

HIGH COURT FOR THE STATE OF TELANGANA : HYDERABAD

MAIN CASE NO: CMA No.1311 of 2008

PROCEEDING SHEET

SL. NO.	DATE	ORDER	OFFICE NOTE
	25.02.2026	<u>NNR,J</u> <u>IA No.3 of 2024</u> This review application is filed to review the order passed in CMA No.1311 of 2008 by granting stay of all further proceedings in pursuance of the award dated 16.11.2007 in OP No.1570/2004 on the file of the XII Additonal Chief Judge, City Civil Court, Hyderabad. This Court, vide order dated 19.03.2024 in CMA No.1311 of 2008 has dismissed the claim of the petitioner/review petitioner herein and the operative portion is extracted hereunder: “20. Even the appellant failed to bring to the notice of this Court that there is any patent illegality on the face of the record or that the learned Arbitrator has committed illegality or irregularity while passing the impugned arbitral award. In such circumstances, this Court is of the considered view that the learned Arbitrator after adjudicating all the aspects has rightly passed the impugned award and the interference of this Court in the impugned award is unwarranted, more particularly, when the scope of interference in the arbitral awards passed under Sections 34 and 37 of the Arbitration and Conciliation Act, is very minimum. 21. In view of the above facts and circumstances, viewed from any angle, this	

SL. NO.	DATE	ORDER	OFFICE NOTE
		<i>Court is of the opinion that the learned Arbitrator after considering all the aspects has passed the impugned Award and there is no illegality or irregularity in the proceedings conducted by the learned Arbitrator. The tests laid down by the Honourable Apex Court with regard to public policy are very much fulfilled by the Arbitrator. There is no violation with regard to the fundamental policy of Indian Law. Therefore, the appellant failed to make out any of the grounds to set aside the impugned Award, which was confirmed by way of the impugned Order dated 16.11.2007 in Arbitration Original Petition No.1570 of 2004 passed by the learned XII Additional Chief Judge (FTC) at Hyderabad. There are no merits in the Civil Miscellaneous Appeal and accordingly, the same is liable to be dismissed."</i> Aggrieved by the final order, the petitioner filed the present review petition IA No.3 of 2024 on the following grounds that this Court failed to address the aspect of looking into the jurisdictional issues raised by the petitioner, particularly that the 2nd Respondent council lacked authority to entertain disputes arising from transactions predating the enforcement of Act 23 of 1998 and that this Court failed to appreciate that Section - 6(2) of the Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993 (32 of 1993) was amended vide Amendment Act 23 of 1998. Sub-Section (2) was inserted to Section - 6 As per the amended Act, a party may make a reference to the Industry Facilitation Council for acting as an arbitrator or conciliator in respect of the matters	

SL. NO.	DATE	ORDER	OFFICE NOTE
		relating to delay in respect of delayed payments and interest thereon and the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to such dispute as if the arbitration or conciliation were pursuant to an arbitration agreement referred to in sub-section (1) of Section - 7 of the Arbitration and Conciliation Act, 1996. Section - 43 of Arbitration and Conciliation Act, 1996 specifies that the Limitation Act, 1963 shall apply to arbitrations as it applies to proceedings in court. In terms of Limitation Act, three years is the limitation for any money claims. Thus, the Court ought to have dismissed the application filed by the 1st Respondent before the 2nd Respondent on the ground of delay and laches in claiming the money. This Court overlooked the limitation period prescribed by law. The claims were made well beyond the 3 year limitation period under Article - 137 of the Limitation Act, which should have barred the claims and ought to have properly addressed the contentions raised by the review Petitioner, including the applicability of Act 32 of 1993, the non-existence of an Industry Facilitation Council at the relevant time, and the excessive interest claimed by the respondent and relied upon the Judgment of Hon'ble Apex Court	

