

**IN THE HIGH COURT AT CALCUTTA  
ORIGINAL SIDE  
COMMERCIAL DIVISION**

**Presents**

**The Hon'ble Justice Krishna Rao**

**C.S. (COM) No. 759 of 2024**

**MRT Signals Limited**

**Versus**

**SRC Company Infra Pvt. Ltd.**

Mr. Satadeep Bhattacharya

Mr. Uttam Sharma

Ms. Vrinda Kedia

... For the plaintiff.

Hearing Concluded On : 28.10.2025

Judgment on : 25.11.2025

**Krishna Rao, J.:**

- 1.** The plaintiff has filed the present suit against the defendant for recovery of an amount of Rs. 44,23,700/- along with interim interest and interest upon judgment at the rate of 18% per annum.
- 2.** The plaintiff is engaged in the business of manufacturing, supplying and commissioning of railway signalling equipments and has acquired

substantial reputation and goodwill in India considering the quality of the equipments which are manufactured and supplied by the plaintiff.

3. The defendant is engaged in the business of construction work.
4. The defendant sometimes on or around the first week of October, 2020, had approached the plaintiff for work of alteration in existing electronic interlocking system at Bevara Railway Station.
5. The plaintiff relying upon the offer of the defendant had submitted an offer, wherein the plaintiff had offered to carry out the works at an amount of Rs.1,04,00,000/- alongwith certain terms and conditions, by way of an email dated 8<sup>th</sup> October, 2020.
6. The defendant had accepted the offer and had, accordingly, sent an email dated 9<sup>th</sup> October, 2020, enclosing a Work Order.
7. The plaintiff vide an email dated 15<sup>th</sup> October, 2020, had requested the defendant to revise few terms of the Work Order, which was subsequently revised and by an email dated 16<sup>th</sup> October, 2020, the defendant issued a revised Work Order, in respect of which a contract was entered into between the parties.
8. The plaintiff upon making the required materials ready for inspection, by emails dated 28<sup>th</sup> October, 2020 and 29<sup>th</sup> October, 2020, called upon the defendant for issuance of Call Letter upon RDSO for inspection of such materials pursuant to which the defendant on 2<sup>nd</sup>

November, 2020, by an email forwarded the plaintiff, the signed Call Letter for inspection to be issued to RDSO for further process.

- 9.** The defendant had engaged the services of one M/s. RCC Infra Consultants Pvt. Ltd., as a consultant in respect of the said works. Since, the said consultant was not registered with the North Central Railway, i.e. the Railway Division under whose jurisdiction, Bevara Railway Station is situated, RDSO did not take into consideration the call letter for inspection, and therefore refused to carry out inspection of the materials.
- 10.** The plaintiff on 11<sup>th</sup> November, 2020, received a letter dated 10<sup>th</sup> November, 2020, issued by the North Central Railway to RCC, approving its engagement as a consultant in respect of the said project with a validity from 10<sup>th</sup> November, 2020 to 8<sup>th</sup> February, 2023. Thereafter on 12<sup>th</sup> November, 2020, a revised Call Letter was issued to RDSO for carrying out inspection of the said materials.
- 11.** In terms of the revised contract, the time period for completion of the works was 30<sup>th</sup> November, 2020, since RDSO was not in a position to carry out the inspection of the materials within the tenure of the contract, the plaintiff by a letter dated 27<sup>th</sup> November, 2020, requested the defendant to extend the time for completion of the works till 15<sup>th</sup> January, 2021.
- 12.** The defendant by a letter dated 2<sup>nd</sup> December, 2020, had extended the time period for completion of the said works till 15<sup>th</sup> January, 2021,

without invoking Liquidated Damages (LD) Clause as contained in the Contract.

- 13.** On 8<sup>th</sup> December, 2020 to 14<sup>th</sup> December, 2020, the inspection of the required materials could be carried out by the RDSO, and subsequently upon inspection the RDSO had issued an Inspection Certificate dated 15<sup>th</sup> December, 2020.
- 14.** The plaintiff after the inspection, had duly supplied the required materials to the said railway station for the purpose of carrying out the installation works thereat, in respect of which the plaintiff on 21<sup>st</sup> January, 2021, had raised invoices being 1<sup>st</sup> and 2<sup>nd</sup> RA bills amount to Rs.72,56,456/- and Rs.12,03,226/-.
- 15.** The defendant upon receipt of such invoices had made payment for an aggregated sum of Rs.84,43,567/-.
- 16.** The service building which was required to be made available to the plaintiff to enable the plaintiff for carrying out indoor works in terms of the contract were not even ready after a lapse of 4 ½ months from the date of issuance of the Work Order, which in turn had resulted in the plaintiff not being able to commence the installation and commissioning works thereat. Accordingly, the plaintiff vide an email dated 2<sup>nd</sup> March, 2021, requested the defendant to ensure the plaintiff to carry out such works.

