On 10 August 2017, the Respondent filed a complaint against the Claimant under Sections 406 and 420 of the Indian Penal Code whereby the Respondent *inter alia* alleged that the Claimant had cheated the Respondent of an amount of Rs. 1,80,00,000, had not paid the outstanding commission and electricity and maintenance charges, had left the showroom and not maintained stocks of Rs. 5,00,00,000 in terms of the Agreements. On the basis of the complaint, an FIR was registered on 27 November 2017.
15. The Claimant lodged an NC dated 13 September 2017 with the Oshiwara Police Station and filed a written complaint dated 14 September 2017 with the Economic Offences Wing in respect of increased threats to get the Claimant to hand over the keys.
16. No response was received by the Claimant to its notice dated 28 July 2017, as a result of which, the Claimant by

its letter dated 18 September 2017 invoked the arbitration clause contained in the Franchisee Agreement.

17. The Claimant filed an application under Section 11 before the Hon'ble Bombay High Court and by an order dated 28 June 2018, the present arbitrator was appointed.
18. The parties filed their respective pleadings and the following issues were framed with the consent of parties:

ISSUES

- I. *Whether the Claimant proves that it is entitled to the sum of Rs. 6,98,95,800/- with interest at the rate of 18% p.a. on the principal amount, as per the Particulars of Claimant's claim?*
- II. *Whether the Claimant proves that stock worth Rs. 5,48,95,800/- was lying in the franchised showroom in July 2017 and that the Claimant is entitled to the aforesaid amount of Rs. 5,48,95,800/-?*
- III. *Whether the Claimant proves that the Respondent disconnected electricity to the Claimant's showroom causing loss to the claimant?*
- IV. *Whether the Claimant proves that the Respondent was in breach of the terms and conditions of the Franchisee Agreement and Maintenance and Operations Agreement dated 20 May 2014?*
- V. *Whether the Claimant proves that they are entitled to the sum of Rs. 25 Lakhs claimed as balance amount receivable under the Management and Operations Agreement dated 20th May 2014?*
- VI. *Whether the Claimant proves that the Addendum dated 11 September 2015 was executed under coercion?*

- VII. *Whether the Claimant's stock level at the franchised store was maintained at Rs. 5 Crores at all times in terms of the Franchisee Agreement and Maintenance and Operations Agreement dated 20 May 2014?*
- VIII. *Whether the Claimant proves that they incurred additional expenses of Rs.33,20,000/- towards renovation?*
- IX. *Whether the Respondent / claimant in the counter claim proves that the Claimant is liable to pay to the Respondent the sum of Rs. 24,39,046.87 towards rent / commission / minimum guarantee charges from February 2017 till July 2017?*
- X. *Whether the Respondent / claimant in the counter claim proves that the Claimant is liable to pay to the Respondent, the sum of Rs. 61,95,000/- towards minimum guarantee charges from 1st August 2017 till 30th September 2018 and further rent/ commission / minimum guarantee charges at the rate of Rs. 4,42,500/- per month from 1st October 2018 till vacant possession is handed over to the Respondent / claimant in the counter claim?*
- XI. *Whether the Respondent / claimant in the counter claim proves that the Claimant is liable to pay to the Respondent the sum of Rs. 1,16,00,000/- paid to the Claimant for advance/deposit towards stock along with interest at the rate of 12% p.a. from 1st August 2017 till payment / realization?*
- XII. *Whether the Respondent / claimant in the counter claim proves that the Claimant is liable to pay to the Respondent the sum of Rs.3,67,476/- towards common area maintenance charges for the period from January 2017 till July 2017?*
- XIII. *Whether the Respondent/ claimant in the counter claim proves that the Claimant is liable to pay to the Respondent the sum of Rs. 65,205/- per month*



towards common area maintenance charges for the period from 1st August 2017 till 30th September 2018 and further common area maintenance charges at the rate of Rs. 65,205/- per month from 1st October 2018 till vacant possession is handed over to the Respondent / claimant in the counter claim?

XIV. Whether the Respondent/ claimant in the counter claim proves that the Claimant is liable to pay the sum of Rs.4,42,070/- towards electricity charges and debit notes raised by the Respondent till July 2017?

XV. Whether the Respondent / claimant in the counter claim proves that they are entitled to the refund of the sum of Rs. 44,00,000/- paid to the Claimant towards capital expenditure for interior work of the showroom?

XVI. Whether the Respondent / claimant in the counter claim proves that they are entitled to the refund of the sum of Rs. 15,00,000/- and Rs. 5,00,000/- paid to the Claimant towards Franchisee Fees and marketing fees respectively?

XVII. Whether the Respondent / claimant in the counter claim prove that Claimant was in breach of the terms and conditions of the Franchisee Agreement and Maintenance and Operations Agreement dated 20 May 2014 and Addendum dated 11 September 2018?

XVIII. Whether Respondent/Claimant to the Counter Claim proves that the Claimant is in possession of the subject shop till date?

XIX. What Order, Costs and Relief?



SUBMISSIONS OF PARTIES

19. Before dealing with the rival contentions on merits and performance of the agreements executed between the parties, the first issue required to be dealt with is to decide the final binding contract between the parties.
20. Mr. Samant, learned Counsel for the Claimant has impugned the Addendum Agreement on the ground that the Addendum Agreement was one sided and was executed by the Claimant under coercion from the Respondent. It is stated to be one-sided as the commission was increased to 21% to 23% irrespective of the amount of sale, there was a provision of compulsory payment by the Claimant in an escrow account and the aspect of guaranteed rent was introduced for the first time from 1 November 2015. The Addendum Agreement is not stamped, is on a plain piece of paper and hence, cannot be relied upon.
21. Ms. Panda, learned counsel for the Respondent submitted that the contentions raised with respect to the Addendum Agreement are frivolous, raised as an afterthought, to back out of the Claimant's obligations under the Addendum Agreement.
22. It is submitted that the Claimant has contemporaneously not raised a single grievance as far as the execution of the Addendum Agreement. When CW-1 was cross examined with respect to the same, in answers to Q. 43 to 48, CW-1 has firstly alleged that he has not put his grievances against



the Addendum Agreement on record. Thereafter, stated that a complaint was made in writing to the Chairman of the Claimant, but no such document is on record.

23. It is submitted that the Claimant has not sought the cancellation or setting aside of the Addendum Agreement and hence, the contentions of the Claimant in any case are of no avail. It is submitted that as far as the stamping issue is concerned, it is the Claimant who had introduced the document in evidence and the document has been marked as an Exhibit to be read in evidence. The document having been marked as an Exhibit, in terms of Sections 35 and 36 of the Maharashtra Stamp Act, 1958, the Claimant can no longer raise objections with respect to the document being unstamped.

ISSUE NOS. II AND VII

Submissions of the Claimant:

24. Mr. Samant, learned Advocate for the Claimant submits that the Claimant had complied with its obligations of maintaining a minimum inventory of Rs. 5,00,00,000 (MRP) at the said showroom in terms of the said Contract between the parties. It is submitted that the Respondent at no point of time alleged that the Claimant was in breach of this obligation.
25. In order to demonstrate that the Claimant was complying with this obligation, Mr. Samant relies upon invoices along with delivery challans and branch transfer challans. It is



submitted that these documents coupled with the fact that the Respondent did not make any grievance as regards non-fulfillment of this obligation of maintaining stocks worth Rs. 5,00,00,000 MRP, would show that the Claimant has complied with its obligation. It is submitted that some emails have been relied upon by the Respondent which are at Exhibits R-6 to R-14, the Claimant has disputed the existence as well as contents of the said emails. In any case, it is submitted that the alleged grievances raised by the Respondent were only in the year 2016 and no such grievances were raised by the Claimant in the year 2017 (Q. No. 20 and 21 of the cross of RW2 are relied upon). Thus, there is nothing to show that the Claimant failed to meet its obligations of maintaining a minimum stock of Rs. 5,00,00,00 in the year 2017.

26. Further, Mr. Samant relies upon an email dated 14 July 2016 addressed by the Respondent to the Claimant, which contains a stock statement. It is submitted that as per the stock statement sent by the Respondent itself, at least a stock of Rs.3.14 crores is shown to have been maintained at the said showroom as on that date. This stock statement has been confirmed by RW2 in answer to Q. 22 is relied upon.
27. It is submitted that though the Respondent failed to deposit an amount of Rs. 25,00,000 according to the Claimant and Rs. 19,00,000 according to the Respondent, the Claimant still complied with its obligation of maintaining a



minimum stock of Rs. 5,00,00,000 in terms of the said Contract.

28. Mr. Samant submits that as the Claimant has complied with its obligation to maintain the minimum stock throughout the said Contract, thus it can be presumed that the stock in July 2017 was also in excess of Rs. 5,00,00,000. To substantiate that the stock at the said showroom was in excess of Rs. 5,00,00,000, Mr. Samant relies upon the evidence led by CW1 and CW2. Mr. Samant, in particular, relies upon an email together with stock statement at Exhibit C-15 (Colly) which according to the Claimant reflects the stock in July 2017. It is submitted that though the value of stock cannot be ascertained on the basis of the said stock statement, however the extent of stock can be seen from the said statement.
29. It is submitted that the Claimant had vide its notice dated 28 July 2017 specifically stated that inventory in excess of Rs. 5,00,00,000 was lying in the said showroom and the Respondent failed to respond to the said notice. This conduct would show that the Respondent did not deny the fact that goods worth Rs. 5,00,00,000 were lying in the said showroom. The Respondent only repeatedly threatened the Claimant in order to secure the return of the keys of the said showroom, due to which the Claimant was constrained to file a police complaint against the Respondent. The Claimant was also made to run from

pillar to post to secure anticipatory bail on account of the frivolous FIR filed by the Respondent against the Claimant.

30. It is submitted that the inventory list was always shared with the Respondent and CW1 and CW2 have given evidence to that effect.
31. In the circumstances, it is submitted that the Claimant has duly proved that as on 18th July 2017 inventory in excess of Rs. 5,00,00,000 was maintained at the said showroom.

Submissions of the Respondent

32. Ms. Panda, learned Counsel for the Respondent submitted that the Claimant has miserably failed to prove that the Claimant in July 2017 or at any point of time, prior thereto had stocks in excess of Rs. 5,00,00,000.
33. The Respondent has addressed a number of emails dated 22nd February 2016, 27th February 2016, 23rd April 2016, 5th April 2016, 11th July 2016, 14th July 2016, 29th July 2016 and 25th October 2016 (Exhibit R-6 to R-13), which clearly record that the Claimant had failed to meet its obligations of maintaining stock worth Rs. 5,00,00,000 at the shop. The said emails have not been replied to contemporaneously and the contents thereof are thus not denied.
34. In order to prove that stocks worth Rs. 5,00,00,000 were maintained by the Claimant at the said showroom, the



Claimant has relied on invoices, transport receipt and bank transfer challans (Exhibit C-12 colly, Exhibit C-13 colly and Exhibit C-16). The documents at Exhibit C-12 and C-16 only reflect the cost price of the goods and none of the documents produced show the MRP of the goods. CW-2 has admitted that CW-1 is responsible for fixing the MRP for the stocks and making decisions as to which apparels/materials would be sent to the said showroom (Q. Nos. 26, 27, 28, 31, 33 of CW-2's cross). However, CW-1 in his deposition has elected to remain silent on the aspect of the inventory. Although the documents were sought to be initially produced by CW-1, in fact, the attempt was given up and it was stated that CW-2 would prove the said documents. In view of the answers given by CW-2, CW-2 cannot be said to have any knowledge regarding the MRP of the goods since he neither fixes the price nor has he been responsible for the same.

