

Supreme Court of India

Union Of India (Uoi) vs Hindustan Motors Ltd., Hooghli on 3 February, 1987

Equivalent citations: (1987) 3 SCC 458, 1987 67 STC 246 SC

Author: M Thakkar

Bench: M Thakkar, B Ray

JUDGMENT M.P. Thakkar, J.

1. The High Court has repelled the challenge made to an arbitration award rendered by an umpire by its judgment under appeal. The dispute arose in the context of facts recounted hereafter. A tender was submitted by the respondent for the supply of motor spare parts in which it was mentioned that the prices were subject to change and the prices ruling on the date of the supply would be applicable. The price list issued by the respondent mentioned in clear terms that the prices were exclusive of sales tax and sales tax if any, will be payable extra. Now, it so happened that at the point of time when the tender was submitted the Central sales tax had not yet been imposed by the Central Government, but by the time the goods were supplied the Central sales tax came to be imposed. A dispute arose as to whether the respondent was entitled to charge sales tax over and above the listed price as indicated in the price list. The umpire has rendered his award in favour of the respondent. Learned Counsel for the appellant has contended that the award is a non-speaking award which does not contain reasons and therefore it is invalid. It is true that the question whether a non-speaking award is valid or not has been referred to a larger Bench and the question is still wide open. However, it is unnecessary to refer the present matter to a larger Bench for it appears to us that the umpire has given reasons and it is a speaking award. The umpire has adverted to the terms of the tender and the terms of the price list containing the aforementioned clause and then has given his verdict in favour of the respondent. Now the fact that there is no elaborate discussion does not mean that the reasons have not been articulated. The rational basis of the award is revealed in the narration. In our opinion it is a speaking award, and not a silent award, though it speaks in few words. We must therefore proceed on this footing.

2. The High Court has taken the view that the parties were fully aware of the prices and terms and conditions in regard to charging of sales tax extra as mentioned in the price list. "Ruling prices" according to the said terms and conditions were subject to the sales tax being paid extra in case sales tax liability came into existence and - accordingly there was no error apparent on the face of the award. We think that the view taken by the High Court is unexceptionable. We, therefore, confirm the order passed by the High Court and dismiss the appeal. There will be no order as to costs. The security furnished by the respondent will stand discharged.