SL. NO.	DATE	ORDER	OFFICE NOTE
		in <i>Shanti Conductors(P) Ltd v. Assam SEB¹</i> Therefore, in light of the aforementioned grounds, the review petitioners seek review of the order dated 19.03.2024, in CMA.No. 1311 of 2008 and prayed this Court to allow the Present Review Petition in CMA.No. 1311 of 2008 by granting stay of all further proceedings in pursuance of the award dated 16.11.2007 in O.P.No. 1570/2004 on the file of the XII Additional Chief Judge, City Civil Court, Hyderabad. Learned Counsel for the review petitioner/appellant contended that the interest part which was awarded by the respondent No.2 (Arbitrator) is not liveable on delay payments as per the Act (Interest on delayed payments to Small Scale and Ancillary Industry Undertaking Act, 1993 (Act 32 of 1993) read with subsequent amendment of 23/1998 under AIFC Rules, 1999) and cannot be made applicable to the arbitration proceedings and the review petitioner/appellant is not liable to pay the interest. Learned Standing counsel for the review petitioner has argued and contended that this Court while dismissing the appeal did not consider the limitation aspect and sought for the review of the order for non-consideration of the	

¹ (2019) 19 SCC 529

SL. NO.	DATE	ORDER	OFFICE NOTE
		limitation act and applicability application and Section 6(2) of the Delayed payments to Small Scale and Ancillary Industrial Undertaking, Act, 1993 (32 of 1993) was amended vide amendment Act, 23 of 1998. Sub-Section (2) was inserted to Section 6 and contended that Act itself is not applicable and there is issue of limitation which has to be gone into. It is pertinent to mention that the Court can review the order when it is passed by mistake on the face of it and further argued and there clear mistake on the face of the record. Per contra, Sri Deepak Bhattacharjee, learned Senior counsel for the respondents contended that it is social legislation which provide relief to the small scale industries and he also relied upon the Hon'ble Supreme Court in <i>i) Modern Industries v. Steel Authority of India Limited</i>² <i>ii) Consolidated Engineering Enterprises v. Irrigation Department & others</i>³ <i>iii) Secur Industries Limited V. Godrej & Boyce Manufacturing Company Limtied</i>⁴ and seven other judgments of the Hon'ble Supreme judgment. Learned Senior counsel further argued and contended that basing on the judgment cited above, the review petitioner cannot say it is an error on apparent record and the learned counsel	

² (2010) 5 SCC 44³ (2008) 7 SCC 169⁴ (2004) 3 SCC 447

SL. NO.	DATE	ORDER	OFFICE NOTE
		for the review Petitioner. Having heard both the counsel on record. As the present application is filed seeking the review of the judgment passed by the Court the aspect which are raised by both the parties the act i.e, Small Scale and Ancillary Industrial undertakings (Amendment) act 1998. It is pertinent to mention here that the judgment which are relied upon the petitioners and the respondents cited and the ground which are raised by the petitioner for seeking the review of the order passed by this Court was that the jurisdiction issue by the petitioner was not considered or looked into, particularly the respondent No.2 lacked authority to entertain the dispute and that the other ground which is raised was not considered and dismissed the appeal. Another plea is Arbitration and Conciliation Act, section 6(2) of the Act 1998 read with 2 (4)(3) of the Act, mandate the limitation, which this Court failed to acknowledge and contended that this Court erred in awarding the interest without considering the correct rates and sought for the review. Before going further, let us understand the scope of review petition. In <i>Devender Pal Singh v. State, NCT of Delhi</i>⁵, it was held that review is not rehearing of the appeal all over again. The scope of review jurisdiction has been	

⁵ (2003) 2 SCC 501

SL. NO.	DATE	ORDER	OFFICE NOTE
		considered by this Court in a number of cases and the well settled principles have been reiterated time and again. It is sufficient to refer to judgment of this Court in <i>Kamlesh Verma vs. Mayawati and others</i>⁶ , where this Court has elaborately considered the scope of review. In paragraphs 17, 18, 20.1 and 20.2 following has been laid down: <i>“17. In a review petition, it is not open to the Court to reappreciate the evidence and reach a different conclusion, even if that is possible. Conclusion arrived at on appreciation of evidence cannot be assailed in a review petition unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. This Court in Kerala SEB v. Hitech Electrothermics & Hydropower Ltd. held as under: (SCC p. 656, para 10)</i> <i>“10... In a review petition it is not open to this Court to reappreciate the evidence and reach a different conclusion, even if that is possible. The learned counsel for the Board at best sought to impress us that the correspondence exchanged between the parties did not support the conclusion reached by this Court. We are afraid such a submission cannot be permitted to be advanced in a review petition. The appreciation of evidence on record is fully within the domain of the appellate court. If on appreciation of the evidence produced, the court records a finding of fact and reaches a conclusion, that conclusion cannot be assailed in a review petition unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. It has not been contended before us that there is any error apparent on the face of the record. To permit the review petitioner to</i>	