35. The invoices also do not reflect the amount claimed. None of the documents produced show any transfer or delivery of the stock in July 2017 (Q/A. 40, CW-2).
36. So far as the Claimants' case that the stock lying at the said showroom in July 2017 was in excess of Rs. 5,00,00,000, firstly, on the basis of historical performance, it is clear that no such stock was maintained at any point of time. Secondly, the documents produced even for the period of 2017 like the balance sheet do not indicate the value of the goods available at the store. The balance sheet of the



Claimant for the year 2017-18 reflects that the total inventory at the end of the year, i.e., 31st March 2017 is 8,06,10,180. It is inconceivable that while the Claimant had a total of 8 stores (5 in Mumbai, 1 in Delhi, 1 in Ludhiana and 1 in Dubai), about Rs. 5,00,00,000 inventory alone was in Ludhiana. (Q/A. 7, CW-2).

37. Further, although CW-1 in his evidence has stated that the goods were insured, the Claimant has not disclosed the policy taken. Accordingly, the value of the goods, which would have been reflected in the policy, was deliberately suppressed. Therefore, an adverse inference on that account must be drawn that the insurance policy would have reflected a far lesser value of the products. [Q/A. 14 and 15 of CW-1].
38. CW-2 also testified that while the transport receipts produced by the Claimant (Exhibit C-13 colly) mention the cost price of the stock transferred, the stock was not identified in the said transport receipts. Further, CW-2 has also admitted that the documents at C-12, C-13 and C-16 are internal documents of the Claimant (Q/A. 34). Accordingly, no reliance can be placed upon the same.
39. It is submitted that the Claimant has also attempted to prove the value of the goods at the store by producing an email dated 20 July 2017 from one Ms. Gurpreet Kaur using her email address gurpreetkaurpunjab@gmail.com along with an attachment containing an Excel sheet purporting to reflect under the head of "Manual Stock" the

closing stock as on July 2017 was Rs. 5,48,95,800/-. CW-2 has testified that the cashier at Ludhiana store prepared the Excel sheet (Q/A. 33, 51, 52, 53 and 54). CW-2 has further stated that the Excel sheet being Exhibit C-15 (colly) was submitted by the Claimant to the Respondent, 2-3 days after the said email was sent on 20 July 2017 (Q/A. 16 to 24).

40. It is submitted that the alleged author of the Excel sheet has not deposed to the Tribunal. Accordingly, the truth of the contents and the figures contained therein have not been proved and cannot be relied upon to determine the value of the goods. The email dated 20 July 2017 is an internal email. There is no evidence to prove that the said excel sheet was in fact forwarded to the Respondent at any point of time, much less 2-3 days after the email was addressed by Ms. Gurpreet Kaur. In any event and without prejudice to the above, the mere forwarding of the email would not prove the correctness of the contents of the document.
41. CW-2 did not physically verify the stock maintained at the store. The inventory of the stock was purportedly maintained by the staff of the Claimant and was shared with CW-2 on 20 July 2017. The inventory at Exhibit C-15 (Colly) does not specify the value of the stocks purportedly held by the Claimant in the said showroom.
42. Further, CW-2's testimony is contradictory, as the email is purported to have been sent on 20 July 2017 from the said

showroom, which is after the date of the alleged disconnection of electricity on 18 July 2017.

43. Further, it is evident that in any event, the stock lying in the said showroom in July 2017 was of no value to the Claimant. It is for this reason that the Claimant did not take any steps to take possession of the apparels /goods. The Claimant did not take any steps to mitigate their losses. In fact, even in the notice dated 28 July 2017, the Advocate for the Claimant has stated that the “*stocks as on today have become outdated and it is very difficult to sell these stocks in the open market ...*”. The Claimant never filed any complaint to the police nor approached the Hon’ble Court or this Tribunal to retrieve the said goods lying in the store. All of the above inactions on the part of the Claimant evidence that the goods at the store were of no value, much less as claimed in the Statement of Claim.

ISSUE NO. III:

Submissions of the Claimant:

44. Mr. Samant’s next contention is that the Claimant was carrying on business in the said showroom till 18 July 2017 when the Respondent disconnected the electricity on account of non-payment of electricity dues. The Claimant requested the Respondent to pay for the electricity dues from the daily cash collection, however, the Respondent failed to do so. The fact that the Respondent was collecting cash from the counter has been accepted by RW-2 in



answer to Q. 26. It is submitted that as the electricity was not reconnected despite requests being made by the Claimant including by way of the Claimant's email dated 22 July 2017 (Exhibit C-8), the Claimant's operation from the said showroom had to be stopped.

45. It is contended that the Respondent changed the lock of the said showroom and the employees of the Claimant were not allowed to enter the said showroom. This conduct of the Respondent was wrongful and in breach of the terms of the said Contract. It is contended that in this manner, the Respondent has sought to terminate the said Contract without giving any notice to the Claimant as required under clause 12 of the Franchisee Agreement.
46. As the Respondent has acted in breach of the said Contract and the Claimant's stock in excess of Rs. 5,00,00,000 has been lying in the said showroom, the Claimant is entitled to an award in the sum of Rs. 5,48,95,800, being the value of the inventory lying at the said showroom as on 18 July 2017.
47. It is submitted that the electricity meters and the electricity supply is in control of the Respondent and the same has been admitted by RW2 in Q/A. 47.

Submissions of the Respondent

48. It is submitted that the Respondent never disconnected the electricity supply at the said showroom. The Respondent has led the evidence of Mr. Pramodsingh Patial (RW-1),



who was employed to supervise the said mall. RW-1 deposed that the electricity to the said mall was managed by the Energy Monitoring/Management System (EMS) and this system was not capable of being tampered with externally. By virtue of the evidence of Mr. Pramodsingh Patial, the Respondent has also established that the Claimant consumed electricity from 1 July 2017 till 21 July 2017. However, from 22 July 2017 onwards, the Claimant's consumption of electricity was 'nil' on account of the fact that the Claimant had abandoned the store and ceased its operations (Exhibit R-1 to R-4 and Q/A. 10 and 11 of RW-1). The EMS System clearly shows that electricity was consumed till 25 July 2017. It is submitted that huge sums were due from the Claimant to the Respondent and the Respondent had nothing to gain by disconnecting electricity to the Claimant's store.

49. The Claimant has relied upon an email dated 22 July 2017 in support of its claim that the Respondent disconnected the electricity of store on 18 July 2017. While on the one hand the Claimant contends that the electricity supply was disconnected on 18 July 2017, on the other hand the Claimant has produced an email dated 20 July 2017 whereby the purported stock statement at Exhibit C-15 was forwarded to CW-2. CW-2 has also deposed that the inventory data could be accessed "...solely from the computer located at the Ludhiana showroom." (Q/A. 44, CW-2). It is therefore apparent that electricity was functional at least upto 20 July 2017.

50. It is submitted that as of July 2019, the Claimant owed at least Rs. 24,00,000 approximately towards outstanding commission, CAM and electricity dues and it was not in the interest of the Respondent to disconnect the electricity of the Claimant on 18 July 2017 as contended by the Claimant.

ISSUE NO.V

Submissions of the Claimant

51. Mr. Samant submits that according to the Claimant, an amount of Rs. 25,00,000 has not been paid as deposit by the Respondent to the Claimant in terms of the Management and Operations Agreement. A cheque of Rs. 25,00,000 dated 12 November 2015 (Exhibit C-10) was handed over by the Respondent to the Claimant towards the said payment, however, the Respondent did not give the Claimant instructions to deposit the said cheque.
52. Mr. Samant further submits that even according to the Respondent, an amount of Rs. 19,00,000 has not been deposited by the Respondent with the Claimant and thus there is an admission to the extent of Rs. 19,00,000.

Submissions of the Respondent

53. Ms. Panda, has submitted that the total amount of Rs. 1,35,00,000 was payable by the Respondent as security deposit only if the Claimant maintained a stock of Rs. 5,00,00,000 at the said showroom. As stated



hereinabove, as the Claimant has at no point of time maintained stock of Rs. 5,00,00,000, the Respondent was entitled to withhold the deposit of Rs. 19,00,000.

54. The Respondent has in all made a total payment of Rs. 1,79,80,000 to the Claimant as evidenced by the Statement of Account of the Respondent from 1 June 2014 to 30 June 2015 (Exhibit R-5). The Respondent complied with its obligations and addressed several emails to the Claimant to comply with its obligations which are reflected in the emails at Exhibit R-6 to Exhibit R-14.
55. The parties clearly understood this aspect as the Claimant has not addressed a single correspondence for deposit of Rs. 25,00,000 from the inception of the contract till July 2017 and the said fact has been admitted at Q. 49 to Q. 51 of CW1's cross. The claim for Rs. 25,00,000 is thus only an afterthought.
56. In the circumstances, it is apparent that the Claimant by their conduct have waived their right to receive the balance sum of Rs. 25,00,000, according to the Claimant and Rs. 19,00,000 according to the Respondent. The Respondent has relied on the judgment of the Hon'ble Supreme Court in the case of *Jagad Bandhu Chatterjee vs. Nilima Rani (1969) 3 SCC 445*.
57. Without prejudice to the aforesaid and in any event, the said amount forms part of the refundable deposit. Admittedly, the contract has come to an end and in the



circumstances, the amount would in any case have to be returned to the Respondent even if it had been deposited by the Respondent.

ISSUE NO.VIII

58. Though, certain averments were made by the Claimant in its Statement of Claim with respect to an additional expenditure to the extent of Rs. 33,20,000 towards renovation of the said showroom, which according to the Claimant was the obligation of the Respondent, the Claimant has not raised a specific claim as regards the said amount. No specific submissions have been made by the parties with respect to the said Issue, as the same does not arise for consideration. This contention has been raised only in the passing by the Claimant to allege breach of the contract by the Respondent and has been considered in that perspective in the later issues. The issue thus stands answered in the negative.

ISSUE NOS.IV AND XVII

Submission of the Claimant:

59. Mr. Samant submits that the Respondent is in breach of the terms and conditions of the Franchisee Agreement and the Management and Operations Agreement (a) by delaying starting the operations in the said showroom, (b) by not paying the amount of Rs. 25,00,000, (c) by not providing adequate infrastructure and (d) by terminating the agreement by disconnecting the electricity and by not



allowing the Claimant to carry on business from the said showroom without issuing any termination notice.

