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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**ARBITRATION APPEAL (L) NO. 12967 OF 2025
WITH
INTERIM APPLICATION (L) NO. 14142 OF 2025
WITH
INTERIM APPLICATION (L) NO. 14268 OF 2025
IN
ARBITRATION APPEAL (L) NO. 12967 OF 2025
IN
ARBITRATION PETITION (L) NO. 10243 OF 2025**

Jupicos Entertainment Private Limited
(earlier known as Truce Multitrade Pvt.
Ltd.), a private limited company
registered under the provisions of the
Companies Act, 2013 having its
registered office at 2, 1st Floor,
Rahimtoola House, 7 Homji Street,
RBI Horniman Circle,
Mumbai 400001.

... Appellant

Versus

1. Probability Sports (India) Pvt. Ltd.,
A private limited company registered
under the provisions of the
Companies Act, 2013 having its
registered office at Unit No-1603,
16th Floor, Lodha Supremus,
Senapati Bapat Marg, Lower Parel,
Mumbai - 400013
2. Mumbai Cricket Association,
A society registered under the Societies
Registration Act, 1860 and the Bombay
Public Trust Act, 1950, and having its
office at Cricket Centre, Wankhede
Stadium, "D" Road, Churchgate,
Mumbai 400 020.
3. M/s. Royal Edge Sports and Entertainment
Address at:214, Stock Exchange Towers,

Dalal Street, Fort, Mumbai-400001. ... Respondents

Mr. Vivek Tankha, Senior Advocate a/w Mr. Mayur Khandeparkar, Mr. Ujjawal Anand Sharma, Mr. Kunal Kanungo, Mr. Vikramjit Garewal, Mr. Prashant Sivarajan, Mr. Jai Zaveri, Mr. Tushar Saigal, Zainab Burmawala i/b. Atishay Jain, for the appellant.

Mr. Amrut Joshi a/w Devesh Juvekar, Anjali Dhoot, Mithilesh Chalke, Yazad Udwadia i/b. Rajani Associates, for respondent No.1.

Mr. Ashish Kamat, Senior Advocate a/w Mr. Rashmin Khandekar, Mr. Pranav Nair, Mr. S. B. Pawar, Ms. Swati Sawant, Harsh Joshi i/b. S. K. Legal Asso., for respondent No.2.

Mr. Prakhar Tandon i/b. Agam H. Maloo, for respondent No.3.

***CORAM : ALOK ARADHE, CJ &
M. S. KARNIK, J.***

DATE : 7th MAY, 2025

JUDGMENT (PER M.S.KARNIK, J.) :

1. The appellant - Jupicos Entertainment Private Limited ("Jupicos" for short) challenges the order dated 16th April 2025 passed by the learned Single Judge in arbitration petition filed by Jupicos under the provisions of Section 9 of the Arbitration and Conciliation Act, 1996 ("the said Act" for short). The said arbitration petition was filed in respect of disputes and differences that arose between Jupicos and the respondent No.2 - Mumbai Cricket Association ("MCA" for

short) concerning an agreement dated 9th March 2018 (“participation agreement”) read with a joint supplementary agreement dated 12th April 2019 (“supplementary agreement”).

2. Jupicos prayed for the following ad-interim relief in terms of prayer clause (a) which reads thus :-

“(a) that pending the hearing and final disposal of the arbitration proceedings or at any time after making of the Arbitral Award but before it is enforced in accordance with the provisions of Section 36 of the Arbitration and Conciliation Act, 1996, this Hon’ble Court by its order and temporary injunction be pleased to restrain the Respondents from conducting any further editions of the said League by excluding participation of the Petitioner and its team ‘Shivaji Park Lions’.”

3. The learned Single Judge for the following reasons rejected the ad-interim relief:-

“21. Having heard learned counsels, I am unable to grant the Petitioner ad interim relief since,

(a) I find there has been an inordinate delay on the part of the Petitioner in approaching this Court. The Termination Notice is dated 24th January 2020 and the present Petition has been filed only on 28th March 2025, after over 5 years from the date of the Termination Notice.