- 17.** The defendant thereafter vide an email dated 5<sup>th</sup> March, 2021, informed the plaintiff, for the first time that the required service building and store rooms were ready for indoor works and the plaintiff can commence the same.
- 18.** While the works were being carried out several meetings were held between the representatives of the plaintiff, the defendant and the consultant, RCC on 7<sup>th</sup> May, 2021 and on 28<sup>th</sup> May, 2021. Even in course of such meetings, no dispute was raised by the defendant in respect to the pace at which the said works were being carried out by the plaintiff, whereas the defendant was fully aware of the delay, in completion of the said works.
- 19.** By an email and a letter both dated 4<sup>th</sup> June, 2021, the plaintiff requested the defendant for further extension of time for completion of the contract till 30<sup>th</sup> August, 2021, without invoking of Liquidated Damages Clause.
- 20.** The defendant although did not give a written reply to the plaintiff's email and letter dated 4<sup>th</sup> June, 2021, but by its contemporaneous conduct, the defendant had treated the contract to have been extended without invocation of any Liquidated Damages.
- 21.** The plaintiff states that the works in terms of the contract were completed and on 26<sup>th</sup> September, 2021, accordingly, a Completion/Safety Certificate in respect thereof was issued by the North Central Railway Authorities.

- 22.** After successful completion of the contract and commissioning of all the works, the plaintiff had raised bill upon the defendant to the tune of Rs. 30,23,518/- inclusive of TDS to the tune of Rs.53,991/-.
- 23.** The defendant on 26<sup>th</sup> September, 2022, had paid the TDS amounting to Rs.53,991/- and had uploaded the same in their TDS Return which thereafter had reflected in Form-26AS of the plaintiff. However, the defendant had failed or neglected to make payment of the sum of Rs.29,69,527/- in terms of the bill raised by the plaintiff.
- 24.** The plaintiff by way of several e-mails, called upon the defendant to make payment of Rs.29,69,527/- but the defendant failed to make the payment. On 30<sup>th</sup> August, 2023 by a letter had once again called upon the defendant to make payment of the outstanding dues along with interest at the rate of 18% per annum.
- 25.** The plaintiff before filling of the suit, on 22<sup>nd</sup> February, 2024, has initiated pre-institution mediation process but inspite of receipt of notice, the defendant did not appear before the mediation and non-starter report dated 21<sup>st</sup> May, 2024, was issued by the Mediation Centre on 25<sup>th</sup> June, 2024.
- 26.** Writ of summons was duly served upon the defendant through Bailiff as well as postal service on 16<sup>th</sup> October, 2024 and on 13<sup>th</sup> September, 2024 respectively, even after service of notice, the defendant has not entered appearance in the suit. The plaintiff has obtained report issued from the Deputy Registrar, Legal, dated 18<sup>th</sup> January, 2025, wherein it

reveals that the defendant has not entered appearance till 18<sup>th</sup> January, 2025, either in person or through any legal representatives, therefore, the matter was directed to be listed as an “Undefended Suit” by an order dated 24<sup>th</sup> January, 2025.

- 27.** The plaintiff in order to prove its case has examined one witness, namely, Mr. Manas Gupta, Senior Executive of the plaintiff company, and has exhibited several documents which were marked as “**Exhibit-A to Exhibit- BB**”:

***Exhibit-A*** : Original Board Resolution dated 24<sup>th</sup> July, 2024.

***A/1 and A/2***: signature of Mr. Mahendra Kumar Anchalia is appearing in the Board Resolution is marked as A/1 and signature of the Director, Mr. Ankit Anchali is appearing in the Board Resolution is marked as A/2.

***Exhibit – B (Collectively)*** : Copy of an e-mail dated 8<sup>th</sup> October, 2020, issued at 20:56 hours by the plaintiff to the defendant, enclosing the Revised Work Order.