Submission of the Respondent:

60. It is submitted that the Claimant has neither pleaded nor proved any breach on the part of the Claimant of any of the terms of the said Contract. In the absence of any proof, the said issue must be answered against the Claimant.
61. Without prejudice to the aforesaid, it is submitted that the Respondent has done all that was liable to be done by the Respondent in terms of the said Contract. Under the said Contract, most of the obligations are to be performed by the Claimant, which the Claimant failed to perform. The Respondent is not in breach of any of the terms of the said Contract and the Claimant at no point of time ever demanded performance of any alleged outstanding obligations nor made any grievance regarding the same at the contemporaneous time. The present grievance is a mere afterthought and is liable to be rejected.
62. As stated hereinabove, the Respondent has dealt with each of the alleged breaches of the said Contract by the Respondent. The Claimant has been unable to prove any of the aforesaid breaches or claims. It is in fact the Claimant who is admittedly in breach of the said Contract by not paying the outstanding commission, maintenance and electricity dues and not maintaining the requisite stocks at the said showroom. The breaches alleged against the



Respondent have been alleged for the first time only in July 2017. There is no contemporaneous correspondence addressed by the Claimant alleging any such breaches.

63. The Claimant has breached the said Contract by the following acts:
64. Failure to pay rent/ minimum guarantee payment, which was their obligation under Clause 3 of the Management and Operations Agreement read with Clause 6 (b) of the Franchisee Agreement and Clauses 1 and 2 of the Addendum Agreement.
65. Failure to pay electricity charges and debit notes under clause 3.6.5 of the Franchisee Agreement and clauses 7 and 20 of the Management and Operations Agreement both dated 20 May 2014.
66. Failure to pay CAM charges as per clauses 6 and 8 of the Management and Operations Agreement read with clause 3.6 of the Franchisee Agreement and Clause 3 of the Addendum Agreement.
67. Failure to maintain stock of Rs. 5,00,00,000 at all times (clause 4.2 of the Franchisee Agreement, clause 4 of the Addendum Agreement).
68. Premature/ unilateral termination of contract dated 20 May 2014, without any valid grounds when the term of the contract was for 5 years.



69. The Claimant has admitted that they have not paid the rent/ minimum guarantee/electricity and CAM charges in the following manner:
- (a) Paragraph 4 CW-2's evidence ledger extract at Exhibit C-11 at page nos. 6-9 of the CW-2's compilation of documents. The Claimant has admitted that the sum of Rs. 23,40,082.32 is balance payable to the Respondent.
 - (b) CW – 2 in answer to question nos. 35 and 36 at page nos. 85 of CW-2's compilation has admitted that the amount of Rs. 23,40,000 is payable by the Claimant to the Respondent for the period from February 2017 of April 2017.
 - (c) In Claimant's email for reconciliation of accounts dated 8 February 2017 which is Exhibit R-43 at page nos. 66-69 of RW-3's compilation.
 - (d) Volume III at page nos. 358 (paragraph 9) and page no. 359 (paragraph 14), the Claimant has admitted to the amount that are due and payable by them to the Claimant.
70. Therefore, the breach of the claimant is a fundamental breach which is established by virtue of their own admissions as above.
71. On 22 July 2017, the Claimant unilaterally abandoned their showroom in the Respondent's mall, under their own lock and key. The Claimant has not proved by virtue of their evidence that they in fact maintained stock of



Rs. 5,00,00,000. To the contrary there are emails from the Respondent to the Claimant calling upon them to provide list of inventory and to maintain stock of Rs. 5,00,00,000. Vide email correspondence annexed at page nos. 40 – 49 of RW-2's compilation of documents marked as Exhibits R6 – R14. Since the Claimant did not provide the details of stock, on one occasion the Respondent's audit team checked the stock report and the stocks were found to be only Rs. 3,14,39,910, in breach of their obligation. (Page 46 – RW-2's compilation of documents). Even the document at Exhibit C-15 (colly) relied upon by the Claimant to show that the stock of Rs. 5,00,00,000 was maintained does not establish the value of the stocks contained therein. Therefore, the Respondent has proved that the Claimant was in breach of their obligation to maintain stocks worth Rs. 5,00,00,000 in the showroom and abandoned the showroom/ the agreements between the parties.

ISSUE NO.I

Submissions of the Claimant

72. The claim made by the Claimant in terms of Particulars of Claim is for an amount of Rs. 6,98,95,800. Two of the components of the said claim, being towards the alleged value of the balance stock Rs. 5,48,95,800 and the amount of Rs. 25,00,000, have been dealt with in the submissions hereinabove. Apart from the said claims, there are two other claims made by the Claimant, (a) for loss of

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reputation of brand of Rs. 50,00,000 and (b) loss of business of Rs. 75,00,000. Mr. Samant submits that in terms of the Management and Operations Agreement, the operations of the business at the said showroom were to commence within a period of 15 days from the execution of the said Contract. There is an admitted delay in the commencement of the operations and operations only commenced in July 2015. It is submitted that the reason for the delay are, (a) unprofessional approach and lapses on the part of the Respondent by not paying the balance security amount of Rs. 25,00,000 and not renovating the said showroom. The Claimant had to ultimately extend an amount of Rs. 33,20,000 towards renovation, (b) the Respondent was arrested in connection with some criminal cases, as a result of which the operations were delayed. The customers who were already assured about their products, had to go back on seeing the store locked. False rumours were spread against the Claimant, which seriously jeopardized the business, (c) the Claimant is dealing in fashion industry and usually fashion changes every six months or less than six months and because of delay on the part of the Respondent, the whole purpose for starting the business was spoiled as customers who were having expectations from the opening of the said showroom of the Claimant in Ludhiana for the first time were turned back.

73. The Claimant has led the evidence of CW1 in support of the said claim. It is additionally submitted that the Claimant being a limited company, damage to its



reputation and goodwill ought to be presumed and the loss of reputation of at least Rs. 50,00,000 ought to be awarded to the Claimant. As far as the claim for loss of business of Rs. 75,00,000 is concerned, it is submitted that the said figure has been arrived at on the basis of a growth in the total sales of the Claimant year on year.

Submission of the Respondent:

74. The amount of Rs. 6,98,95,800 claimed by the Claimant includes a sum of Rs. 5,48,95,000 towards the stock lying at the said showroom; Rs. 25,00,000 being the cheque towards security deposit which remained unpaid along with interest @ 18% per annum; Rs. 50,00,000 towards loss of reputation of the brand; and Rs. 75,00,000 towards the loss of business.
75. The claim of Rs. 5,48,95,000 and Rs. 25,00,000 have been dealt with by the Respondent in the previous issues.
76. As far as the claims of Rs. 50,00,000 towards loss of reputation of brand and Rs. 75,00,000 towards loss of business, the Respondent submits that there is neither any pleading nor proof in support of any such claims. The only document which was sought to be relied upon by the Claimant was a "Sales Summary Statement" produced at page 10 of CW-2's Compilation which has not been marked as an exhibit and cannot be looked at.



77. It is submitted that there is no pleading or evidence in support of the claim made by the Claimant of Rs. 50,00,000 towards loss of reputation of the said brand and Rs. 75,00,000 towards loss of business. The Claimant has not produced a single document in support of the said claim and the said claim ought to be rejected.

ISSUE NO. IX, XII AND XIV

Submission of the Claimant:

78. Mr. Samant has raised an issue of jurisdiction with respect to the outstanding rent payable by the Claimant to the Respondent. Mr. Samant submitted that the said showroom are non-residential premises located at Ludhiana, Punjab. It is submitted that the Addendum Agreement clearly records that an amount of Rs. 3,75,000 per month minimum was to be paid by the Claimant to the Respondent. The prayer being one for recovery of rent is barred in terms of Section 59 read with Section 68 of the Punjab Rent Act, 1995 and the arbitrator would not have jurisdiction to entertain the said claim. The Claimant has relied upon the judgment of the Hon'ble Supreme Court in *Vidya Drolia & Ors. (2021) 2 SCC 1* in support of the said submission. It is submitted that the said issue goes to the root of the matter and can be raised even at the final hearing.
79. Without prejudice, Mr. Samant, submitted that as far as Issue Nos. IX, XI, XII and XIV are concerned, the



Claimant was regular in paying the amount towards rent/ commission, maintenance and electricity charges till April 2017. Thereafter, in terms of the arrangement, the Respondent would collect the dues from the daily cash collection. It is submitted that according to the Claimant, an amount of Rs. 22,55,869 is due and payable by the Claimant to the Respondent against the outstanding rent/commission, maintenance and electricity. Mr. Samant fairly states that this figure is Rs. 23,40,082 in terms of the ledger account produced by the Claimant at Exhibit C-11. It is submitted that as amounts far in excess of the said amount are due and payable by the Respondent to the Claimant, it is the Claimant who would be liable to make payments after adjustment of these amounts.

Submission of the Respondent:

80. It is submitted by the Respondent that the issue with respect to jurisdiction is misconceived and is taken by the Claimant at the final hearing of the present proceeding merely as an afterthought. The Respondent relied upon Section 3(d) of the Punjab Rent Act and answer to Q. 32, CW1 admitted that the construction of the said mall was completed only in 2015. The said showroom would thus clearly fall outside the scope of the Punjab Rent Act.
81. It is further submitted that Section 69 which excludes the jurisdiction of civil courts ought to be read strictly. It is submitted that the Punjab Rent Act would not cover a



claim made by a landlord simpliciter for recovery of rent without a prayer for recovery of possession. The Respondent has relied on Sections 59 and 68 of the Punjab Rent Act in support of the said submission and contended that a simpliciter suit for recovery of rent continues to be maintainable in the civil court.

82. It is submitted that the said Contract executed between the parties cannot be said to be a simpliciter contract between a landlord and a tenant. The said Contract requires payment of commission by the Claimant to the Respondent, maintaining of a minimum stock of Rs. 5,00,00,000 by the Claimant and several other obligations on the part of the Claimant. Similarly, the Respondent has paid Rs. 20,00,000 as one time franchise fee and marketing fee. The Respondent has also deposited an amount of Rs. 1.19 crores as security deposit with the Claimant. The Respondent has also expended amounts towards renovation of the premises. In the circumstances, the said Contract between the parties is of a nature different from a lease as contemplated under the Punjab Rent Act. The recovery of the minimum guarantee amounts /rent would thus not be barred under the Punjab Rent Act
83. Without prejudice to the aforesaid and in any case, the Counter Claim of the Respondent is with respect to recovery of amount post July 2017 in the nature of damages and continue to be maintainable.



