

Judgment Sheet
IN THE LAHORE HIGH COURT AT LAHORE.
JUDICIAL DEPARTMENT

CO No. 27354 of 2025

M/s. ECOM Agroindustrial Corp. Ltd.

Versus

Ghazi Fabrics International Ltd.

JUDGMENT

Date of Hearing:	19.05.2026
Applicant by:	Barrister Ahad Asif Ali and Barrister Ahmad Pervaiz
Respondent by:	M/s Barrister Osama Zafar, Arslan Abbas and Javed Hassan Zaidi, Advocates.

KHALID ISHAQ, J. This is a petition under Section 6 of the *Recognition and Enforcement (Arbitral Agreement and Foreign Arbitral Award) Act, 2011* (“**Act, 2011**”). Pursuant to Section 5 of the Act, 2011, read with Article 4 of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 (the “**Convention**”), the applicant – M/s. ECOM Agro-industrial Corp. Ltd. (“**ECOM**”) has placed on record a certified copy of the Award dated 11.10.2024 (the “**Award**”) as well as a certified copies of the following Contracts culminated between the ECOM and Respondent/Ghazi Fabrics International Ltd. (“**Ghazi**”) for supply of Brazilian Raw Cotton:

- i. Contract dated 04.06.2021 for supply of 500 MT Brazilian Raw Cotton
- ii. Contract dated 10.01.2022 for supply of 500 MT Brazilian Raw Cotton
- iii. Contract dated 10.06.2022 for supply of 500 MT Brazilian Raw Cotton
- iv. Contract dated 15.06.2022 for supply of 500 MT Brazilian Raw Cotton
- v. Contract dated 20.07.2022 for supply of 625 MT Brazilian Raw Cotton
- vi. Contract dated 21.11.2023 for supply of 125 MT Brazilian Raw Cotton

2. The above contracts shall collectively be referred to as the “**Sale Contracts.**” The perusal of the Sale Contracts reflects that the same were

executed under the Bylaws and Rules of the International Cotton Association Limited (“ICAL”), which were in vogue¹ at the time when the Sale Contracts were negotiated. The Sale Contracts manifest that all disputes will be settled amicably or will be referred to Arbitration in accordance with the Bylaws and Rules of ICAL and shall be resolved by application of English Law.

3. It is the case of ECOM that while relying upon the Sale Contracts, it held the products for the final sale/ delivery to Ghazi as Ghazi failed to settle the matter by not opening the Letter(s) of Credit(s) [“L/Cs”], which were required to be opened in furtherance of the Sale Contracts. It is specifically pleaded that the events of delayed shipments owing to Ghazi’s failure to open L/Cs in time, triggered the penalty/carrying charges @ 1.5% per month on pro-rata basis; ECOM avers that it sent multiple reminders to Ghazi for opening the L/Cs but to no avail; last of such messages was sent on 24.11.2023 and upon Ghazi’s failure to respond, the ECOM was constrained to issue breach letter dated 01.12.2023, before proceeding to close the Sale Contracts in terms of ICAL’s Bylaw 201 and Rule 238. It is claimed by the ECOM that it closed the Sale Contracts and invoiced back an amount of USD 1,146,061.31 as market difference and USD 191,781.30 as carrying cost. The relevant Bylaw 201 and Rule 238 of the ICAL, which are in the nature of arbitration clause of the Sale Contracts, are reproduced herein below:

“Bylaw 201

“If any contract has not been or will not be performed, it will not be treated as cancelled. It will be closed by being invoiced back to the seller under our Rules in force at the date of the contract.”

Rule 238

“Where a contract or a part of a contract is to be closed by being invoiced back to the seller, then the following provisions will apply:

(i) If the parties cannot agree upon the price at which the contract is to be invoiced back to the seller, then that price will be determined by arbitration, and if necessary appeal.”

4. On 21.12.2023, ECOM placed the request for arbitration before the ICAL for constitution of an Arbitral Tribunal while nominating its

¹ Applicable byelaws and Rules of ICAL, for the purpose of this case are the amended rules and Bylaws which came into force on 1st January, 2024

Arbitrator, which nomination was declined by the nominated Arbitrator and consequently, another Arbitrator was nominated by ECOM on 10.01.2024, whereas, on 23.01.2024, the ICAL proceeded to appoint the Chairman of the Arbitral Tribunal. The Arbitral Tribunal then proceeded to inform Ghazi through email dated 02.01.2024 that ECOM had invoked the arbitration clause, however, Ghazi did not nominate its Arbitrator, thus, the Arbitral Tribunal invoked Bylaw 304(7) and appointed an Arbitrator on behalf of Ghazi. On 25.01.2024, the Chairman of the Arbitral Tribunal shared general directions with the parties regarding the course of proceedings of the Arbitral Tribunal. At this juncture, Ghazi sent two emails to ICAL Secretariat as well as to ECOM, which emails dated 05.02.2024 and 16.02.2024, have been placed on record by the applicant ECOM and have not been refuted by Ghazi while filing objections to the application in hand.