***Exhibit – C***: Copy of an e-mail dated 9<sup>th</sup> October, 2020 along with the Work Order issued in favour of the plaintiff.

***Exhibit – D***: Copy of an email dated 15<sup>th</sup> October, 2020, issued by the plaintiff to the defendant requesting the defendant to revise few terms of the Work Order.

**Exhibit– E (Collectively) :** Copy of an e-mail dated 16<sup>th</sup> October, 2020, issued by the defendant to the plaintiff enclosing a revised Work Order revising the terms of the Work Order dated 9<sup>th</sup> October, 2020.

**Exhibit – F:** Copy of an e-mail dated 28<sup>th</sup> October, 2020, issued by the plaintiff to the defendant.

**Exhibit – G:** Copy of an e-mail dated 29<sup>th</sup> October, 2020, issued by the plaintiff to the defendant.

**Exhibit – H (Collectively) :** Copy of an email dated 2<sup>nd</sup> November, 2020, issued by the defendant to the plaintiff, forwarding the signed call letter for inspection to be issued to RDSO for further process.

**Exhibit – I:** Copy of an e-mail dated 5<sup>th</sup> November, 2020, issued by the plaintiff requesting the defendant to provide a letter from the North Central Railway authorities informing the fact that RCC was appointed as a official consultant in respect of the said works.

**Exhibit– J (Collectively) :** Copy of a letter dated 10<sup>th</sup> November, 2020, issued by the Deputy Chief Engineer of North Central Railway to RCC, approving its engagement as a consultant in respect of the said project.

**Exhibit – K:** Copy of revised call letter, dated 12<sup>th</sup> November, 2020, issued in favour of the RDSO by RCC.

**Exhibit – L:** Copy of a letter dated 27<sup>th</sup> November, 2020, issued by the plaintiff to the defendant, requesting the defendant to extend the time for completion of works.

**Exhibit – M:** Copy of a letter dated 2<sup>nd</sup> December, 2020, issued by the defendant, extending the time period for completion of works as per the request of the plaintiff.

**Exhibit– N (Collectively) :** Original inspection certificate, dated 15<sup>th</sup> December, 2020, approved and issued by RDSO, in favour of the plaintiff, confirming the quality of the materials to be proper and useable.

**Exhibit– O (Collectively) :** Copy of an e-mail dated 4<sup>th</sup> February, 2021, issued by the plaintiff to the defendant, raising 1<sup>st</sup> RA Bill.

**Exhibit–P (Collectively) :** Copy of an e-mail dated, 12<sup>th</sup> February, 2021, enclosing the 2<sup>nd</sup> RA Bill dated 21<sup>st</sup> January, 2021, issued by the plaintiff to the defendant.

**Exhibit – Q (Collectively) :** The original bank statement of the State Bank of India dated 19<sup>th</sup> March, 2021 and 3<sup>rd</sup> May, 2021.

**Q/1 and Q/2:** Entries which are encircled by P.W.1 are marked as Exhibit Q/ 1 and Q/2 respectively.

**Exhibit – R:** Copy of an e-mail dated 2<sup>nd</sup> March, 2021, issued by the plaintiff to the defendant

*requesting that the service building which was required to be made available to the plaintiff.*

**Exhibit– S:** *Copy of an e-mail dated 5<sup>th</sup> March, 2021, issued by the defendant, informing the plaintiff that the required service building and store rooms were ready for indoor works.*

**Exhibit– T:** *Copy of the Minutes of the Meeting dated 7<sup>th</sup> May, 2021, held between the representatives of the plaintiff, the defendant and the consultant and RCC.*

**Exhibit– U:** *Copy of an e-mail dated 4<sup>th</sup> June, 2021, communicating the Minutes of the Meeting dated 28<sup>th</sup> May, 2021.*

**Exhibit– V (Collectively) :** *Copy of an e-mail dated 4<sup>th</sup> June, 2021, issued by the plaintiff to the defendant, requesting the defendant for further extension of time for completion of the contract.*

**Exhibit– W:** *Copy of a Certificate dated 26<sup>th</sup> September, 2021, issued by the North Central Railway Authorities, in terms of the completion of the contract.*

**Exhibit– X (Collectively) :** *Copy of an e-mail dated 7<sup>th</sup> October, 2021, issued by the plaintiff to the defendant, raising a bill dated 5<sup>th</sup> October, 2021, to the tune of Rs.30,23,518/-*

**Exhibit – Y:** *A copy of Annual Tax Return (Form 26AS ) of the plaintiff containing details of TDS.*

**Y/1** : The entry of TDS deducted by the defendant, encircled in red ink is marked as Exhibit Y/1.

**Exhibit – Z (Collectively)** : Copies of several e-mails dated from 20<sup>th</sup> April, 2022 to 23<sup>rd</sup> February, 2023, issued by the plaintiff to the defendant, repeatedly calling upon the defendant to make payment of the due amount.