(b) Also and crucially, the Petitioner never challenged the Termination Notice, nor has the Petitioner addressed a single communication disputing the termination; (ii) the Petitioner, despite the defect cure notice dated 22nd November 2019, admittedly did not cure the same during the time given, and (iii) all communication by MCA, the basis on which it was contended that MCA had waived the termination, was

addressed between 28 January 2021 and 9 September 2023, which was prior to the unilateral payment made by the Petitioner on 16th January 2024. Hence, the contention that the MCA had waived the breach by addressing correspondence, etc., to the Petitioner is prima facie plainly untenable.

(c) I also find no merit in the contention that the Termination Notice dated 24th January 2020 was not ratified by the MCA. Firstly, the Termination Notice itself expressly records that the same was issued under instructions and with the approval of the MCA, and secondly, clause 1(g) of the supp Agreement, upon which reliance has been placed by the Petitioner vested the sole power to terminate both agreements with Respondent No. 1. Thus, the Petitioners contention that the termination lacked approval of the MCA is plainly untenable.

(d) Also, I am of the prima facie view that clause 4.2 of the Participation Agreement only grants the Petitioner the right to operate a team in the League and nothing more. The Participation Agreement does not confer any ownership or exclusive right to the Petitioner in respect of the said Territory. Hence, in my prima facie view, the Participation Agreement is only a conducting agreement and does not confer any proprietary rights on the Petitioner over the said Territory.

Hence, for the aforesaid reasons, ad interim reliefs as prayed for are rejected. I must add that the observations made are prima facie and only for the purpose of considering ad interim reliefs. All rights and contentions of the parties are expressly kept open."

4. The facts in brief are as under :-

MCA conceptualized a local cricket league within Mumbai, Navi Mumbai and Thane in February 2018 titled the T20 Mumbai League. Bids were invited in February 2018 to secure the rights to operate a team to participate in first 5 editions of the League. A letter of intent was executed between respondent No.1-Probability Sports (India) Pvt. Ltd. ('Probability Sports' for short) and a consortium of Juniper City

Developers (India) Ltd. ("JCDIL" for short) and Cosmos Prime Projects Limited ("CPPL" for short) by which JCDIL and CPPL were confirmed as the winning bidder for the team representing Mumbai South Central for the first 5 editions of the League. A novation agreement dated 9th March 2018 was executed between Probability Sports, JCDIL, CPPL and Jupicos by which Jupicos was substituted as the winning bidder in the letter of intent. Jupicos is a special purpose vehicle of JCDIL and CPPL with JCDL and CPPL having 85% and 15% shareholding, respectively.

5. A participation agreement dated 9th March 2018 was executed between Jupicos and Probability Sports under which Jupicos had the right to operate the team "Shivaji Park Lions" ("the team" for short) for the first 5 editions of the League.

6. The first edition of the League was held in March 2018 with 6 teams participating including the team of Jupicos. MCA called upon Jupicos and other team owners on 14th March 2019 to execute a joint supplementary agreement. The supplementary agreement varying certain terms of the

participation agreement was executed on 12th April 2019 between Jupicos and Probability Sports, where MCA was a confirming party. Jupicos transferred a sum of Rs.1,00,00,000/- on 23rd April 2019 to Probability Sports towards participation fee. Jupicos transferred Rs.54,00,000/- on 30th April 2019 to Probability Sports towards the player and support fee. Jupicos on 9th May 2019 transferred Rs.50,00,000/- to Probability Sports towards participation fee. Jupicos also claims to have deposited an amount of Rs.1,75,000/- and Rs.15,96,000/- towards TDS with Probability Sports.

7. The second edition of the League was held with 8 teams including team of Jupicos in May 2019. Jupicos claims to have suffered huge losses in this edition of the League. Jupicos received the minimum guaranteed income of Rs.3,15,00,000/- from Probability Sports towards the second edition of the League on 1st July 2019. Jupicos claims not to have received any sponsorship fee. Jupicos claims to have transferred this entire sum to Probability Sports on 1st July 2019 as participation fee. Jupicos claims that it has made a payment of Rs.5,61,91,000/- but received an income of only Rs.3,71,70,000/- (including GST) causing it losses. Probability Sports by a notice dated 22nd November 2019 alleged that

Jupicos was in breach by defaulting on the payment of Rs.35,17,000/- towards participation fee for the second edition of the League and for failing to deposit TDS amount of Rs.68,44,000/- for financial years 2017-18 and 2018-19 with respect to the first edition. Probability Sports thus sought compliance of the same by 23rd December 2019.