84. On merits, as far as the amounts towards commission, CAM and electricity charges upto July 2017 are concerned, the Respondent has produced evidence in favour of each of the same.
85. As far as the outstanding commission is concerned, RW3 has produced the invoices (Exhibit R-17 to R-22) raised by the Respondent against the Claimant for the outstanding amount of Rs. 24,39,046.87. RW3 has also produced ledger accounts of the Claimant in the books of the Respondent for the outstanding commission from 2015 to 2018 (Exhibits R-23 and R-24). The Respondent has also given cash credit to the Claimant for all the cash collection made by the Respondent from the said showroom.
86. As far as the amounts payable towards outstanding CAM charges is concerned, the Respondent is entitled to these amounts in terms of clause 3.6 of the Franchisee Agreement. There was to be an annual increase of 5% per annum in terms of the Addendum Agreement. The invoices in this regard are at Exhibits R-17 to R-22 and the ledger account is at Exhibit R-25. The Claimant has accepted and acknowledged the said CAM charges by its email dated 8 February 2017 (Exhibit R-43), However, the calculations were incorrect and the Claimant did not take into account the 5% increase in the CAM charges as per the Addendum Agreement.
87. The monthly charges were Rs. 65,205/- including all taxes. However, save and except Rs. 97,200/- received



from the Claimant on 3 August 2016 and 22 August 2016, the Respondent has not received any further payment. A sum of Rs. 7,50,000/- has been adjusted by the Respondent as billing against jewellery by Arshdeep Singh Mundi. The ledger accounts are at Exhibit R-25.

88. As far as the amounts payable towards the electricity are concerned are covered by Clause 6.3.5 of the Franchisee Agreement and clauses 7 and 20 of the Management and Operations Agreement. The Respondent through RW3 had produced invoices /debit notes raised by the Respondent on the Claimant for electricity and tiling work at Exhibit R-26 to R-41. The amount is also reflected in the ledger account at Exhibit R-42. The Claimant has admitted its liability to pay in its Statement of Defence at paragraph 9 and 14, however the amount is shown as Rs. 1,80,737 instead of Rs. 4,42,070.
89. It is submitted that the liability to pay under the heads covered by Issue Nos. IX, XII and XIV is admitted. According to the ledger account produced by the Claimant itself an amount of Rs. 23,40,082 is due and payable towards commission, electricity and CAM. Admissions are also made in the SOC to the Counter Claim of the liability to pay but containing different amounts. The Respondent has duly proved the quantum of liability by production of the necessary documents and the evidence in this regard remains uncontroverted.



90. It is submitted that the Respondent has raised all the outstanding invoices raised by them against the Claimant along with ledger account entries for the outstanding payment of Rs. 24,39,046/- in the evidence led by RW-3 (Exhibit R-17 to R-42).
91. The Respondent has maintained a record of cash of Rs. 4,16,870/- collected by them from the Claimant on various dates and given credit for the same to the Claimant. The above is reflected in the ledger account maintained by them at Exhibit R-24.
92. According to the Respondent, the amount of Rs. 24,39,046/- ought to be awarded to the Respondent on the basis of the documents produced by the Respondent. However, in the alternative, at least the amount of Rs. 23,40,082/-, which has been admitted by the Claimant, ought to be awarded to the Respondent.

ISSUE NO. XVIII

Submission of the Respondent

93. In addition to the Respondent's claim for commission, CAM and electricity dues upto July 2017, the Respondent has also sought for payments towards commission and CAM for the period from August 2017 till the date of handing over of possession by the Claimant.
94. It is submitted that the Claimant voluntarily abandoned the said showroom on 21 July 2017 and breached the terms of



the said Contract. Moreover, the Claimant also failed to pay the electricity charges, rent charges and CAM charges for the period upto July 2017. The Claimant retained the key to the said showroom and this is admitted in the subsequent correspondence and complaints.

95. The Claimant's stock was lying in the said showroom and hence the Respondent was constrained to file an application before the arbitrator for inventory, valuation and vacant possession of the said showroom. The said application was not allowed by the arbitrator and the Respondent was granted liberty to take such steps as it deems fit.
96. Further, the Respondent has also admitted their liability towards payment of rent, CAM and electricity charges in the following documents:
- (a) Paragraph 4 of CW-2's evidence, ledger extract at Exhibit C-11 (page 6 to 9). The Claimant has admitted that the sum of Rs. 23,40,082.32 is the balance payable to the Respondent.
 - (b) CW-2 in answer to Q. 35 and 36 has admitted that the amount of Rs. 23,40,000 is payable by the Claimant to the Respondent for the period from February 2017 to April 2017.
 - (c) In the Claimant's email for reconciliation of accounts dated 8 February 2017 which is at Exhibit R-43.



- (d) In the Statement of Defence to the Counterclaim filed by the Respondent at paragraphs 9 and 14, the Claimant has admitted the amount due and payable by them to the Respondent.
97. In terms of the liberty granted by the arbitrator, the Respondent eventually broke open the lock and took possession of the said showroom in November 2019. The Respondent has led the evidence of RW3 in this regard who has deposed that the locks were broken open by the Respondent in November 2019 in the presence of other representatives of the Respondent and with the help of a locksmith, Mr. Amrik Singh. RW3 has also produced a voucher dated 29 November 2019 at Exhibit R-47 of Mr. Amrik Singh.
98. The fact that the said amount is refundable to the Respondent by the Claimant has been admitted by the Claimant in the balance sheets for the year ended 2016 and 2017 (Exhibits R-15 and R-16).
99. The Respondent has submitted that the Claimant voluntarily abandoned the said showroom on 21 July 2017 and breached the terms of the binding contract between the parties. Moreover, the Claimant also failed to pay electricity charges, rent charges and CAM charges for the period till July 2017. The Claimant had affixed their lock and key to the said showroom and abandoned it, which is admitted in the notice dated 28 July 2017 (Exhibit C-4) issued by the Claimant to the Respondent.



100. The Claimant's stocks were lying in the said showroom and the Respondent was constrained to file an interim application before the Tribunal for handing over vacant possession of the said showroom back to the Respondent. The Tribunal did not allow the Respondent's application and liberty was granted to the Respondent to take steps as they deemed fit. The Claimant agreed that they shall not take any action against the Respondent for entering into the said showroom. Accordingly, the Respondent finally took possession of the showroom on 22 November 2019.
101. It is submitted that the Respondent was unable to commercially/gainfully use and occupy the said showroom which was in the possession of the Claimant till 22 November 2019, on which date the Respondent removed all the apparels /furniture from the said showroom. Had the Claimant removed all their apparel/furniture in July 2017 itself, the Respondent would have been in a position to use and occupy /let out the said showroom. The Respondent is entitled to damages in the measure of amounts that the Respondent would have received if the contract was performed, i.e., rent/minimum guarantee till such time that vacant possession was handed over to them. Therefore, the Respondent is entitled to and the Claimant is liable to pay compensation /damages to the Respondent in the form of rent, which was agreed to be paid by the Claimant of Rs. 3,75,000 per month from 1 August 2017 to 22 November 2019 amounting to Rs. 1,05,00,000.



102. Similarly, the Respondent is also entitled to damages in the measure that the Respondent be placed in the same position as if the contract was performed by payment of CAM charges. Accordingly, the Respondent is also entitled to CAM charges from 1 August 2017 till 22 November 2019, as damages, to reimburse the Respondent for the period during which the Respondent could not gainfully use and occupy the said showroom.

ISSUE NOS. X, XI AND XIII

Submission of the Respondent:

103. The Respondent was unable to commercially /gainfully use the said showroom till 22 November 2019. The Respondent is thus entitled to damages in the measure of the amount that the Respondent would have received had the Claimant complied with its obligation under the said Contract. Under the said Contract, the Claimant is entitled to minimum guarantee amount of Rs. 3,75,000 per month and an amount of Rs. 65,205 per month as CAM charges. The quantum of damages can be measured and has been proved in terms of the existing agreement between the parties. It is submitted that the Respondent is entitled to the said sums from 1 August 2017 till 22 November 2019 together with appropriate interest.
104. Ms. Panda submitted that the amount of Rs. 1,16,00,000 was given as a security deposit and the said amount is required to be returned to the Respondent. The Claimant



also does not dispute the same but only claims an adjustment from while awarding its alleged claims. As no amounts are due and payable to the Claimant, the entire amount of Rs. 1,16,00,000 is required to be returned. The interest shall be calculated from 1 August 2017 or from such other date as the Arbitrator decided depending on the adjudication on the rival claims of the parties.

Submissions of the Claimant

105. The counter claims raised by the Respondent post July 2017 are on the basis that the Claimant is in possession of the said showroom. The claims raised by the Respondent are not maintainable and ought to be rejected, as the Claimant is not in possession of the said showroom. The Claimant is not liable to pay any amounts to the Respondent post 18th July 2017.
106. Mr. Samant submitted that as the agreement now stands terminated, the Claimant is entitled to the claims set out in the statement of claim and the Respondent would be entitled to an adjustment of an amount of Rs. 1,16,00,000 from the amount due and payable by the Respondent to the Claimant.

ISSUE NOS. XV AND XVI

Submissions of the Respondent

107. The Respondent has expended an amount of Rs. 44,00,000 towards capital expenditure for the interior work of the



said showroom. Further, the Respondent has also paid Rs. 15,00,000 and Rs. 5,00,000 respectively towards franchisee fees and marketing fees to the Claimant under the said Contract.

108. The Claimant has breached the terms of the said Contract by (a) failing to maintain a minimum inventory of Rs. 5,00,00,000 at the said showroom, (b) not paying the commission, electricity and CAM charges upto July 2017.
109. The Claimant has also abandoned the said showroom on 21 July 2017 and not completed the term of 5 years contemplated in the Franchisee Agreement. As a result of the premature termination of the said Contract by the Claimant, the Respondent has suffered loss of future earnings which the Respondent intended to earn by investing the aforesaid amounts of Rs. 44,00,000, Rs. 15,00,000 and Rs. 5,00,000 in the Claimant's business.

Submission of the Claimant

110. Mr. Samant submitted that the Respondent is in breach of the terms and conditions of the Franchisee Agreement and Maintenance and Operation Agreement. The Respondent has failed to expend sufficient amounts for the renovation of the said showroom and it is the Claimant who had to expend an amount of Rs. 33,20,000 for renovating the said showroom. The Respondent has not made out absolutely any case for the refund of the amounts spent by the Respondent for renovation of the said showroom.



111. Mr. Samant submitted that similarly the Respondent has also not made out any case for refund of the interest free amounts paid by the Respondent to the Claimant under the Franchisee Agreement, Maintenance and Operations and Agreement.

REASONS AND CONCLUSIONS

ISSUE NO. VI

Enforceability of Addendum Agreement

112. The Claimant has sought to impugn the Addendum Agreement on the ground that the Claimant was put under undue influence to forcibly enter into the Addendum Agreement by the Respondent. It has been submitted that most of the terms of the Addendum Agreement like the payment of minimum guaranteed commission are one-sided in favour of the Respondent and never agreeable to the Claimant. It is also argued that the Addendum Agreement has been executed on plain paper, without any witnesses and is not admissible in evidence, as the same was not executed on stamp paper.