⁶ (2013) 8 SCC 320

SL. NO.	DATE	ORDER	OFFICE NOTE
		<i>argue on a question of appreciation of evidence would amount to converting a review petition into an appeal in disguise.”</i> <i>18. Review is not rehearing of an original matter. The power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. A repetition of old and overruled argument is not enough to reopen concluded adjudications. This Court in Jain Studios Ltd. v. Shin Satellite Public Co. Ltd., held as under: (SCC pp. 504-505, paras 1112)</i> <i>“11. So far as the grievance of the applicant on merits is concerned, the learned counsel for the opponent is right in submitting that virtually the applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negatived. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter. It is settled law that the power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection and only in exceptional cases.</i> <i>12. When a prayer to appoint an arbitrator by the applicant herein had been made at the time when the arbitration petition was heard and was rejected, the same relief cannot be sought by an indirect method by filing a review petition. Such petition, in my opinion, is in the nature of ‘second innings’ which is impermissible and unwarranted and cannot be granted.”</i> <i>20.1. When the review will be maintainable:</i> <i>(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the</i>	

SL. NO.	DATE	ORDER	OFFICE NOTE
		<i>petitioner or could not be produced by him; (ii) Mistake or error apparent on the face of the record; (iii) Any other sufficient reason. The words “any other sufficient reason” have been interpreted in Chhajju Ram v. Neki and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius to mean “a reason sufficient on grounds at least analogous to those specified in the rule”. The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd.</i> 20.2. When the review will not be maintainable: <i>(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications. (ii) Minor mistakes of inconsequential import. (iii) Review proceedings cannot be equated with the original hearing of the case. (iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice. (v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error. (vi) The mere possibility of two views on the subject cannot be a ground for review. (vii) The error apparent on the face of the record should not be an error which has to be fished out and searched. (viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition. (ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated.”</i> Applying the parameters of the review jurisdiction as noticed above, we now proceed to examine the grounds given in the review petition to find out as to whether there are any grounds for exercising the review jurisdiction by this	

SL. NO.	DATE	ORDER	OFFICE NOTE
		Court to review the judgment dated 19.03.2024. As seen from the ground which are raised and the arguments and on perusal of the order dated 19.03.2024 passed by this Court, it is pertinent to mention here that the aspect of jurisdiction and limitation, Section 6 of the Act was well discussed at paragraph No.11 & 12 of the order and also the interest portion is discussed at paragraph No.10 of the order. Again, if the review petition is admitted, it will go to the roots of the case and is deemed to be re-heard and that by entraining the same, it will not only allow the scope for re-appreciation of the entire merits of the case and also amount to re-appreciation of facts and come to a different conclusion which is impressible under law. Judgment of the Hon'ble Supreme in <i>Devender Pal Singh v. State, N.C.T of Delhi, (cited supra) and Kamlesh Verma vs. Mayawati and others (cited supra)</i> and also various catena of judgments wherein it is held that under the guise of the review the Courts are not permitted to revise its own order by going into the entire merits of the case and so also making the roving enquiry into the facts and rehearing the entire matter, further it is also clarified that in the various judgments of Hon'ble supreme Court it made clear that the error which is apparent on record which is easily traceable on the face of it has to be cured in review petitions and that there cannot be any roving enquiry to be done.	

SL. NO.	DATE	ORDER	OFFICE NOTE
		The grounds which are raised by the petitioner under review amounts reopening of the entire case of re-appreciation of entire facts of case, as such this Court is of the opinion that there are no grounds made out of review the judgment passed by this Court. In view of the above Circumstances, this Court hold that this is not a fit case for seeking the review of the judgment of this Court order dated 19.03.2024 in CMA No.1311 of 2008. Therefore, the review IA No.3 of 2024, deserved to be and accordingly dismissed. _____ <i>NNR,J</i> <i>SHA</i>	