8. Probability Sports by a letter dated 24th January 2020 terminated Jupicos's rights under the agreements ("termination notice" for short). The reason for termination are as follows :-

- (i) Jupicos default in paying Rs.35,17,000/- towards participation fees for the second editions of the League; and
- (ii) Jupicos's failure to deposit TDS of Rs.68,44,000/- for FY 2017-18 and 2018-19.

9. Mr. Vivek Tankha, learned Senior Advocate for Jupicos submitted that subsequent to the issuance of the termination notice, Jupicos had meetings with the respondents wherein it maintained that it was ready and willing to pay the actual amount due after redressal of its grievance of not receiving the sum from the sponsors.

10. Mr. Tankha's submissions are as under :-

A meeting took place on 10th February 2020 where Jupicos, Probability Sports and MCA discussed ongoing issues. It was mutually agreed that the termination notice would not be acted upon and the matter would be resolved amicably. MCA by its conduct and correspondence, continued to treat Jupicos as a team owner. On 28th January 2021, MCA sent an email inviting Jupicos for a meeting with the new Governing Council, clearly stating that only authorized team owners were being called. Jupicos submitted a joint proposal with other franchisees on 2nd February 2021. MCA issued further emails to Jupicos on 10th February 2021, 11th February 2021 and 15th February 2021, followed by a request for approval on 19th February 2021 to which Jupicos responded with its affirmative approval on 23rd February 2021. Jupicos was again invited to a League owners' meeting by MCA on 22nd March 2021. These continued communications recognizing Jupicos as the owner of the team prove that the termination notice dated 24th January 2020 was never enforced in substance or practice. In continuation of its obligations and in good faith, Jupicos paid Rs.81.16 lakhs towards TDS dues on 9th July 2021 and subsequently, on 16th January 2024 paid the remaining Rs.35.17 lakhs that had been alleged in the cure notice and

termination notice. Jupicos on the same day, requested acknowledgment of payment and issuance of a no dues certificate, as well as a request to revoke the termination notice. These requests were followed up by emails dated 27th January 2024, 14th February 2024 and 15th February 2024 but no response was received from either Probability Sports or MCA. It was only in April 2024 that Jupicos was excluded from League related meetings. Jupicos was not invited to the meetings held on 24th April 2024, 10th May 2024 and 13th February 2025. Jupicos addressed grievance letters dated 25th April 2024 and 13th May 2024 protesting this exclusion. On 3rd May 2024 Jupicos invoked the dispute resolution clause under Clause 11.3 of Schedule 2 of the participation agreement. Several meetings took place until March 2025, but to no avail. The arbitration petition was filed on 28th March 2025. On 1st April 2025, MCA issued an auction notice for new team allocations. On 5th April 2025, Jupicos invoked arbitration in terms of Clause 11.3 of Schedule 2 of the participation agreement. For the first time, in its affidavit-in-reply dated 5th April 2025, MCA disclosed that its own agreement with Probability Sports had been terminated. This development was never communicated to Jupicos and revealed only after the

litigation has commenced.

11. Mr. Tankha submitted that MCA is estopped from contending that the termination notice is acted upon. According to him the fact that Jupicos was recognized as the owner even after the termination notice and called for meetings in which Jupicos participated indicates that the termination notice was never intended to be acted upon. It is submitted that MCA cannot approbate and reprobate and having always given an impression to Jupicos that it continues to be a team owner, suddenly the action on the part of MCA in excluding Jupicos from participating in the meetings from April 2024 onwards is not in good faith but in utter bad faith. The correspondence and conduct of MCA in permitting Jupicos to attend the meetings and also having allowed Jupicos to clear its outstanding dues is a clear indicator that the termination notice was never intended to be acted upon. It is further submitted that the participation agreement provides for consequences of termination. Except for the issuance of the termination notice, the necessary requisites to be completed upon issuance of the termination notice have not been undertaken which again is a pointer that the termination