ARBITRATION PROCEEDINGS

5. The ECOM filed its claim of losses before the Arbitral Tribunal, which claim was forwarded to Ghazi on 26.02.2024 through Email as well as through courier, however, Ghazi failed to respond to the claim submitted by ECOM, thus, the Arbitral Tribunal proceeded *ex parte* on 11.04.2024, which fact was accordingly brought to the notice of both parties. In pursuance of Rule 238 of Bylaws and Rules of ICAL, the Tribunal generated an email dated 08.08.2024, which was sent to both the parties and their respective comments were sought regarding the factors to be considered in determining the invoice back price, which email was not responded by Ghazi and consequently, after having considered the submissions before it, the Arbitral Tribunal proceeded to issue the Award.

PROCEEDINGS BEFORE THIS COURT

6. Upon filing of the captioned application, this Court proceeded to issue notice to Ghazi on 08.05.2025. In response, Ghazi filed a defence in the form of objections in terms of Article V of Schedule I of the Act, 2011, which defence/objections, in essence, are threefold. Firstly, it is pleaded that no written arbitration agreement is available on record, as required under Article II of the Convention, thus, it is alleged that Sale Contracts annexed with the captioned application, which have been made basis for issuing the

Award, were never executed by Ghazi as these Sale Contracts do not bear Ghazi's signatures/stamp, hence, it is pleaded that since there is no agreement in writing between the parties in terms of Article II of the Convention, therefore, the Arbitration Proceedings as well as Award are a nullity in the eye of law. In addition to the said objection, it has also been pleaded that no original Award has been placed on record and the one being sought to be enforced is merely a copy of the Award, which allegedly does not bear the original signatures of the Arbitrators. Secondly, Ghazi has raised objections on the touchstone of Section 5 of the Act, 2011 while contending that the preconditions laid down in Article IV of the Convention, requiring production of original agreement or duly certified copy thereof has since not been satisfied, therefore, the instant application filed by ECOM is liable to be dismissed. On the same premise, it is further argued that owing to this inherent defect in the arbitration proceedings and Award, the same is unenforceable in terms of Section 7 of the Act, 2011, read with Articles V(1)(a), (c) & (d) of the Convention. Thirdly, Ghazi has raised objections regarding the proper institution of the application in hand while alleging that the special attorney, through whom the application in hand has been filed has not been properly authorized as the special power of attorney dated 17.03.2025 is defective and only a photocopy has been appended without its certification or notarization/attestation by an Embassy or Consulate. Lastly it is submitted that the Articles of ECOM, as relied upon and appended with this application are also defective for being not notarized or certified.

7. During the course of arguments, the entire thrust of the submissions made by the learned counsel for Ghazi was premised on the threshold objection of absence of a written arbitration agreement between the parties *qua* the Sale Contracts. Learned counsel for the objector/Ghazi, while relying upon a judgment rendered by United States District Court E.D. Pennsylvania dated 18.07.2023 in the case of Jiangsu Beier Decoration Material Company v. Angle World LLC, contends that before confirming a Foreign Award, this Court while exercising jurisdiction under the Act, 2011 must independently assure itself that the parties consented to arbitrate the merits of their underlying dispute as arbitration is a matter of contract, whereby a party can be forced to arbitrate on those issues only, which it