113. In my opinion, the arguments challenging the Addendum Agreement have been taken as an afterthought and are completely baseless. The Claimant has not sought any declaratory reliefs in respect of the Addendum Agreement. There are no particulars whatsoever provided by the Claimant regarding coercion or undue influence on the



basis of which the Claimant executed the Addendum Agreement. There is no correspondence or complaint contemporaneously raising any of the aforesaid issues. CW-1 has admitted in answers to Q. 43 to 45 that the Claimant did not notify the Respondent in writing that the execution of the Addendum Agreement was under coercion or under undue influence. The parties all along acted upon the Addendum Agreement and it was only in the Claimant's notice dated 28 July 2017, after the Claimant had abandoned the store, where the Claimant raised the issue for the first time.

114. Even otherwise, the basis for impugning the Addendum Agreement that it contained clauses beneficial to the Respondent appears to be flawed. The minimum guarantee rent of Rs. 3,75,000 is also part of clause 3 of the Maintenance and Operations Agreement. The only other change was with respect to deposit of amounts payable by the Claimant to the Respondent as commission, in an escrow account on a daily basis. There is also a clause for increase in the CAM charges annually by 5%. The mere requirement of deposit of amounts in an escrow account on a daily basis or of increase of 5% annually in the CAM charges can hardly be said to be evidencing any manifest coercion or undue influence.
115. The document being unstamped does not affect its execution. On enforceability of an unstamped document, it is too late to make an objection of this nature. The

document has been received, (nonetheless as the Claimant's document) and marked as Exhibit C-3. In terms of Section 35 of the Maharashtra Stamp Act, 1958, the admission of the document cannot be called into question after its marking.

116. In my view, the Claimant has failed to prove that the Addendum Agreement was vitiated on account of any coercion or undue influence. The issue is answered in the negative and against the Claimant.

ISSUE NOS. II, III AND VII

Claim towards loss/value of goods of Rs. 5,48,95,800

117. The first claim of the Claimant is towards an amount of Rs. 5,48,95,800, which according to the Claimant was the value of stock as on 18 July 2017 when the electricity was disconnected, and the Claimant was unable to carry on its business at the said showroom. To consider the claim of the Claimant for loss of the inventory lying at the said showroom as on 18 July 2017, two aspects need to be considered, (a) whether the Claimant was obstructed from operating the said showroom after 18 July 2017 by the Respondent and (b) whether the value of the stock lying in the said showroom as on 18 July 2017 amounted to Rs. 5,48,95,800/. In support of (b), the historical maintaining of stocks to be decided in Issue No. VII, would be a relevant factor. But before considering the value of the goods lying at the said showroom on 18 July

2017, it must be considered whether there was any kind of obstruction by the Respondent at all, by disconnecting the electricity or change of locks or otherwise.

Obstruction by the Respondent due to disconnection of electricity:

118. With respect to the case of obstruction or inability to continue operating from the said showroom, a reading of the Statement of Claim and the notice dated 18 July 2017 and complaint dated 14 September 2017 demonstrates that initially it was the Claimant's case that the electricity at the said showroom was disconnected by the Respondent on account of non payment of electricity charges by the Claimant, and that the employees were restrained on account of disconnection of the electricity. From the Statement of Claim and the documents annexed thereto, no case of physical obstruction of the Claimant or its employees was pleaded. Some of the relevant portions of the Statement of Claim, the notice dated 18 July 2017 and the complaint dated 14 September 2017 in this regard are as follows.

Statement of Claim

- h) *Claimant states that on or about 18th July, 2017, the Respondent found that electricity connection of the said store was disconnected on failure to pay the electricity dues. Respondent though being owner of the showroom at the said Mall wherein the said Store of Libas is situated did not take any steps to re-connect the electricity causing tremendous*



nuisance and annoyance to the Claimant. The deliberate omission on the part of the Respondent not to reconnect the electricity caused tremendous loss not only in terms of money but also in terms of loss of goodwill to the Claimant. The Claimant vide telephonic conversation as well as vide emails requested the Respondent to pay the amount of electricity charges by taking the money from its daily collection, however the same was not done by the Respondent.

- i) As a result of abrupt stoppage of business, the expensive wearing apparel stitched/manufactured by Claimant started becoming absolute. The stock which is more than 5 crores, still kept in the said store has also started losing its value due to its inappropriate dumping and the same getting out of fashion.*
- l) The Claimant states that at a letter stage, such threats increased calling upon Claimant to handover to keys of the store to the Respondent. This constrained the Claimant to file a written complaint to Economic Offence Wing, joint Commissioner of Police (Crime) and several other authorities.*

Notice dated 28 July 2017

- 6. My client states that at present stocks worth Rs. 5 crores is lying in the store and since you have disconnected the electricity, the entire operations in the store have come to a standstill and there is no business in the store for which you alone are responsible. My client states that in this manner you have also forced my client to stop entering the premises and while on the one hand you have disconnected the electricity and forced my client to stop coming to the premises to run the store, on the other hand stock worth Rs. 5 crores are in your custody as you are not allowing to use the stocks and thus the act of your is thoroughly malicious.*



...

... And above all you are wrongfully withholding stocks of my client and by disconnecting the electricity you have wrongfully restrained not only my client but his employees from entering in the premises and now on telephone has threatening my client by demanding huge amount of money for putting an end to the contract. This appears to be your modus operandi.

Complaint dated 14 September 2017

- 14) *I further state that on 26.07.2017 the Accused No.2 phone me and threatened that I should return the keys. I say that thus from the above sequence, it is clear that since inception the intention of the accused was dishonest. On and after 18.07.2017, the Complainant's employees have stopped going to the shop and while on the one hand the stocks of the Complainant worth Rs. 5.00 crores is lying in the store, on the other hand the Accused are not allowing to enter into the store. The Complainant fears breach of peace in that area.*

...

Affidavit of Evidence of CW-2

6. *I say that from 18/07/2017 onwards the Respondent did not pay electricity bill of the showroom, which forced the Libas to stop operations of the showroom. I say that I issued email dated 22/07/2017 from my official email id accounts@libas.co.in to the Respondent and one of the copy to our director at Riyaz.gangji@hotmail.com. I requested the Respondent to pay electricity bills from daily collection of the showroom."*

119. The Claimant's case on its own documents is inconsistent and not clear. The material produced by the Claimant does not bring about any physical obstruction by the

Respondent. It shows that the Claimant had stopped occupying the said showroom due to the disconnection of electricity. The Claimant's employees had chosen not to go to the said showroom of their own volition. Nothing prevented the Claimant from removing its stock from the said showroom.

120. The Claimant's documents and evidence produced do not show obstruction by virtue of disconnection of electricity.
121. As regards the case of the Respondent on this aspect, the Respondent has stated that it had not disconnected the electricity on 18 July 2017 as contended by the Claimant. The Respondent has relied upon the evidence of RW1 along with the extract of energy management /monitoring system (EMS System), report from SCADA software and manual sheet of electricity readings relating to the said showroom, which would show that electricity at the said showroom was consumed at least till 21 July 2017. Mr. Pramod Patial, RW1 has proved the said document through his evidence. The Claimant disputed the authenticity of the readings. The cross examination of RW1 was on the aspect of SCADA software being a private software under the control of the Respondent and that the same was not certified by the Punjab State Power Corporation Power Limited, which is the authority that provides electricity.
122. Mr. Sarabjit Singh, RW2, the Director of the Respondent has stated that the Respondent had not disconnected the electricity to the said showroom.



123. The Respondent has also relied on two emails produced by the Claimant itself along with the evidence of CW2. The first email is an email dated 20 July 2017 (Exhibit C-15) addressed by Gurpreet Kaur, who is said to be handling accounts at the said showroom, to CW2. This email sets out the inventory in the said showroom as on July 2017.
124. Further, according to the Respondent, the fact that an email was sent from the said showroom on 20 July 2017 would show that there was electricity at the said showroom. Mr. Samant has submitted that there was nothing to show that the email was sent from the said showroom. However, Q/A. 44 (CW-2) would make it clear that such an email containing the stock statement could be sent only from the said showroom as the employees had access to the stock statement only at the computer located at the said showroom.
125. The second email is an email dated 22 July 2017 (Exhibit C-8), addressed by CW2 to the Claimant and marked to the Respondent where the Claimant is requesting the Respondent to start the electricity and that the Claimant would pay for the outstanding from the collection from the said showroom. These emails reflect that the Claimant had access to the said showroom after 18 July 2017 when the Claimant alleges that it did not have access to the said showroom.
126. The terms of the said Contract are clear and the liability to pay electricity charges is that of the Claimant. The



Claimant has sought to contend that the Respondent ought to have adjusted or paid for the electricity charges from the daily cash that was collected by the Respondent from the said showroom. The payment of electricity charges was admittedly the Claimant's obligation. In light of the contractual provisions, even if the electricity was disconnected by the Respondent, the Respondent cannot be blamed for disconnecting electricity if such disconnection was on account of non-payment of dues.

127. The Claimant's case is replete with inconsistencies and contradictions. The Respondent has produced material to show that there was no disconnection of electricity at least as on 18 July 2017. The Respondent's case of not disconnecting electricity cannot be disbelieved on the basis of the sole email dated 22 July 2017, CW-2 who is the author of the email dated 22 July 2017, in paragraph 6 states as under:

"6. I say that from 18/07/2017 onwards the Respondent did not pay electricity bill of the showroom, which forced the Libas to stop operations of the showroom. I say that I issued email dated 22/07/2017 from my official email id accounts@libas.co.in to the Respondent and one of the copy to our director at Riyaz gangji@hotmail.com. I requested the Respondent to pay electricity bills from daily collection of the showroom."

There were dues of approximately Rs. 23,00,000 even according to the Claimant in July 2017. The store collection of Rs. 2,50,000 to Rs. 3,00,000 per month on an average would surely not cover the dues and the



Respondent could not be expected to pay the dues out of such collections.

128. Thus, it is not proved that there was disconnection of electricity on 18 July 2017 which is the case of the Claimant. There was no wrongful disconnection of electricity even thereafter by the Respondent. Above all there cannot be obstruction to enter the said showroom and remove the goods due to any disconnection of electricity.
129. The Claimant has failed to prove that there was any obstruction by the Respondent to the Claimant due to the disconnection of electricity on 22 July 2017 if at all.

Obstruction by the Respondent due to change in lock and key:

130. As far as the change lock and keys are concerned, in the Statement of Claim the Claimant maintained that the keys to the lock remained with the Claimant and that under the letter dated 28 July 2017, the Claimant had offered to return the keys on certain conditions. The Claimant contended that there were threats received by the Claimant as on 26 July 2017 in order to secure the return of the keys and that on account of such threats, the Claimant was constrained to file a complaint to the EOW dated 14 September 2017. The case of the Claimant thus was that the keys remained with the Claimant. It was not pleaded that the locks to the said showroom had been changed by the Respondent.