**Exhibit – AA (Collectively)** : Copy of a letter dated 30<sup>th</sup> August, 2023, issued by the plaintiff to the defendant once again calling upon the defendant to make payment of the due amount.

**Exhibit – BB:** Copy of Schedule containing particulars of the interest payable by the defendant.

- 28.** Taking into consideration of the evidence of the plaintiff and the documents relied by the plaintiff, this Court finds that the plaintiff has proved that in the month of October, 2020, the defendant approached the plaintiff for work of alteration in existing electronic interlocking system at Bevara Railway Station. Upon negotiations held between the parties, the defendant has issued a work order to the plaintiff on 9<sup>th</sup> October, 2020 which is marked as **“Exhibit-C”**. Subsequently, on 16<sup>th</sup> October, 2020, the work order was modified which is marked as **“Exhibit- E (Collectively)”**. On 28<sup>th</sup> October, 2020 and 29<sup>th</sup> October, 2020, the plaintiff has requested the defendant for issuance of Call Letter upon RDSO for inspection of materials. On 2<sup>nd</sup> November, 2020, the defendant forwarded the signed Call Letter for inspection to be

issued to RDSO. On 10<sup>th</sup> November, 2020, the North Central Railway issued a letter to RCC, approving its engagement as a Consultant but subsequently, again on 12<sup>th</sup> November, 2020, a letter was issued to RDSO for carrying out inspection of the materials of the plaintiff. The said documents were marked as **“Exhibit- F, Exhibit- G, Exhibit- H (Collectively), Exhibit- J (Collectively) and Exhibit- K”**.

**29.** As there was delay in inspection of the materials, the plaintiff has issued letter dated 27<sup>th</sup> November, 2020, requesting the defendant to extend the time for completion of the said works. By a letter dated 2<sup>nd</sup> December 2020, the defendant has extended the time for completion of work till 15<sup>th</sup> January, 2021. The said documents were marked as **“Exhibit- L” and “Exhibit- M”**. On completion of such inspection, the RDSO issued Certificate dated 15<sup>th</sup> December, 2020 to the plaintiff certifying the materials were as per required specifications. The Certificate is marked as **“Exhibit- N (Collectively)”**.

**30.** After supply of materials by the plaintiff to the defendant, the plaintiff has raised running account bills no.1 and 2 for an amount of Rs. 72,56,456/- and Rs. 12,03,226/-. Upon receipt of the running account bills, the defendant has paid an amount of Rs. 84,43,567/-. The documents were marked as **“Exhibit- P (Collectively) and Exhibit- Q (Collectively)”**. By a letter dated 2<sup>nd</sup> March, 2021, the plaintiff requested the defendant for handing over the service building to the plaintiff for the purpose of carry out indoor works and on 5<sup>th</sup> March, 2021, the defendant informed the plaintiff that the service building and

store rooms are ready for completing indoor works. The documents were marked as **“Exhibits - R and S”**.

31. During execution of indoor works by the plaintiff, several meetings were held between the parties and the Minutes of the Meeting was also recorded. Though the time for completion of the work was completed on 15<sup>th</sup> January, 2021 but the plaintiff was continued with the work and also requested for extension of time till 30<sup>th</sup> August, 2021, by an email dated 4<sup>th</sup> June, 2021. On 26<sup>th</sup> September, 2021, the work was completed in all aspect and the North Central Railway issued completion/ safety certificate to the plaintiff. The request for extension of time and Completion Certificate are marked as **“Exhibits- V (Collectively) and Exhibit- W”**.
32. On completion of work, the plaintiff has raised final bill to the tune of Rs. 30,23,518/- on 5<sup>th</sup> October, 2021, which was inclusive of TDS and on receipt of the bill, the defendant has paid the TDS amount of Rs. 53,991/- and uploaded in their TDS Return and the said amount also reflected in Form 26AS of the plaintiff. The bill of the plaintiff is marked as **“Exhibit- X (Collectively)”**. TDS deducted by the defendant is marked as **“Exhibit- Y/1”** and 26-AS Certificate is marked as **“Exhibit- Y”**. The defendant has paid TDS amounting to Rs.53,991/- but the defendant has not paid the bill amount to the plaintiff inspite of several requests made by the plaintiff.