specifically agrees to submit to arbitration, thus, as argued by learned counsel for Ghazi, the twin conditions of presenting the arbitration award as well as the original agreement, as required under Article II of the Convention must be met before this Court can proceed to enforce the Award. While relying upon *Jiangsu case supra*, it is further argued that the exchange of letters or telegrams does not constitute meeting of minds between the parties and before an arbitration agreement can be made basis for invocation of the arbitration proceedings, the party relying upon the arbitration clause must fulfill the condition of a written arbitration agreement and the “[S]ilence will not constitute acceptance of an offer in the absence of a duty to speak”. While concluding his submissions, learned counsel contends that the email being relied upon by the applicant were exchanged between the Arbitrator and Ghazi and not with the ECOM, therefore, the same are inconsequential. In order to further substantiate his submission, learned counsel for Ghazi has relied upon a judgment dated 22.05.1995, handed down by the United States Court of Appeal for Third Circuit in the case of *First Options of Chicago INC. v. Kaplan* and argues that the requirement of Article II of an “Agreement in Writing” if read with Articles V and VI of the Convention, the same mandates that the Courts should refuse to enforce the award if the arbitration agreement is absent. Learned counsel for Ghazi has further placed reliance on the judgment of Supreme Court of India in the case of *Smita Conductors Ltd. v. Euro Alloys (AIR 2001 SC 3730)* in order to further reiterate his submission on the touchstone of Article II of the Convention that only an agreement in writing can be made basis for commencement and culmination of the Arbitration Proceedings and exchange of letters or telegrams viz the arbitration agreement is inconsequential. Lastly, while relying upon the judgment of the Supreme Court of United Kingdom in the case of *Dallah Real Estate and Tourism Holding Company v. Ministry of Religious Affairs, Government of Pakistan [2010] UKSC 46*, it is argued that under Article 16(1) and 34(2) of the *UNCITRAL Model Law on International Commercial Arbitration*, the Court may set aside the award if an objector furnishes proof that the agreement is not valid under the law to which the parties have subjected it, or, failing any indication thereon. It is pleaded by learned counsel for the Ghazi that since

the alleged Arbitration Agreement is in violation of Articles of the Convention, therefore, the same is not valid under the law and thus, the enforcement of the Award may be declined. Learned counsel for Ghazi has further relied upon Virgos Oils and Fats PTE, Ltd. v. Faisal Exports (Pvt.) Ltd. (PLD 2026 Sindh 75), Karachi Dock Labour Board v. M/s. Quality Builders (PLD 2016 SC 121), Aroma Travel Services Pvt. Ltd. v. Faisal Al Abdullah Al Faisal Al Saud (PLD 2018 Sindh 414), Sheikh Muhammad Saleem v. Saadat Enterprises (2009 CLD 390).

8. Conversely, while relying upon the judgments handed down in the cases of Louis Dreyfus² and M/s. TRADHOL International³, it is argued by the learned counsel for the ECOM that as per the settled jurisprudence of this Court, the exchanged letter or telegrams constitute the agreement in writing for compliance of Article II of the Convention. It is further contended that since the Arbitral Tribunal has held that it is satisfied *qua* the existence of a written arbitration agreement between ECOM and Ghazi, therefore, this Court cannot review such findings of the Arbitral Tribunal on the touchstone of the limited contours of jurisdiction while deciding the objections against the Award, which still holds the field as no appeal has been preferred by Ghazi against the Award; adds that such belated objections cannot be entertained at the enforcement stage; contends that since Ghazi was aware of the pending proceedings before the Arbitral Tribunal, therefore, the objections *viz* the arbitration agreement, if any, had to be raised before the Arbitral Tribunal. Learned counsel for ECOM has further placed reliance upon Taisei Corporation v. A.M. Construction Co. Pvt. Ltd (2024 SCMR 640), Franzen Lanbourw C.V v. TASC0 through Administrator (2026 CLD 1), Cargill BV v. M/s. Khalid Javaid & Brothers (PLD 2026 Sindh 130), Jess Smith and Sons Cotton LLC v. D.S. Industries (2019 CLD 23), Reinhart India (Pvt.) Ltd. v. Bashir Cotton Mills Ltd. (2023 CLD 1051), Zaver Petroleum Corporation (Pvt.) Ltd. v. Saif Energy Ltd. (PLD 2025 Islamabad 219), China Water and Electric Corporation v. National Highway Authority (2023 CLD 1365), Abdullah v. M/s. CNAN Group SPA (PLD 2014 Sindh 349), Lakhra Power Generation Co. Ltd. v.

² Louis Dreyfus Commodities Suisse S.A. v. Acro Textile Mills Ltd. (PLD 2018 Lahore 597)

³ M/s. TRADHOL International SA Sociedad Unipersonal v. M/s. Shakarganj Limited (P L D 2023 Lahore 621)

Karadeniz Powership Kaya Bey (2014 CLD 337), Metropolitan Steel Corporation ltd. v. Macsteel International UK Ltd. (2006 CLD 1491).