131. The Respondent in the SOD, inter alia stated that the Claimant had not handed over possession of the said showroom to the Respondent and till the date of filing of the SOD, i.e., 1 October 2018, the keys of the showroom remained in the possession of the Claimant. In response to the SOD and Counter Claim, the Claimant in paragraph 3, for the first time stated that the possession of the said showroom was already with the Respondent from 18 July 2017, when the Respondent forcibly shut the said showroom and to put under lock and key. Paragraph 8 of CW-1's affidavit reads as under:

“8. ... The Claimant is not liable to pay any outstanding from July 2017 because the Respondent forcibly shut down the showroom and didn't allow the Claimant to enter into shop from on or about 18/07/2017. I say that our employee Mr. Lokesh Sharma has taken photographs (who himself is in the photograph) on his cell phone showing showroom is under lock and key of the Respondent. ...”

The Claimant has not produced any material on record to demonstrate that the lock of the said showroom had been changed by the Respondent.

132. It is the Claimant's own case that the Respondent threatened the Claimant in order to secure the return of the keys on 26 July 2017 and later, which resulted in the Claimant filing a complaint dated 14 September 2017. Thus, as per the Claimant's own case at least till September 2017, the lock of the said showroom was not



changed and the Respondent required the keys from the Claimant.

133. CW1 had sought to rely on certain photographs allegedly taken by its employee, Mr. Lokesh Sharma to show that the said showroom was under the lock and key of the Respondent. The Advocate for the Claimant stated that the said photographs would be proved through another witness and accordingly the photographs were marked Article 'X-1' for identification. However, no evidence was led in respect of the said photographs. Thus, as regards the disconnection of electricity, change of lock and forcibly shutting the said showroom, the Claimant has not produced any documentary evidence, but only the oral evidence of CW1. As far as this aspect is concerned, CW1 has been cross examined at Q. 20 to 23, where CW1 has stated that: (i) as he had not attempted to visit the said showroom after 18 July 2017, he did not know whether the Claimant's employees visited the said showroom after 18 July 2017 and (ii) that Mr. Suresh Tiwari(CW2) with whom CW1 was coordinating, was looking into this aspect. Thus, as far as CW1 is concerned, CW1 does not have personal knowledge as far as the change of locks or obstruction to employees after 18 July 2017 is concerned. No evidence has been led by CW2 as far as attempts made by the Claimant's employees to enter the said showroom after 18 July 2017 or change of lock of the said showroom by the Respondent.



134. On a consideration of the pleadings and evidence, in my view, the Claimant has been unable to prove that the Respondent had changed the lock to the said showroom or that the Claimant's employees were obstructed from entering the said showroom on account of the change of lock for the following reasons.

(a) The change of lock or obstruction as a result of the same was not the Claimant's case in the Statement of Claim and the only case made out in the Statement of Claim was the disconnection of electricity and consequential alleged restraint on the employees of the Claimant.

(b) Neither CW1 nor CW2 have visited the said showroom after 18 July 2017. None of the employees of the Claimant who purportedly visited the said showroom and found the Respondent's lock thereon or were prevented from entering the said showroom have given evidence.

(c) In the notice dated 28 July 2017 and complaint dated 14 September 2017, there is no allegation that the lock of the said showroom was changed. In fact, till September 2017, the Claimant maintained that it was receiving threats from the Respondent in order to recover the keys. The Statement of Claim read along with notice dated 28 July 2017, complaint dated 14 September 2017 and paragraph 6 of CW-2's Affidavit



of Evidence are contrary to the Claimant's case of change of locks.

(d) The Respondent has maintained in the Statement of Defence that the lock on the said showroom was that of the Claimant. RW2 and RW3 have given oral evidence to this effect. This case of the Respondent has not been demolished by the Claimant.

135. Taking all the aforesaid facts into consideration, in my view, the Claimant has been unable to show the lock of the said showroom had been changed by the Respondent in or around July 2017 thereby obstructing the entry of the Claimant to the said showroom.

Obligation of the Claimant to maintain stock of Rs. 5,00,00,000 since inception

136. The Claimant has contended that the Claimant complied with its obligation to maintain a minimum stock worth of Rs. 5 crores at the said showroom, since inception. It is submitted that no objection with respect to not maintaining sufficient stock was raised by the Respondent prior to July 2017.

137. To demonstrate that the Claimant had maintained stock worth Rs. 5,00,00,000, the Claimant had relied upon invoices coupled with delivery challans and branch transfer challans to show that goods were sent to the said

showroom from time to time. These ranged for the period from 15 April 2015 till 24 May 2017.

138. The invoices, delivery challans and branch transfer challans range over a period of two years. From the said documents, the Claimant has unable to show that goods worth Rs. 5,00,00,000 were maintained at the said showroom for any given month. Further, if the invoice value of all the said documents are added, the same would only add up to Rs. 1,31,16,843. Further, none of these documents reflect the MRP of the stock. CW-1 was responsible for and had knowledge with respect to MRP as per CW-1 (Q/A 26 to 33). CW-1 gave no evidence of the MRP of the goods and the invoices, delivery challans and bank transfer challans were produced through CW-2 and not CW-1, though initially an attempt was made to produce the same through CW-1. The branch transfer challans are not supported or corroborated by any evidence to show that the goods reflected therein were actually transferred from Mumbai/Delhi to Ludhiana.
139. As opposed to this, the Respondent has produced a series of emails from Exhibit R-6 to R-14, where the Respondent has from time to time recorded that the Claimant has failed to maintain stock worth Rs. 5,00,00,000 at the said showroom. These emails clearly reflect that stock worth Rs. 5,00,00,000 were not maintained by the Claimant at the said showroom. These emails clearly show that the



Claimant had breached in its obligation to maintain stock worth Rs. 5,00,00,000 at the said showroom.

140. The Claimant has sought to deny the existence and contents of the said email. The emails have been addressed to the email address of CW1 at riyaz_gangji@hotmail.com. This email address is reflected in the emails dated 22 July 2017 (Exhibit C-8) produced by the Claimant. Further, CW-1 has himself addressed a response email dated 11 July 2016 (Exhibit R-10). Further, some of these emails have also been marked to accounts@libas.co.in. RW2 has given evidence that the said emails were addressed by the Respondent in the ordinary course of business. Further, evidence in the nature of a certificate under Section 65B has been led at paragraph 17 of RW2's evidence. There has been no cross examination of RW2 on the veracity of the said emails or any material to doubt the same. In my view, the existence of the emails as well as the contents stand proved on account of evidence of RW2 and surrounding circumstances. The contents concern not maintaining the required stocks. There are no responses to the email. There is absolutely no material to contradict the contents of the emails. In my view, the Claimant has failed to prove that the Claimant met its obligation under the Agreement to maintain minimum stock of Rs. 5,00,00,000 from time to time.



Value of stock as on 18 July 2017:

141. Further, in my view, the Claimant has failed to prove the value of the stock lying in the said showroom in July 2017. This has been considered herein below.
142. To prove that the value of the inventory lying in the said showroom in July 2017 was in excess of Rs. 5,00,00,000, the Claimant has primarily relied upon an email dated 20 July 2017 addressed by Ms. Gurpreet Kaur to CW2 attaching lists of inventory at the said showroom. Additionally, the Claimant submitted that the Respondent has failed to respond to the notice dated 28 July 2017 where the Claimant has contended that stock worth Rs. 5,00,00,000 was lying in the said showroom on 18 July 2017. The Claimant has also relied upon its own balance sheet produced by the Respondent which reflects that the Claimant held inventory of Rs. 8,00,00,000 approximately in its stores as on 31 March 2017.
143. In my view, from the material on record, the Claimant has failed to prove that goods worth Rs. 5,00,00,000 were lying at the said showroom in July 2017 as:
- (a) The Claimant has failed to prove its case of past conduct, to show that goods worth Rs. 5,00,00,000 were maintained by the Claimant at the said showroom from time to time or in fact at any given point of time.
 - (b) The only evidence produced by the Claimant is the email dated 20 July 2017 along with attachment at



Exhibit C-15 (Colly). The email is said to be addressed by one Ms. Gurpreet Kaur, who is said to be working at the accounts department at the said showroom and has been addressed to Mr. Suresh Tiwari (CW-2). It is the Claimant's case that the stock statement including the annexure to Exhibit C-15 (colly) was accessible to the Respondent at the computer at the said showroom. CW2 has in answer Q. No. 19 to 25 stated that the account statement was maintained on the computer located in the said showroom and that the Respondent's representative would visit the said showroom every 2 to 3 days to collect the statement. As far as sharing Exhibit C-15 (Colly) is concerned, there is no positive statement in this regard in the affidavit of evidence of CW2. In answer to Q. 19 to 25, the witness presumes that the statement would have been shared as the Respondent's representative had in the past attended the said showroom and taken printouts. There is thus no direct evidence to prove that the said statement was shared with the Respondent prior to the present proceedings. In fact, CW-2 only presumes that like the earlier statements, the statement at Exhibit C-15 (colly) would have been shared with the Claimant. There is absolutely no explanation or evidence as to how the Respondent or its representatives were given a copy of Exhibit C-15 (colly) after 20 July 2017. It has not been the Claimant's case in its pleading or notices or complaint that the Claimant had shared with the



Respondent any document to show that the value of the inventory in July 2017 was in excess of Rs. 5,00,00,000. In my view, there is no material on record to show that the statement at Exhibit C-15 (colly) was shared with the Claimant.

- (c) The document's evidentiary value can thus at the highest be considered in the context of the same being the Claimant's internal document. The date of the email of Gurpreet Kaur is 20 July 2017, which is after 18 July 2017, when according to the Claimant, the electricity was disconnected. The said document could only be accessed from the computer located at the said showroom. (Q/A. 44) The Claimant's own case is that it did not access the said showroom after 18 July 2017. The document thus falls under suspicion. When there was no access, how did Gurpreet Kaur take or access the inventory? No evidence has been lead of the contents of the inventory by Gurpreet Kaur or any other person having personal knowledge. No documents have been produced to support the statement of inventory i.e. the Excel sheet. The goods are stated to be insured by the Claimant (Q/A. 14, 15 of CW-1's evidence). This was the obligation of the Claimant in terms of clause 3.7 of the Franchisee Agreement. However, the insurance policy, which would reflect the approximate value of goods or at least the extent of insurance, has not been produced. The Claimant has thus failed to



prove the contents of the email or the attachment at Exhibit C-15 (colly).

(d) In any case, even if the inventory list is considered, the Claimant has failed to prove the value of the inventory at the said showroom in July 2017. Exhibit C-15 (Colly) is only a list of products and, the invoice or MRP value of this inventory cannot be determined on the basis of Exhibit C-15 or any other material on record. The Claimant has not attempted to do so. Thus, there is absolutely no evidence of the value of the inventory at the said showroom in July 2017.

(e) Further, the Claimant has in its notice dated 28 July 2017 contended that “... *Even otherwise the stock as on today has become out-dated and it is very difficult to sell these stocks in the open market ...*” In answer to Q. 55 to 57 CW-1 has sought to explain his statement in the notice by stating that what he meant was that the inventory would become out-dated in the next 6 months. This explanation is not convincing and cannot be believed. The Claimant initiated arbitration, but did not seek any interim reliefs for inspection, valuation or return of the stock lying at the said showroom. When the Respondent filed an interim application in February 2019 for inventory and disposal of the stock by the Claimant, the Claimant opposed this application and stated that the stock would have become redundant, and it must have been disposed /sold by the Respondent.