**33.** Though the plaintiff has not completed the work within the extended time but the plaintiff has made request to the defendant for extension of time to complete the work. The defendant has received the request of the plaintiff but has not rejected the request of the plaintiff but on the other hand allowed the plaintiff to complete the work and on completion of the work, the North Central Railway issued completion/safety certificate. The defendant has also not disputed the bill raised by the plaintiff on completion of the work as the defendant has paid the TDS.

**34.** In the case of ***Bhagawati Oxygen Ltd. Vs. Hindustan Copper Ltd.*** reported in **(2005) 6 SCC 462**, the Hon'ble Supreme Court held that:

*“20. Now, the arbitrator has considered the contentions of both the parties. He observed that as per the contract, BOL had undertaken to provide a VIST for storage of liquid oxygen of 50,000 litres. It was not disputed that VIST was not established by BOL and there was no provision for storage of liquid oxygen. He, however, observed that HCL neither insisted for establishing VIST nor objected for not establishing it.*

*21. Regarding purity of oxygen, the arbitrator observed that HCL never complained regarding the fall of purity of oxygen during the relevant period. Referring to the letters written by HCL to BOL, the arbitrator observed that HCL continued to accept oxygen gas supplied by BOL without avoiding the contract on the ground that there was breach of agreement by BOL. The arbitrator observed that there was neither excess consumption of furnace oil nor drop in production by HCL. Referring to the decisions of this Court in *Associated Hotels of India Ltd. v. S.B. Sardar Ranjit Singh* and *Brijendra Nath Bhargava v. Harsh Wardhan*, the arbitrator held that even if it was the case of HCL that there was non-compliance with certain terms and conditions by BOL, there was waiver and abandonment of the*

*rights conferred on HCL and it was not open to HCL to refuse to make payment to BOL on that ground. In view of waiver on the part of HCL, it was incumbent on HCL to make payment and since no such payment was made, BOL was right in making grievance regarding non-payment of the amount and accordingly an award was made in favour of BOL. The learned Single Judge as well as the Division Bench of the High Court considered the grievance of HCL so far as the claim of BOL allowed by the arbitrator was concerned and upheld it.*

**22.** *In view of the finding recorded by the arbitrator and non-interference by the High Court, we are of the view that no case has been made out by HCL as regards the claim allowed by the arbitrator in favour of BOL to the extent of supply of oxygen gas to HCL. Hence, the appeal filed by HCL deserves to be dismissed.”*

In the case in hand also the defendant has initially extended the time for completion of work by 15<sup>th</sup> January, 2021 but thereafter the plaintiff has requested for extension of time but the defendant has neither extended the time nor has rejected the request of the plaintiff but allowed the plaintiff to complete the work. On completion of the work, the Northern Central Railway issued Completion Certificate which is also not in dispute. On receipt of the bill, the defendant has paid TDS but failed to pay the bill amount to the plaintiff. The act of the defendant proves that the defendant has extended the time period for completion of work and there is no dispute with regard to the bill submitted by the plaintiff.

- 35.** Considering the above, this Court finds that the plaintiff has proved the case and is entitled to get an amount of Rs. 29,69,527/-. The

transaction between the plaintiff and the defendant is commercial in nature and thus the plaintiff is also entitled to get interest at the rate of 10% per annum on the principal amount of Rs. 29,69,527/- from 12<sup>th</sup> October, 2021, till the realisation of the total amount. The plaintiff is also entitled to get cost of Rs. 75,000/- as the defendant instead of settling the matter compelled the plaintiff to approach this Court for recovery of its legitimate claim.

**36.** The defendant is directed to pay an amount of Rs. 29,69,527/- along with interest at the rate of 10% per annum from 12<sup>th</sup> October, 2021, till the realization of the total amount. The defendant is also directed to pay an amount of Rs. 75,000/- being the cost.

**37. C.S. (Com) No. 759 of 2024 is disposed of.** Decree be drawn accordingly.

**(Krishna Rao, J.)**