notice was never intended to be acted upon. It is further submitted by Mr. Tankha that not only Jupicos but other team owners were also facing a financial crunch and defaulted in the payment but it is only Jupicos which is singled for differential treatment and therefore also the action of MCA is in bad faith. Mr. Tankha invited our attention to the correspondence on record more particularly at pages 244, 253, 254, 255 and 256 of the paper-book of the year 2021 calling Jupicos for meetings which evidences the continued relationship between Jupicos and MCA. Jupicos on its part fulfilled its obligations by remitting the balance/pending amount of Rs.81.16 lakhs on 9th July 2021 and on 16th January 2024, paid the franchise fee of Rs.35.17 lakhs, thereby curing all breaches as has been alleged in the termination notice. Jupicos addressed an email dated 16th January 2024 requesting Probability Sports and MCA to issue a No Dues Certificate and revoke the earlier termination notice. The exclusion of Jupicos began in April 2024 and these exclusions were unprecedented and sudden particularly given the continued engagement of Jupicos with MCA until as late as February 2023. Learned Senior Advocate relied upon the decision of the Supreme Court in **Union of India and others**

vs. N. Murugesan and others¹ which discusses the concept of acquiescence, approbate and reprobate under Section 39 of the Contract Act, 1872. It is submitted that the arbitrary and unequal treatment meted out to Jupicos compared to other team owners by MCA in discharge of its public functions is contrary to the decision of the Supreme Court in **BCCI vs. Netaji Cricket Club**². It is further submitted that the learned Single Judge was in error in holding that this is a case of delay and laches. Mr. Tankha submitted that there is no delay or laches as the cause of action arose only in April 2024. It is further submitted that while refusing the injunction, the learned Judge ignored the trinity test of prima facie case, balance of convenience and irreparable injury which is in favour of Jupicos. Reliance is placed on the recent decision of this Court in **UTO Nederland B. V. and another vs. Tilaknagar Industries Ltd.**³ It is submitted that if Jupicos is not allowed to participate the entire purpose of filing the arbitration petition and invoking the arbitral clause would be frustrated and Jupicos would be rendered remediless. It is further submitted that the developments pursuant to the filing of the Section 9 Petition and suppression of material facts by

1 (2022) 2 SCC 25

2 (2005) 4 SCC 741

3 Appeal No.66 of 2012 decided on 28.04.2025.

MCA is a factor to be considered in favour of Jupicos for allowing this Appeal. It is submitted that despite pendency of this Appeal, third party rights are created and MCA proceeded with the auction. The stand of MCA that the participation agreement was a mere conducting agreement is ex facie illegal. Mr. Tankha submitted that the learned Single Judge erred in holding that the agreement was a conducting agreement and did not vest any exclusivity or ownership over the Territory in favour of Jupicos.

12. Mr. Tankha, learned Senior Advocate relied upon the following decisions in support of his submissions :-

(i) **Board of Control for Cricket in India and another Vs. Netaji Cricket Club and others**⁴.

(ii) *Union of India and others Vs. N. Murugesan and others* (supra).

13. On the other hand, Mr. Ashish Kamat, learned Senior Advocate for MCA invited our attention to the relevant clauses of the participation agreement, the supplementary agreement, the defaults committed by Jupicos, the correspondence on record which according to him indicates that the termination notice was acted upon and the findings of the learned Single Judge to submit that the interference of this

⁴ (2005) 4 SCC 741

Court is not warranted in this Appeal under Section 37 of the said Act. Learned Senior Advocate for MCA relied upon the following decisions in support of his submissions :-

(i) Grasim Industries Limited and another vs. Agarwal Steel.⁵

(ii) Indian Oil Corporation Ltd. vs. Amritsar Gas Service and others.⁶

(iii) Cox and Kings India Limited vs. Indian Railways Catering and Tourism Corporation Limited and another.⁷

(iv) Indian Railways Catering & Tourism Corp. Ltd. vs. Cox & Kings India Ltd. and Another.⁸

(v) B.E. Billimoria & Company Limited vs. Mahindra Bebanco Developers Ltd. and Another.⁹

