

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**Case No: AA No. 16/2025
CM No. 4657/2026
CM No.7423/2025**

*Reserved on: 28.07.2026
Pronounced on: 11.08.2026
Uploaded on: 12.08.2026*

*Whether the operative part or full
Judgment is pronounced : **Full***

1. Union of India through Chief Engineer, udhampur Zone, PO Garhi, Udhampur.
2. Garrison Engineer (Project) Nagrota.

.....Petitioner(s).....

Through: Mr. Vishal Sharma, DSGI with
Mr. Karan Sharma, CGSC and
Mr. Eishaan Dadhichi, CGSC

v/s

M/s Bharat Construction,
11, East Extension, Sector
No.1-A, Trikuta Nagar,
Jammu.

Through: Mr. Pooja Gupta, Advocate

.....Respondent(s)...

**CORAM: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.
HON'BLE MR. JUSTICE M.A.CHOWDHARY, JUDGE**

JUDGMENT

PER OSWAL-J

1. This appeal is directed against the judgment dated 31.07.2025 passed by the learned Addl. District Judge (Commercial Court), Jammu (for short "the Commercial Court) in the petition under Section 34 of the Arbitration and Conciliation Act, 1997. whereby the petition preferred

by the appellants for setting aside the arbitral award dated 29.12.2017 as amended on 03.02.2018 passed by the Sole Arbitrator Sh. S.S.Bansal Joint DG (Contracts) CEWC, has been dismissed.

Grounds of Challenge:

2. The impugned judgment dated 31.07.2025 is challenged, *inter alia*, on the following grounds:

- (i) That the order impugned suffers from patent illegality, besides being arbitrary, and suffers from failure of lawful exercise of jurisdiction, as such is liable to be set aside.
- (ii) That the learned Addl. District Judge (Commercial Court), Jammu has failed to appreciate that the arbitral award is contrary to the express terms and conditions of the Contract, a specific ground raised in the application under Section 34 of the Arbitration and Conciliation Act, 1997. The award, being in violation of Section 28(3) of the Act, which mandates that the arbitral tribunal shall decide in accordance with the terms of the contract, is patently illegal and opposed to the public policy of India. The Court below has failed to consider and adjudicate upon this specific ground.
- (iii) That the learned Addl. District Judge (Commercial Court), Jammu has failed to appreciate that a specific ground was raised in the petition under Section 34 of the Arbitration and Conciliation Act, 1997 that the arbitral award is a non-speaking award, unsupported by reasons, in violation of the mandatory requirement of Section 31(3) of the Act and, therefore, opposed

to the public policy of India. The Court below, however, erroneously held that no ground under Section 34(2)(b)(ii) of the Act had been raised to assail the arbitral award.

(iv) That the impugned order is a non-speaking order. The Court below has failed to consider any of the specific grounds of challenge raised under Section 34(2)(b)(ii) of the Arbitration and Conciliation Act, 1997 and has merely reproduced settled legal principles without returning any findings on the objections raised against the arbitral award.

(v) That the Court below has failed to appreciate that the arbitral award is contrary to the terms of the contract, unsupported by reasons, and therefore patently illegal and opposed to the public policy of India. The Court below has further failed to examine the objections to each claim independently and, having dismissed the petition without adjudicating the specific grounds raised under Section 34 of the Arbitration and Conciliation Act, 1997, the impugned order is unsustainable and liable to be set aside.

Factual Matrix:

3. Brief facts necessary for the disposal of the present appeal are that the respondent entered into Contract Agreement bearing CA No. CEUZ/135WE/06/2012-13 for "Provision of OTM Accommodation for 'A' Engineer Regiment (Phase-II) at Nagrota." Certain disputes having arisen out of the execution of the said contract, the respondent invoked the arbitration clause contained in Condition 70 of IAFW-2249 (General Conditions of Contract), which provided for reference

of disputes to a sole arbitrator to be appointed by the Chief Engineer, Zone Udhampur. Accordingly, Sh. S.S. Bansal, Chief Engineer (Q&C), Joint DG (Contracts), Engineers Branch, HQ Western Command, Chandimandir, was appointed as the Sole Arbitrator. The learned Sole Arbitrator entered upon the reference on 20.02.2017, heard the parties and, upon conclusion of the arbitral proceedings, published the arbitral award dated 29.12.2017, which was received by the appellants on 04.01.2018. Thereafter, an amended award was published on 03.02.2018, which was received by the appellants on 12.02.2018.