9. Arguments heard. Record perused.

10. The pivotal objection being raised by Ghazi is rooted in the submission that there is no written arbitration agreement between the parties. Although, the Sale Contracts have been placed on record from pages 63 to 80 of the file, however, Ghazi pleads that since on the face of it, these Sale Contracts, which contain the arbitration clause by implication under the heading of '**Rules**', do not bear the signature or stamp of Ghazi, therefore, these are inconsequential. On the contrary, it is pleaded by ECOM that Ghazi duly endorsed and acknowledged these Sale Contracts, not only prior to commencement of arbitration proceedings but also during the proceedings. For appreciating the rival contentions, I have perused the email dated 05.02.2024, which is annexed at page 199 of this application and has not been specifically denied by Ghazi. This email was generated by Mr. Kamran Arshad, Managing Director, Ghazi and has been discussed at page 5 of the Award; it transpires that Ghazi sent two email messages to ICAL Secretariat and ECON on the same day i.e. 05.02.2024, prior to official Technical Arbitration Submission Process. The text of the email, which has also been reproduced in the Award, is as follows:

"Ghazi submitted two email messages to ICA secretariat and Ecom on 5th February 2024, prior to the official technical arbitration submission process. The messages read as follows:

- 1- *We have requested the supplier, m/s ECOM in this case, to provide us with split Performa invoices(P.I.'s) of 100tons each as such*
- 2- *We intend to start opening LCs anytime between 20th Feb24 (sic) – 10th March 24 as such and to keep opening 200tons LCs every 30-45 days as such and fully perform on this contract by then...*
- 3- *You are well aware of the fact that our country is facing import restrictions and not every bank is entertaining importLCs involving US \$ during a forced import compression in place right now.*
- 4- *That's why we have proposed the above given timeframe for opening LCs...*

The other message reads as follows:

- 1- *Please kindly note that we do no (sic) intend to default on our obligation to m/s Ecom*
- 2- *In fact, we have every intention of honoring our commitment with them for opening LCs*
- 3- *As you know, currently . Pakistan is in an IMF program and a lot of LCs for imported raw materials are not being freely opened by our domestic banks here as such under instructions from State Bank of Pakistan (SBP).*

- 4- *However, we fully intend to honor our commitments and fulfil them going forward.*
- 5- *Therefore, request for additional time between ourselves (the buyer) and ECOM (the seller) to settle this matter and not to proceed for unnecessary arbitration as such.*

No submissions were received from Ghazi in response to Ecom's particulars of claim and consequently the Tribunal decided to proceed this technical arbitration on an 'ex parte basis' The parties were informed accordingly by the ICA secretariat on 11th April 2024.

The Tribunal is satisfied that Ghazi was given every opportunity to participate in these arbitration proceedings to present their case and to respond to the points raised by Ecom in their Particulars of Claim submission."

11. As evident, through email dated 05.02.2024, Ghazi requested ECOM to split the Proforma Invoices into lots of 100 Tons each while simultaneously confirming its plan for opening L/Cs for 200 Tons every 30-45 days between 20.02.2024 to 10.03.2024 for performing the contract in *toto*. This email also transpires that Ghazi was trying to render explanations for encountering delays in opening L/Cs owing to import restrictions in Pakistan. The second email of same date denotes that Ghazi does not intend to default on its obligations and rather remains committed to opening the requisite L/Cs, thus, Ghazi sought additional time to do the needful in order to avoid unnecessary arbitration.

12. The above says it all as to the legality and substance of the objection raised by Ghazi. Although the initial onus was placed upon ECOM *viz* the existence of an arbitration agreement, however, considering the nature of civil disputes and following the principles of preponderance of evidence, the onus had clearly shifted upon Ghazi, which onus had to be discharged by controverting the above mentioned emails but the discharge of such an onus remained abegging as there is no explanation rendered that as to what was the subject matter which relates to these emails, if not the Sale Contracts or the arbitration proceedings in issue. The reliance may be placed upon the case of *Louis Drefus supra*, whereby, while discussing the true import of Article V of the Convention, the learned Single Judge in Chambers of this Court held that:

"Article V, it may be seen upon its perusal places the burden of proof upon the party against which the recognition and enforcement of the Award has been invoked. That party is required to furnish to the

Court where the recognition and enforcement is sought of the necessary proof so as to establish one or more of the grounds given in Article V, which may be taken as a defence against the enforcement of the Award.”⁴.