(f) The reliance upon the inventory value of Rs. 16,00,00,000 as on 31 March 2017 in the balance sheet of the Claimant also does not advance the case of the Claimant. The document was produced by the Respondent to prove acknowledgment of liability by the Claimant of the security deposit made by the Respondent with the Claimant. The Claimant had 8 stores in July 2017. No evidence of apportionment has been given by the Claimant as regards the Ludhiana store from this amount. The amount is reflected in the balance sheet of the Claimant. The Claimant has not produced any underlying document to substantiate the same.

(g) In my view, the Claimant has miserably failed to prove the value of the stock lying in the said showroom in July 2017 and from the record it is apparent that the stocks were not of much value. Having failed to prove any form of obstruction by the Respondent or the value of the stock in July 2017, the Claimant has failed to prove Issue Nos. II, III and VII. The Issues are accordingly answered in the negative and against the Claimant.

ISSUE NO. V

Balance of Rs. 25,00,000 towards security deposit

144. Issue No. V relates to the balance of the interest free security deposit to the extent of Rs. 25,00,000 out of

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- Rs. 1,35,00,000. According to the Respondent, the balance of the interest free security deposit not deposited by the Respondent with the Claimant is Rs. 19,00,000 and not Rs. 25,00,000.
145. The deposit of Rs. 1,35,00,000 was to be made against the minimum stock of Rs. 5,00,00,000 to be maintained by the Claimant at the said showroom. I have held in answer to Issue No VII that the Claimant has failed to maintain the minimum stock of Rs. 5,00,00,000 at the said show room in terms of the contract. This is the principal defence of the Respondent. Having failed to maintain the minimum stock of Rs. 5,00,00,000, in my view, the Claimant is not entitled to contend that the Respondent failed to make the requisite deposit under the Maintenance and Operations Agreement.
146. Further, the Claimant appears to have waived its right to receive any further security deposit and has not made a single demand for this balance deposit of Rs. 25,00,000 till July 2017 when disputes arose between the parties. On the other hand as noted in answer to Issue No.II, there were a series of emails addressed by the Respondent to the Claimant at Exhibit R-6 to R-14 categorically setting out the breach of the Contract and failure of the Claimant to maintain a minimum inventory of Rs. 5,00,00,000 at the said showroom. I am also inclined to accept the submission of waiver as contended by the Respondent and the applicability of the judgment in the case of *Nilima Rani* (supra) on waiver. The contemporaneous record shows that



the Claimant accepted its breach or atleast the fact that no further security deposit was required to be made by the Respondent and did not call upon the Respondent to pay the balance security deposit. I am thus in agreement with the Respondent that there was no breach of obligation on the part of the Respondent to deposit the amount of Rs. 25,00,000 and in any case, this condition has been waived.

147. Further, the said sum was security deposit to be provided by the Respondent to the Claimant. The contract has come to an end and there remains no occasion for security deposit being provided by the Respondent to the Claimant at this stage. If the Claimant succeeds in its claims, an award would be passed in favour of the Claimant on the other claims. The issue is thus answered in the negative and against the Claimant.

ISSUE NO. I

Consolidated claim of Rs. 6,98,95,800

148. Issue No. I with respect to the claim of Rs. 6,98,95,800 consists of four components, (a) Rs. 5,48,95,800 being the balance stock in July 2017; (b) Rs. 25,00,000 towards the balance of the security deposit; (c) Rs. 50,00,000 for loss of reputation of brand and (d) loss of business of Rs. 75,00,000.



149. The first two components have been dealt with by me in answer to Issue Nos. II, VII and III as well as Issue No. V hereinabove. I have held that the Claimant is not entitled to the first two components contained in the present Issue No.I.
150. As far as the remaining two components are concerned, the Claimant has miserably failed to prove either of the two components. The pleadings with respect to the said two components are extremely broad-based, i.e., of unprofessional approach, non-deposit of Rs. 25,00,000, certain directors of the Respondent being arrested due to which operations were delayed and customers could not be supplied their products and there were changes in fashion, false rumours being spread against the Claimant.
151. Both parties agree that the operations were to commence in August 2014 but eventually commenced in July 2015. Both sides blame one another for the delay. The delay appears to be on account of completion of renovation work. The renovation work was to be completed by the Respondent as per the Claimant's specifications in terms of clause 3.3 of the Franchisee Agreement. The Respondent has paid the amount of Rs. 44 lakhs required to be paid by the Respondent. Prior to July 2017, the Claimant has not raised a single grievance as regards non-professional approach or the losses caused on account of the delay in operations of the said showroom or due to the arrest of the Respondent. The parties hence commenced operations in

July 2015 without any demur or protest. Further, the Addendum Agreement records payment to be made by the Claimant only from 1 June 2015. The Claimant has not set out any material to show how any injury was caused to the Claimant on account of the aforesaid reasons even if considered to be correct. The Claimant does not specify what kind of arrangement the Claimant had with the customers or what were the products which according to the Claimant the customers were looking forward to or which became outdated due to the delay. There is neither pleading nor proof for the said two components which are in the nature of damages.

152. In my view, the Claimant has miserably failed to plead or prove its case for damages in terms of aforesaid two components. In the circumstances, Issue No. I is answered in the negative.

ISSUE NOS. IV AND XVII

Breaches of the Contract by the respective parties

153. In light of my findings on the issues discussed hereinabove, I am of the view that the Claimant has not proved any breach of the Contract on the part of the Respondent. The contentions of the Claimant with respect to breaches like, delay in starting of the operations and non-deposit of Rs. 25,00,000 were not raised by the Claimant contemporaneously. As regards the alleged breaches in or about July 2017, I have held that it was in fact the Claimant who had abandoned the said showroom



and the Claimant has failed to prove any breach of the Contract on the part of the Respondent.

154. In fact, it is the Claimant who has breached the Contract by (a) not paying the rent /minimum guarantee payment; (b) not paying the electricity charges and debit notes; (c) not paying CAM charges. As far as (a), (b) and (c) are concerned, these are undisputed and the Claimant has only claimed that the balance outstanding is an amount lesser than that claimed by the Respondent; (d) not maintaining stock of Rs. 5,00,00,000 at all times; (e) abandoning the said showroom and not providing the keys of the said showroom to the Respondent.
155. The Respondent has contended that the Claimant has failed to prove that the Respondent is in breach of the said Contract or that there has been any illegal termination of the said Contract by the Respondent. The Claimant having failed to prove the breach of the said Contract by the Respondent is not entitled to any relief in the nature of damages or otherwise. The Respondent's reliance on the judgment in the case of *MSK Projects (I) (JV) Ltd. v. State of Rajasthan*, [(2011) 10 SCC 573] **Relevant paragraph: 39** and *A.T. Brij Paul Singh v. State of Gujarat*, [(1984) 4 SCC 59 at page 65]: **Relevant Paragraphs 9, 11** in support of the aforesaid contention is apposite.

156. In the circumstances, Issue No. IV is answered in the negative and Issue No. XVII is answered in the affirmative.

ISSUE NO. IX, XII AND XIV

Jurisdiction:

157. At the final hearing of the present matter, Mr. Samant on behalf of the Claimant sought to raise an issue of jurisdiction of the arbitrator to grant reliefs for recovery of rent/minimum guaranteed amount. The submission of the Claimant is that the arbitrator does not have jurisdiction to grant reliefs which are in the nature of recovery of rent on account of the Punjab Rent Act, 1995 and the conferment of the exclusive jurisdiction upon courts specified in terms of Section 59 and 68 of the Punjab Rent Act.
158. If an issue of jurisdiction of the arbitrator was to be raised, the same ought to have been raised by the Claimant at an earlier stage and certainly before final arguments. However, since the issue of jurisdiction goes to the root of the matter in so far as the reliefs for recovery of rent /minimum guarantee amount are concerned, the same is being considered by me, even though raised at the final hearing.
159. I am unable to accept the contention of the Claimant that the jurisdiction of the arbitrator is barred in light of Section 59 and 68 of the Punjab Rent Act in so far as the grant of



reliefs relating to recovery of rent /minimum guarantee amount are concerned for the following reasons:

- (a) The Claimant has not relied upon any provisions of the Punjab Rent Act to substantiate its contention that the jurisdiction of the arbitrator would be barred. Sections 59 and 68 provide for exclusion of jurisdiction of civil courts in relation to any matter to which the Punjab Rent Act applies or to any other matter which the rent authority is empowered by or under the Punjab Rent Act to decide. However, the Claimant has not referred to any provisions of the Punjab Rent Act to substantiate its contention that recovery of rent /minimum guarantee amount in a case like the present one, would be covered by the Punjab Rent Act and hence barred in light of Section 59 and 68. On the other hand, the Respondent has contended that there is no provision under the Punjab Rent Act which prohibits the filing of a proceeding in a civil court only for recovery of rent. The provisions of the Punjab Rent Act suggest that the Punjab Rent Act deals with proceedings for recovery of possession and not merely for recovery of rent. Further, the said Contract in the present case cannot be said to be a simpliciter contract for payment of rent or to constitute relations as landlord and tenant strictly. The minimum guarantee rent is Rs. 3,75,000. However, it is to be noted that the amount payable to the Respondent is as commission. The Respondent is entitled to 23% commission on the MRP sales/revenue

and the minimum amount guaranteed to the Respondent is Rs. 3,75,000. The said Contract between the parties provides for a number of obligations inter se including the Respondent spending amounts and renovating the premises, the Respondent paying non-refundable franchise fee and marketing fee, the Respondent providing the Claimant with an interest free security deposit of Rs. 1,35,00,000 subject to the Claimant maintaining minimum stock of Rs. 5,00,00,000. The relationship between the parties cannot be said to be a landlord-tenant relationship simpliciter and the claim for recovery of rent/minimum guarantee amount has to be considered in light of the said Contract governing the rights of the parties. In my view, the contract of the present nature cannot be said to be amenable to the exclusive jurisdiction of courts /authorities constituted under the Punjab Rent Act.

(b) Section 3 of the Punjab Rent Act provides for cases where the Punjab Rent Act would be inapplicable. Section 3(1)(b) provides that if the deemed rent exceeds an amount of Rs. 3,500 per month, the Act is not applicable. In the present case, the rent guaranteed under the agreements is Rs. 3.75,000. Further it has not been argued as to how the provision for deemed rent applies to the present case.

(c) Section 3(1)(d) provides that if the construction of premises has been on or after commencement of the



Punjab Rent Act, 1995, the Act shall not apply to such premises for a period of 15 years from the date of completion of construction. In the present case, CW-1 in Q/A. 32 has admitted that the said mall was under construction in the year 2015. The Respondent has relied on the judgment in the case of Shri Kishan (supra), where the Hon'ble Supreme Court whilst dealing with Haryana Urban (Control of Rent and Eviction) Act, 1973 which is *parimateria* with the Punjab Rent Act has observed that exemption of the applicability of the Act in respect of new construction is to encourage construction of new buildings and further held that tenants could not claim protection under the Haryana Urban Act for the period of exemption. Thus, at least till 2015 the said mall had not been constructed and hence, the said showroom would not be covered by the Punjab Rent Act.