4. Being aggrieved of the arbitral award dated 29.12.2017, as amended on 03.02.2018, the appellants filed a petition under Section 34 of the Jammu & Kashmir Arbitration and Conciliation Act, 1997 before the learned Commercial Court seeking its setting aside, however, vide the impugned judgment dated 31.07.2025, the learned Commercial Court dismissed the petition.
5. Heard learned counsel for the parties and perused the record meticulously.

Appreciation:

6. The facts which are not in dispute are that the respondent was awarded Contract Agreement bearing CA No. CEUZ/135WE/06/2012-13 for "Provision of OTM Accommodation for 'A' Engineer Regiment (Phase-II) at Nagrota." Disputes arose between the parties during the execution of the contract. In terms of Condition 70 of IAFW-2249 (General Conditions of Contract), the

disputes were referred to arbitration and Sh. S.S. Bansal was appointed as the Sole Arbitrator. The learned Sole Arbitrator entered upon the reference on 20.02.2017 and, after completion of the arbitral proceedings, made and published an arbitral award on 29.12.2017. Subsequently, an amended award was published on 03.02.2018. Aggrieved by the arbitral award dated 29.12.2017, as amended on 03.02.2018, the appellants preferred a petition under Section 34 of the Jammu & Kashmir Arbitration and Conciliation Act, 1997 before the learned Additional District Judge (Commercial Court), Jammu, seeking setting aside of the award. Respondent filed objections before the Commercial Court stating therein that the challenge to the arbitral award was beyond the limited scope of interference under Section 34 of the Jammu & Kashmir Arbitration and Conciliation Act, 1997. It was further contended that the award was passed after affording due opportunity to both the parties, in compliance with the principles of natural justice, and that it is a reasoned award based on the terms of the contract and the material on record. The respondent accordingly prayed for dismissal of the instant appeal with costs. The learned Commercial Court, vide judgment dated 31.07.2025, dismissed the said petition. Aggrieved thereof, the appellants have preferred the present appeal.

7. A perusal of the petition filed under Section 34 of the Act reveals that the appellants had assailed the Claim Nos. 2 (Incorrect Pricing), Claim No. 7 (Damages due to unlawful recoveries from RARs), Claim No. 8 (Damages due to breach of Condition 64 of IAFW-2249 -General Conditions of Contract), Claim No. 9 (Escalation

reimbursement/refund on account of variation in prices), Claim No. 11 (Damages due to breach of Condition 66 of IAFW-2249 – General Conditions of Contract), Claim No. 15 (Provision of lintel band in the garage for the air compressor), Claim No. 16 (Interest), and Claim 17 (Costs of Arbitration).

8. Out of the aforesaid claims, the substantial amount has been awarded under Claim No. 2 (Incorrect Pricing). Learned Arbitrator awarded the said claim upon due appreciation of the documentary evidence on record, and re-appreciation of the evidence is beyond the scope of interference under Section 34/37 of the Arbitration and Conciliation Act, 1996. The remaining claims challenged by the petitioners have also been allowed by the learned Arbitrator after proper appreciation of the documentary evidence and due application of mind. Although the amounts awarded under the remaining claims are considerably lower than the amount awarded under Claim No. 2, the findings recorded thereon are equally based on the evidence on record and do not warrant interference under Section 37 of the Act.

9. In **‘Ramesh Kumar Jain vs. Bharat Aluminum Company Ltd.(Balco)’**, 2025 INSC 1457, the Hon’ble Supreme Court of India has held that *“It is a settled proposition of law as has been constantly observed by this court and we reiterate, the courts exercising jurisdiction under section 34 do not sit in appeal over the arbitral award hence they are not expected to examine the legality, reasonableness or correctness of findings on facts or law unless they come under any of grounds mandated in the said provision.”* It has been further observed that *“When it comes to Section 37 of the A&C*

Act, it provides for a limited appellate remedy against an order either setting aside or refusing to set aside an arbitral award passed by civil court in exercise of its power under section 34. This court in MMTC Ltd. v. Vedanta Ltd.¹⁵, at Paragraph 14 observed that interference with an order made under section 37 cannot travel beyond the restrictions laid down in section 34”.

10.We have examined the judgment passed by the learned Commercial Court and we are in perfect agreement with the findings recorded by the learned Commercial Court that no ground as contemplated under Section 34 of the Arbitration Act exists warranting interference with the award. Accordingly, the appeal fails on merits and is accordingly **dismissed.**

(M.A. Chowdhary)
Judge

(Rajnish Oswal)
Judge

Jammu
11.08.2026
Madan Verma-Secy