(vi) Marriott International Inc. and others vs. Ansal Hotels Ltd. and another.¹⁰

(vii) Board of Control for Cricket in India vs. Deccan Chronicle Holdings Ltd.¹¹

(viii) Rajawadi Arunodaya Co-op Hsg Soc Ltd. vs. Value Projects Pvt. Ltd.¹²

(ix) Narasimha Mudali and another vs. Potti

5 (2010) 1 SCC 83

6 (1991) 1 SCC 533

7 (2012) 7 SCC 587

8 2012 SCC OnLine Del 113

9 2017 SCC OnLine Bom 10271

10 1999 SCC OnLine Del 716

11 2021 SCC OnLine Bom 834

12 2021 SCC OnLine Bom 9572

Narayanasami Chetty and another¹³**(x) Calcutta Credit Corporation Ltd. and another vs. Happy Homes (P) Ltd.¹⁴****(xi) Sarup Singh Gupta vs. S. Jagdish Singh and others.¹⁵****(xii) Shahi Shipping Ltd. vs. Oil and Natural Gas Corporation Limited.¹⁶****(xiii) Arun Bhoomi Corporation and Another vs. Jagruti Developers and Others.¹⁷****(xiv) Ramakant Ambalal Choksi vs. Harish Ambalal Choksi and Others.¹⁸****(xv) UTO Nederland B. V. and another vs. Tilaknagar Industries Ltd. (supra)****(xvi) Dalpat Kumar and Another vs. Prahlad Singh and Others.¹⁹****(xvii) Swan Mills Ltd. v. Dhirajlal @ Dhirubhai Babaria and others.²⁰**

14. Heard learned Senior Advocates. The question is whether the termination notice has been acted upon. It is the case of Jupicos that the termination notice was never acted upon and MCA continued to recognize Jupicos as a team owner

13 (1925) 22 LW 637

14 1967 SCC OnLine SC 150

15 (2006) 4 SCC 205

16 Arbitration Petition (L) No.1443 of 2018 decided on 18.12.2018.

17 2024 SCC OnLine Bom 3801

18 2024 SCC OnLine SC 3538

19 (1992) 1 SCC 719

20 2012 SCC OnLine Bom 138

and allowed it to participate in the meetings held post the termination notice. A participation agreement was executed between Jupicos and Probability Sports on 9th March 2018. Clause 1.1 defines “League”, “Team” and “Territory”. Clause 2 provides for the rights of Jupicos in relation to the League. Clause 3 defined the term of the agreement, Clause 6 recorded the participation fee payable by Jupicos, Clause 9 provides for termination. Schedule 1 records the obligations of Jupicos which includes several responsibilities and obligations which must be consistently supervised. Clause 9 of Schedule 2 provides for the consequences of termination. Clause 11 of Schedule 2 provides for the governing law and dispute resolution clause.

15. *Prima facie* we find merit in the submission of learned Senior Advocate for MCA that the agreement between Jupicos and Probability Sports does not indicate that Probability Sports was acting as an agent of MCA. It appears that Jupicos entered into an entirely independent contract with Probability Sports on a principal-to-principal basis. The finding of the learned Single Judge that the agreement was merely an arrangement to allow Jupicos to operate a team and not for it

to own the team and therefore no vested right is accrued in favour of Jupicos appears to be probable. Having considered the relevant clauses of the agreement, it does appear that the contract was determinable by its nature by virtue of the termination clause therein. A supplementary agreement dated 12th April 2019 was entered into between Jupicos and Probability Sports, where MCA was only a confirming party. Clause 1(c) of the supplementary agreement records the total sum and the date on which Jupicos was liable to pay the sum to Probability Sports. Clause 1(d) provided the minimum guaranteed share amount owed by Probability Sports to Jupicos on payment of the participation fees. Clause 1(g) provides that Probability Sports may terminate the supplementary agreement and participation agreement and all other agreements at its sole discretion with immediate effect. Thus, Probability Sports had the right to terminate the agreements between Jupicos and Probability Sports and that MCA had no role to play in such termination. The agreements were *inter se* between Jupicos and Probability Sports. There is force in the submission of learned Senior Advocate for MCA that the agreements were determinable by nature and therefore could never be sought to be specifically enforced as

is prayed for.