160. Additionally, the claims post July 2017 necessitated on account of the abandonment of the said showroom by the Claimant have been claimed as damages by the Respondent. Such a claim for damages would not fall within the provisions of the Punjab Rent Act.

Claim towards refundable Security Deposit, Minimum Guarantee Amount/Rent, CAM and Electricity upto July 2017

161. The Respondent has claimed an amount of Rs. 24,39,046 in its Counter Claim towards minimum guaranteed amount/rent. The Respondent has produced invoices at



Exhibit R-16 to R-42 as well as its ledger account at Exhibit R-24 through RW-2. The Respondent has also given cash credit to the Claimant for all cash collections made by the Respondent from the said showroom.

162. CAM charges are payable in terms of clause 3.6 of the Franchisee Agreement and clause 8 of the Maintenance and Operations Agreement read with the Addendum Agreement providing for 5% annual increase. The Respondent has produced invoices at Exhibit R-17 to R-22 and the ledger account is at Exhibit R-25. The Claimant has accepted and acknowledged the CAM charges by its email dated 8th February 2017 (Exhibit R-43). However, the calculations are incorrect and the Claimant did not take into account the 5% increase in the CAM charges as per the Addendum Agreement.
163. As far as the electricity charges are concerned, the same are payable in terms of clause 6.3.5 of the Franchisee Agreement and clauses 7 and 20 of the Maintenance and Operations Agreement. The Respondent through RW-2 has produced invoices and debit notes raised by the Respondent on the Claimant for electricity and tiling work at Exhibit R-26 to R-41. The amount is also reflected in the ledger account at Exhibit R-42. The Claimant has admitted its liability to pay the same in the Statement of Defence at paragraph 9 and 14, however, the amount is shown as Rs. 1,80,737 instead of Rs. 4,42,070.



164. The Claimant has admitted that amounts were due towards minimum guarantee, CAM and electricity charges and the sum total of the same according to the Claimant is Rs. 23,40,089 as reflected in its ledger at Exhibit C-11. The liability to pay is admitted, the issue remaining is as to the difference in the quantum of the amount.
165. In my view, the Respondent has produced documentary evidence in the form of invoices, debit notes and ledger accounts to prove its case. These documents clearly reflect the outstanding amounts payable. There has been no effective cross-examination on the evidence or the documents produced by the Respondent with respect to the said issues.
166. In the circumstances, the Respondent has proved its claims under the said issues and the issues are answered in the affirmative.

ISSUE NO. XVIII

Possession of the showroom post July 2017

167. The Respondent has been able to show that the keys to the said showroom were in the possession of the Claimant in or around 2017. The keys have thereafter not been returned by the Claimant neither have there been any subsequent demands.
168. The Respondent has produced meter readings upto 31 July 2017 showing Nil meter readings between 22 July 2017



and 31 July 2017. No material for the subsequent period has been produced by the Respondent.

169. It is the Respondent's case that locks were broken open only in November 2019 and till that the Claimant remained in possession of the said showroom. This was stated by RW2 in answer to Q. 37. After the cross examination of RW2 was concluded on 31 October 2020, the Respondent sought to file an additional affidavit on behalf of RW3 dated 3 November 2020 whereby RW3 gave evidence that RW3 along with some employees of the Respondent visited the said showroom in November 2019 and broke open the lock with the help of a locksmith. RW3 has produced an invoice dated 22 November 2019 of Rs. 400 being the amount paid to the locksmith. The Claimant has challenged the evidentiary value of the subsequent affidavit and it is the Claimant's case that the affidavit is a self serving document filed only after RW2 in answer to Q. 37 stated that the position of the said showroom was taken back by the Respondent only in November 2019.
170. In my view, the contents of affidavit filed on 3 November 2020 ought to be considered with some circumspection as the affidavit seeks to set out events which happened a year earlier, i.e., in November 2019. No reason has been given for the delay in filing such evidence at a belated stage. Further, the affidavit has been filed after RW-2, in answer to Q. 37 stated that possession was taken in November 2019.



171. The Respondent had filed an application under Section 17 in January 2019. The Respondent by the said application had requested for a joint inspection and inventory to be carried out of the goods lying at the said showroom. The Claimant opposed this application and did not wish to be a part of process of opening the said showroom or inventory of the goods lying at the said showroom. The application was disposed of by an order dated 13 April 2019 what the Respondent was at liberty to open the said showroom and take such steps towards inventory and valuation as it deemed fit. At the interim stage, the Respondent had not produced any material to show that the premises remained unutilized. Considering that the Respondent was the owner of the said showroom and a mandatory order against the Claimant was sought, at the interim stage, the relief claimed for was not granted.
172. Pursuant to such liberty being granted in April 2019, it is the Respondent's case that possession was taken by the Respondent in November 2019.
173. Along with the affidavit dated 3 November 2020, no photographs, video or other documentary evidence was produced to show the breaking open of locks or that the said goods of the Claimant were still in the said showroom and that the said showroom was covered in dust and spider webs as stated in paragraph 1(c) of the Affidavit. The Respondent had contended that it did not enter the premises earlier on account of complaints being filed by



the Claimant, yet when it took possession, it did not maintain any record of the same. The meter readings for the said showroom which were accessible to the Respondent are also produced only upto 31 July 2017. It was clearly within the means of the Respondent to produce readings for a subsequent period showing nil power consumption. The Respondent is the owner of the said showroom. It was entirely within the means of the Respondent by way of photographs, videos, meter recordings etc. to clearly and definitely prove that the said showroom remained unutilized. The Respondent was in possession of the best evidence to prove that the said showroom remained unutilized and in the possession of the Claimant.

174. In my view, on a consideration of the facts and circumstances of the case and the material, as well as glaring lack of it, the Respondent has failed to prove that the said showroom remained in the possession of the Claimant till November 2019.
175. From the material on record, I am of the view that the said showroom remained unutilized till 31 July 2017 and the Claimant remained in possession till that date. The Respondent has failed to prove that the Claimant was in possession of the said showroom after 31 July 2017.

A handwritten signature or set of initials in black ink, located in the bottom right corner of the page. The signature appears to be a stylized 'B' or 'P' with a flourish.

ISSUE NOS. X, XI AND XIII**Claim towards minimum guarantee amount/rent, CAM from August 2017 onwards**

176. While Issue Nos. IX, XII and XIV related to claims towards rent/ minimum guarantee amounts, CAM charges and electricity upto July 2017 when the Claimant was admittedly carrying on the business from the said showroom, Issue Nos. X, XI and XIII are claims towards damages for the subsequent period from July 2017 to November 2019 as well as refund of security deposit admittedly advanced by the Respondent.
177. As regards the claim of Rs. 1,16,00,000 paid as advance /security deposit by the Respondent to the Claimant, the said amount was to be returned on the completion of the said Contract. As no amounts are due and payable by the Respondent to the Claimant, the Respondent is entitled to return of the said amounts. The Claimant abandoned the said showroom in July 2017 and ought to have refunded the security deposit on leaving the said showroom. In answer to the previous issue, I have held that the Claimant was in possession of the said showroom till 31 July 2017.
178. The Respondent is entitled to refund of the said amount with interest from 31 July 2017 till the date of repayment.
179. As far as the balance claims towards minimum guarantee amount/rent and CAM are concerned, as I have held that Respondent has failed to prove that the Claimant has been



in possession of the said showroom after 31 July 2017, the Respondent is not entitled to the said amounts.

180. There is an additional reason. The Respondent submitted that the claims for the period subsequent to July 2017 were in nature of damages. There are no pleadings or proof of mitigation.
181. Thus, issue No. XI is answered in the affirmative and in favour of the Respondent. Issue Nos. X and XIII are answered in the negative and against the Respondent.

ISSUE NO. XV AND XVI

Claim towards capital expenditure for interior work of showroom and refund of Franchisee Fees

182. Under the said claims, the Respondent seeks refund of Rs. 44,00,000 towards capital expenditure for the interior work and Rs. 15,00,000 and Rs. 5,00,000 paid to the Claimant as one time non-refundable franchisee fee and marketing fee.
183. The said amounts were to be contractually paid by the Respondent. The Respondent's case is that said Contract between the parties was to continue upto 27 May 2019. According to the Respondent, as the agreements could not continue till the period provided for therein due to the abandonment by the Claimant, the Respondent is entitled to refund of the amounts expended by the Respondent under the said Contract.

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184. There is no clear basis for the said claim in the Counter Claim and no evidence of the purport of the clause or the injury caused in the affidavits of evidence filed on behalf of the Respondent. Though, orally argued that the amounts were expended on the basis that the agreements would continue for a period of 5 years, no such pleading is contained in the Statement of Defence and Counter Claim filed on behalf of the Respondent.
185. Issue Nos. XV and XVI are thus answered against the Respondent and in the negative.

INTEREST

186. I have allowed the claims of the Respondent towards refundable security deposit, minimum guarantee amount/rent, CAM and electricity upto 31 July 2017. As the contract stood abandoned, it was the liability of the Claimant to make such payments on 31 July 2017.
187. The Contract is of a commercial nature and the Respondent was deprived of its legitimate dues since 1 August 2017. The Respondent is thus entitled to interest @ 12% per annum from 1 August 2017 till the date of the payment and/or realisation.



ISSUE NO. XIX**Costs:**

188. The claims filed by the Claimant have been rejected and the Respondent has been awarded a portion of its claims in the Counter Claim. The respective Advocates have provided their Statement of Costs along with bills to the arbitrator, as well as shared the same with one another. The Respondent has incurred total cost of Rs. 16,74,105 in respect of the present arbitration proceedings. The Respondent is the successful party and all the claims of the Claimant have been rejected. The Respondent was also required to defend a claim in excess of Rs. 5,00,00,000 filed by the Claimant. In my view, the costs incurred by the Respondent are reasonable taking into consideration the claims involved and the matter under consideration. The Respondent is awarded costs of Rs. 16,74,105 to be paid by the Claimant within 4 weeks from the date of the award. Such costs shall carry interest @ 12 per cent per annum if not paid within such time.

189. Accordingly, I pass the following Award:

- (a) The Counter Claim is allowed in terms of prayer clause (a), (b), (f) (after deletion of the portion relating to interest, which has been separately awarded), and (g);
- (b) The Respondent is awarded interest @ 12% per annum on Rs. 25,55,047 (Rs. 24,39,046.87 + Rs. 1,16,000)

from 1 August 2017 till payment by the Claimant and/or realization;

(c) The Respondent is awarded costs of Rs. 16,74,105/- to be paid by the Claimant within 4 weeks from the date of the award. Such costs shall carry interest @ 12% per annum if not paid within such time.

Place: Mumbai
Date: 09.08.2021



Rohan Savant
Sole Arbitrator