While further elucidating the scope and contours of Article V of the Convention, the learned Single Judge summed up the discussion in the following terms:

“38. Thus, upon a consideration of case law as well as commentaries and other material on Article V (1)(a), it was concluded that the applicant merely has to prove *prima facie* existence of the arbitration agreement while the party opposing the recognition and enforcement has the onus to prove its invalidity. Not only that this takes care of the threshold objection taken by Acro but also places the onus on it of proving that any of the objections taken by Acro are sustainable. It is in this context and background that the application shall be determined and correspondingly the objections taken by Acro inviting this Court to refuse to recognize and enforce the Foreign Arbitral Award.”

Article V determination:

39. To reiterate, the policy and the purpose of the law has been adumbrated and which require this Court to recognize and enforce Foreign Arbitral Award expeditiously and with all deliberate speed. The statement in this regard made in *Russel* and the approach to be taken by courts is relevant for any such discussion. It says that:

"Opposing enforcement of a New York Convention Award. As stated above, subject to production of the required documents the court has no discretion but to recognize and enforce a New York Convention award unless the party opposing enforcement proves one or more of the grounds specified in s. 103 of the Arbitration Act 1996. These grounds of refusal are exhaustive, and if none of the grounds is present the award will be enforced. Much has been written about these grounds and a detailed analysis of their international application is beyond the scope of this book but they will be treated summarily in this chapter. The onus of proving the existence of a ground rests upon the party opposing enforcement, but that may not be the end of the matter. There is an important public policy in the enforcement of awards and the courts should only refuse to enforce an award under S.103 in a clear case.

Approach of the Court. On an application under S.103 issues may arise in respect of which disclosure and cross-examination is required. However, the court should be cautious about taking that approach and should usually be able to dispose of issues by applying the usual test for summary judgment, namely whether there is a real prospect of establishing a ground under S.103 or whether there is some other compelling reason why the court should order a full trial."

13. The same principle was followed in the case of *Tradhol*⁵, which is not reproduced here for avoiding reiteration.

⁴ See page 610, para 12 of the law report (PLD 2018 Lahore 597)

⁵ See page 637 of the law report PLD 2023 Lahore 621

14. As regards to the reliance of Ghazi's learned counsel upon the case of *Jiangsu supra*, the pith and substance of the said law report is premised on the principle that "[S]ilence will not constitute acceptance of an offer **in the absence of a duty to speak**". It is conspicuous from the objections filed by Ghazi that there is no unequivocal and specific denial of the Sale Contracts, thus, it is concluded that there is no denial of the Arbitration Agreement which can be relied upon for declining to enforce the Award. In the case in hand, the Sale Contracts were negotiated and sent to Ghazi and the general conditions of contract includes a stipulation that the terms of the contract constitute an offer by seller to sell the goods in accordance with the provisions set out in these general conditions; it has further been specifically incorporated:

*"failure to return this contract or failure to make prompt correction in case of error will be **understood as Buyer's acceptance of the terms and conditions of this contract**. A variation of this contract shall only be valid if it is in writing and is approved in writing by a duly authorized seller representative."*

[Emphasis supplied]

The foregoing clearly constitutes that these general conditions of contract employ 'a duty to speak'.

15. Much reliance has been placed on Article II of the Convention in support of the contention that no written arbitration agreement exists between the parties, however, said reliance is also misplaced for the purpose of the case in hand as Clause (2) of Article II of the Convention unequivocally provides that:

"The term "agreement in writing" shall include an arbitral clause in a contract or an arbitration agreement, signed by the parties or contained in an exchange of letters or telegrams."

In the instant case, the arbitration agreement has outrightly been acknowledged and endorsed by Ghazi in exchange of correspondence in the form of irrefutable emails generated by it.

16. Without prejudice to the foregoing, as evident, the stated objection precedes the arbitration proceedings and issuance of the Award, thus, if any such sustainable objection was available, the same had to be raised before the Arbitral Tribunal and if not so raised, the minimum which could have been done by Ghazi was to challenge the Award as a remedy of appeal is available under Bylaw 312 of *Bylaws and Rules of ICAL*, which provides that if either party disagrees with the Tribunal's award, it can be appealed within the period specified in the award. The Award in hand has been in knowledge and notice of Ghazi, however, no remedy of appeal has been availed, therefore, considering the settled law on the subject that while deciding the objections against an award, this Court cannot act as an Appellate Court, consequently, such an objection raised by Ghazi cannot be entertained on this score alone, particularly when the question of privity of contract has also been addressed by the Arbitral Tribunal. While discussing the conduct of the parties in the Award, the Arbitral Tribunal observed as follows⁶:

“1. *Documentary evidence, principally in the form of a copy of contracts and exchanges between ECOM, their sale's agent and Ghazi have been placed before us and have all been carefully considered.*

2. *The Tribunal produces below those exchanges of correspondence or extract of correspondence, deemed to be most relevant to the life of the contract in dispute from those provided by the parties. For transparency reasons the conduct of the parties is being displayed by contract.”*

While discussing the details of exchange viz each of the Sale Contracts, the Arbitral Tribunal proceeded to observe as under⁷:

“Through above-mentioned shipment periods there has been continued communications viz agent on the performance of the contracts, where Buyer has conveyed several times that Letters of Credit would be opened, and they will take the delivery. At the same time, Ghazi have been informed about cost of carry occurring at origin, however, Ghazi failed to provide an appropriate schedule of performance.”

17. Thus, the refusal of Ghazi to appear in the arbitration proceedings disentitles it to raise these grounds at this stage. Reliance is placed upon the case of *Franzen Lanbourw supra*. Likewise, all other judgments relied upon by the learned counsel for Ghazi are clearly distinguishable as the objections of such a nature were either raised by the objectors before the arbitration

⁶ See page 14 of the Award

⁷ See Page 14 of the Award

proceedings or during the course of arbitration proceedings. In the case of *Smita Conductors supra*, the objection was raised before the commencement of the arbitration proceedings.⁸ Similarly, in the case of *Dallah Real Estate supra*, the objection viz the existence of the arbitration agreement was raised during the course of arbitrate proceedings⁹. Same is the case with the judgments relied upon in the cases of *First Options of Chicago* and *China Water and Electric Corporation supra*, therefore, the cited judgments and cases are distinguishable in the facts and circumstances of the case in hand, and would therefore have no precipitable relevance to the present *lis*.

18. The above transpires that the Arbitral Tribunal proceeded to issue the Award after having been satisfied while duly noting the conduct of the parties. The Arbitral Tribunal proceeded to deliberate and decide the merits of the case, while discussing the jurisdictional aspect as well as the nature of contract, veracity, genuineness of the claim and only thereafter, proceeded to pass the Award. The Award's operative part states:

AS TO THE CONTRACT 315520015:

- (1) *Ghazi shall invoice back to Ecom 500 metric tonnes net, or 1,102,300 lbs net, being the entire contract quantity at the unit price of US Cents 88.00 per lb net.*
- (2) *Ghazi shall in consequence of the above pay to Ecom the sum of US\$ 414,575.03 being the difference between the contract value of the said 500 metric tonnes net, or 1,102,300 lbs net and the market value on 1st December 2023.*
- (3) *Ghazi shall also pay to Ecom the sum of US 36,275.14 being interest on the sum of US 414,575.03 at the rate of 10.0 percent per annum from 1st December 2023 until 11th October 2024, the date of this our Award.*

AS TO THE CONTRACT 3155220091

- (4) *Ghazi shall invoice back to Ecom 500 metric tons net, or 1,102,300 lbs net, being the entire contract quantity at the unit price of US Cents 88.00 per lb net.*
- (5) *Ghazi shall in consequence of the above pay to Ecom the sum of US\$ 427,141.25 being the difference between the contract value of the said 500 metric tons net, or 1,102,300 lbs net and the market value on 1st December 2023.*
- (6) *Ghazi shall also pay to Ecom the sum of US 37,374.86 being interest on the sum of US 427,141.25 at the rate of 10.0% percent per annum from 1st December 2023 until 11th October 2024, the date of this our Award.*