16. It is material to note that the second edition of the League was held in May 2019. Probability Sports by a notice dated 22nd November 2019 alleged that Jupicos was in breach by defaulting on the payment of Rs.35,17,000/- towards participation fee for the second edition of the League and for failing to deposit TDS amount of Rs.68,44,000/- for two financial years with respect to the first edition. Probability Sports sought compliance of the same by 23rd December 2019. This notice was issued with the approval of MCA. The termination notice dated 24th January 2020 was on account of default made by Jupicos and failure to deposit TDS as indicated hereinbefore. The said termination was under Clause 1(g) of the supplementary agreement and was also made with the approval of MCA. It is pertinent to note that Jupicos never challenged the termination notice and in fact claims that it was ready and willing to pay the actual amount due after redressal of its grievance of not receiving the sum from the sponsors. The termination notice is not disputed. It is the case that Jupicos was allowed to participate in the meetings held in the year 2021 which shows that the termination notice was

not acted upon. On account of the Covid-19 pandemic the third edition of the League could not be held in 2020. Jupicos claims to have had a meeting with Probability Sports on 16th January 2024 when it cleared its dues of Rs.35,17,000/-. It is the case of Jupicos that on 24th April 2024 onwards MCA excluded Jupicos from participating in the meetings.

17. It is significant to note that the correspondence and the materials on record indicates that Jupicos was aware that the termination notice was acted upon. The communication dated 16th January 2024 addressed by Jupicos to Probability Sports with a copy to MCA says that as Jupicos has made a payment of Rs.35,17,000/- towards full and final payment of its outstanding dues, and hence Jupicos called upon Probability Sports to cancel the termination letter issued by it. Again, on 15th February 2024 request was made by Jupicos that Probability Sports look into the matter and provide letter of revocation of termination on priority basis. In these circumstances, we find merit in the submission of learned Senior Advocate for MCA that there is no question of a waiver of the termination notice and that even Jupicos was under the impression that the termination notice was acted upon. The

termination notice was issued after the second edition of the League was held. The outstanding payments in respect of the first two Leagues was made by Jupicos only on 16th January 2024. The third League was to be held sometime after May 2025. In our opinion merely because Jupicos was allowed to attend the meetings after the year 2021 is not enough to indicate that the notice of termination was not acted upon. The conduct of Jupicos in requesting Probability Sports to withdraw the termination notice after it had cleared its outstanding in January 2024 is indicative of the fact that the termination notice was acted upon and this was to the knowledge of Jupicos.

18. After clearing the outstandings, when further meetings were held for the third edition of the League, MCA excluded Jupicos from participating in the meetings. Though Jupicos was aware of this fact since April 2024, it is only when the auctions were about to be held for the third edition, that the arbitration petition was filed by Jupicos on 27th March 2025. MCA invited members of the public at large to participate in an auction on 1st April 2025 wherein two teams for the League are put up for sale, one of which is the team of

Jupicos. Knowing fully well that MCA excluded Jupicos from participating in the meetings since April 2024, the arbitration petition seeking interim measures is filed as late as on 28th March 2025 on the eve of the auction. This belated approach is another factor as rightly held by the learned Single Judge to deny the discretionary relief in favour of Jupicos.

19. The disputes are in the realm of contractual ones. If on the facts Jupicos is not entitled to grant of ad-interim reliefs, its case cannot improve on a mere assertion that Jupicos is treated discriminately in comparison with other team owners. If in the light of these facts and circumstances, the learned Single Judge has refused to grant the interim measures prayed for by Jupicos, we are unable to hold that such an exercise of discretion is arbitrary, capricious or perverse to warrant interference.

20. So far as irreparable loss is concerned, Jupicos participated in two editions till 2019. It is almost after four years that the entire outstanding payments were made by Jupicos to Probability Sports in January 2024. Jupicos has already invoked the arbitration clause and therefore the remedy of claiming damages in case the termination notice is

held to be illegal and bad in law is available. Having perused the order of the learned Single Judge we find no reason to interfere with the same in the limited jurisdiction that we have in this Appeal under Section 37 of the said Act.

21. The Appeal is dismissed. Interim Application (L) No.14142 of 2025 and Interim Application (L) No.14268 of 2025 are disposed of.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)