AS TO CONTRACT 3155230012

⁸ See page 2 of the law report

⁹ See paragraph 9 of the Law Report

- (7) Ghazi shall invoice back to Ecom 500 metric tonnes net, or 1,102,300 lbs net, being the entire contract quantity at the unit price of US Cents 88.00 per lb net.
- (8) Ghazi shall in consequence of the above pay to Ecom the sum of US\$ 82,011.12 being the difference between the contract value of the said 500 metric tons net, or 1,102,300 lbs net and the market value on 1st December 2023.
- (9) Ghazi shall also pay to Ecom the sum of US\$7,175.97 being interest on the sum of US 82,011.12 at the rate of 10.0% percent per annum from 1st December 2023 until 11th October 2024, the date of this our Award.
- (10) Ghazi shall also pay to Ecom carry charges to the sum of US\$ 16,534.50 for 250 metric tons net, or 551,150 lbs net (September 2023 shipment) for the period of 1st October 2023 until 1st December 2023.
- (11) Ghazi shall also pay to Ecom carry charges to the sum of US\$ 8,267.25 for 250 metric tons net, or 551,150 lbs net (October 2023 shipment) for the period of 1st November 2023 until 1st December 2023.
- (12) Ghazi shall also pay to Ecom interest on the carry charges to the sum of US 2,170.15 being interest on the sum of US 24,801.75 being the cumulative total amounts referred to under (10) and (11) at a rate of 10.0% per annum from the 1st December 2023 until 11th October 2024, the date of this our Award.

AS TO CONTRACT 3155230017

- (13) Ghazi shall invoice back to Ecom 500 metric tons net, or 1,102,300 lbs net, being the entire contract quantity at the unit price of US Cents 88.00 per lb net.
- (14) Ghazi shall in consequence of the above pay to Ecom the sum of USD 123,016.68 being the difference between the contract value of the said 500 metric tons net, or 1,102,300 lbs net and the market value on 1st December 2023.
- (15) Ghazi shall also pay to Ecom the sum of USD 10,763.96 being interest on the sum of USD 123,016.68 at the rate of 10.0% percent per annum from 1st December 2023 until 11th October 2024, the date of this our Award.

AS TO CONTRACT 3155230025-A

- (16) Ghazi shall invoice back to Ecom 125 metric tons net, or 275,575 lbs net, being the entire contract quantity at a basis level of 858 pts/lb on NY Mch/24.
- (17) Ghazi shall in consequence of the above pay to Ecom the sum of USD 34,226.42 being the difference between the basis level of the said 125 metric tons net, or 275,575 lbs net and the basis level on 1st December 2023.
- (18) Ghazi shall also pay to Ecom the sum of USD 2,994.81 being interest on the sum of USD 34,226.42 at the rate of 10.0% percent per annum from 1st December 2023 until 11th October 2024, the date of this our Award.

AS TO CONTRACT 3155230025

- (19) Ghazi shall invoice back to Ecom 625 metric tons net, or 1,377,875 lbs net, being the entire contract quantity at the unit price of US Cents 88.00 per lb net.
- (20) Ghazi shall in consequence of the above pay to Ecom the sum of USD 158,262.72 being the difference between the contract value of the said 625

metric tons net , or 1,377,875 lbs net and the market value on 1st December 2023.

- (21) *Ghazi shall also pay to Ecom the sum of USD 13,847.99 being interest on the sum of USD 158,262.72 at the rate of 10.0% per annum from the 1st December 2023 until 11th October 2024, the date of this our award.*
- (22) *Ghazi shall also pay to Ecom carry charges to the sum of USD 16,449.51 for 250 metric tons net, or 551,150 lbs net (September 2023 shipment) for the period of 1st October 2023 until 1st December 2023.*
- (23) *Ghazi shall also pay to Ecom carry charges to the sum of USD 8,224.76 for 250 metric tons net, or 551,150 lbs net (October 2023 shipment) for the period of 1st November 2023 until 1st December 2023.*
- (24) *Ghazi shall also pay to Ecom interest on the carry charges to the sum of USD 2,159.00 being interest on the sum of USD 24,674.27 being the cumulative total amounts referred to under (22) and (23) at a rate of 10.0% per annum from the 1st December 2023 until 11th October 2024, the date of this our Award.*
- (25) *Ghazi shall also pay to Ecom interest on the sum of US\$ 1,401,469.12 , being the cumulative total of the amounts referred to in directions (2), (3), (5), (6), (8), (9), (10), (11), (12), (14), (15), (17), (18), (20), (21), (22), (23) and (24) herein at the rate of 1.5 (One point five) percent per annum over the New York Prime Interest Rate or, as appropriate, the calculated average thereof prevailing from 1st November 2024, until the date of payment of that sum to Ecom. If any part remains unpaid, this amount will be compounded on each anniversary of the date of this Award and renewed at 1.5 (One point five) percent over the then prevailing New York Prime Interest rate.*

AS TO THE COSTS OF THIS AWARD, WE AWARD THAT:

- (1) *The total costs of this Award are set at £ 8,431.27 plus a stamping fee of £ 800.00.*
- (2) *At the date of writing this Award only Ecom have paid the requested deposit of £10,000.00.*
- (3) *Ecom shall bear and pay £ 8,431.27 together with a stamping fee of £800.00 due in accordance with the provisions of Bylaw 309, but shall recover the total amount of £ 9,231.27 from Ghazi.*
- (4) *At the date of writing this Award there is a surplus in the deposits received against the actual costs amounting to £ 768.73. This amount will be returned to Ecom upon publication of this award.*
- (5) *Each party shall bear and pay its own costs of the reference.*

19. With respect to the objection that the duly notarized award and documents have not been placed on record, the said objection has been addressed by ECOM and while filing rejoinder to objections, ECOM has placed on record the duly notarized Award alongwith notarial certificate duly issued by Elaine Clayton, Notary public of Liverpool, England. Furthermore an affidavit of certification of documents alongwith duly notified certified copies of Sale Contracts have also been placed on record. It is of note that Pakistan acceded to the *Hague Convention Abolishing the*

Requirement of Legalization of Foreign Public Documents of 1961 (“**Apostille Convention**”), which was enforced on 09.03.2023, followed by the promulgation of the Apostille Act, 2024. The Apostille Convention shortens the public documents authenticating process to a single formality i.e. issuance of an authentication called as ‘Apostille’ by the designated authority of the Country, where the document was issued . In terms of Article V of the Apostille convention, the Apostille stamp certifies the authenticity of the signature, the capacity in which the person signing the document had acted and, where appropriate, the identity of the seal or stamp, which the document bears, thus, in terms of the Apostille Convention, the signatures, seal and stamp on the certificate are all exempt from further certifications. In this case, the Apostille certificate has been placed on record alongwith the rejoinder filed by ECOM, therefore, all objections raised *qua* the certification/stamps of the documents are untenable for the purpose of the case in hand. Lastly, the objection *viz* the authority of the special attorney and the alleged defects of the special power of attorney is a matter between the principal and the agent and have no bearing for the purpose of deciding the application in hand as the ECOM has not raised any objection regarding the authority of its agent i.e. special attorney.

20. In order to decide the application in hand, the reliance may also be placed upon authoritative pronouncements by the Supreme Court of Pakistan as well as by other jurisdictions, enunciating that Courts must maintain a pro-enforcement bias while dealing with foreign arbitral awards. It is equally well settled that the Courts in Pakistan are obligated to respect and uphold the parties’ agreement to arbitrate and to ensure that the outcome of such arbitration are recognized and enforced with minimal interference¹⁰. Thus, it is concluded that the defences raised by Ghazi do not compel this Court to refuse the Recognition and Enforcement of Award since Ghazi has failed to furnish proof that the recognition and enforcement of the Award may be refused on the grounds supplemented in Article V of the Schedule to

¹⁰ *“Taisei Corporation & another v. A.M. Construction Company (Pvt.) Ltd.”* (2024 SCMR 640); *“Orient Power Company (Pvt.) Ltd, Lahore v. Sui Northern Gas Pipelines Ltd.”* (2021 SCMR 1728); *Louis Dreyfus Commodities Suisse S.A. v. Acro Textile Mills Ltd.* (PLD 2018 LHR 597); *Abdullah v. Messrs CNAN GROUP SPA through Chief Executive/Managing Director and another* (PLD 2014 Sind 349) *“Government of India v. Vedanta Limited and Ors”* (AIR 2020 SC 4550); and *“Zeiler v. Deitsch”* (500 F.3d 157 (2007))

the Act, 2011. Consequently, the objections and the defence raised by Ghazi are hereby rejected.

21. As a sequel to the above, the Award is hereby recognized and enforced as a judgment of this Court. Accordingly, the order is as follows:

- i. The Award is hereby recognized as a binding and enforceable Award and is held enforceable through this judgment.
- ii. The Applicant/ECOM is granted judgment in the Award amount, which shall be executed as a Decree of this Court.
- iii. Decree Sheet shall accordingly be drawn.
- iv. The applicant/ECOM shall also have the costs of this application.
- v. In terms of Order XXI Rule 10 of Code of Civil Procedure, 1908, this application is converted into execution proceedings.

22. To come up for further proceedings in execution on 28.09.2026.

**(Khalid Ishaq)
Judge**

Announced in open Court on 25.05.2026.

**(Khalid Ishaq)
Judge**

Signed on _____.

**(Khalid Ishaq)
Judge**

Approved for reporting

**(Khalid Ishaq)
Judge**

Fawis!