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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **18.08.2025**

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THE HON'BLE MR. JUSTICE **ABDUL QUDDHOSE**

Arb.O.P.(Com. Div.) Nos.110 & 114 of 2025

The Integral Coach Factory,
Rep. by its General Manager,
Admin Building, Dr. Ambedkar Road,
Chennai, Tamilnadu – 600 034. ... Petitioner in both petitions

Vs.

M/s.Pennar Industries Limited,
Rep. by its Authorised Signatory,
Mr.K.Lavanya Kumar,
3rd Floor, (West Wing),
DHFLVC Silicon Towers,
Kondapur, Hyderabad,
Also at
Patta No.452/7,
Periyapalayam Road,
Kannigaipair Village,
Thiruvallur District – 601 102. ... Respondent in both petitions

Prayer in Arb.O.P.(Com.Div.)No.110 of 2025: Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996, seeking to set aside the Arbitral Award dated 27.02.2024 to the extent of directing the petitioner to pay to the respondent, a sum of Rs.10,02,389/- in respect of P.O.No.02/18/2123/2973/S dated 07.12.2018 and dismissing the counter claim of the petitioner herein in the matter of Arbitration of disputes between the petitioner and the respondent in respect of the aforesaid P.O.

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Prayer in Arb.O.P.(Com.Div.) No.114 of 2025: Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996, seeking to set aside the Award of the Arbitrator dated 27.02.2024 passed before the Arbitral Tribunal in Arb.(Com.Div)No.170/2022 on the file of the Sole Arbitrator Mr. Justice K.Ravichandrababu, Former Judge, Madras High Court.

For Petitioner (in both petitions)	:	Mr.A.R.Sakthivel Senior Panel Central Government Standing Counsel
For Respondent (in both petitions)	:	M/s.Ashwini Vaithialingam

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COMMON ORDER

These petitions have been filed under Section 34 of the Arbitration and Conciliation Act, 1996 (in short “the Act”) challenging the impugned arbitral awards dated 27.02.2024 passed in favour of the respondent against the petitioner.

2. Before the Arbitrator, who has passed the impugned arbitral awards, the claims made by the respondent against the petitioner arose out of the statutory variation clause contained in the contract awarded to the respondent by the petitioner. The statutory variation clause reads as follows:-

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"2.7 Any amendment in GST rate shall be governed by the contractual conditions under Statutory Variation Clause (SVC). However, increase in GST rate amendments shall be considered for quoted HSN only, against documentary evidence, provided such increase of GST rates takes place after the date of tender opening. The benefit of reduction in GST rate shall have to be passed on to railways.

2.8 While quoting the rates, the tenderer shall pass on, by way of reduction in prices, the full input tax credit that may become available in respect of all the inputs used in the supply of final goods/or services under GST scheme and submit a declaration in their offer of the same.

3.0 Statutory Variations:

3.1 Statutory variation will be considered during the original delivery period and against documentary evidence only. However increase in taxes or duties on account of misclassification or misapprehension of law shall not be allowed. Tenderers are thus advised to include Statutory Variations Clause correctly and explicitly in their offers."

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3. The Arbitrator under the impugned arbitral awards has held in favour of the respondent by holding that the respondent having paid GST at the rate of 12% is entitled to get the 7% differential GST rate, since the applicable GST rate is only 12% and not 5%, which was actually paid by the petitioner to the respondent.

4. Similarly placed contractors had also initiated arbitration seeking payment of 7% differential GST amount from the petitioner on the ground that the applicable GST is only 12% and not 5% as claimed by them through their respective invoices. The Arbitrator had also passed arbitral awards in favour of those claimants holding that those claimants (contractors) are entitled to get 7% differential GST rate, as the contractors by mistake had raised invoices at 5% GST, instead of 12%. The arbitral awards passed in favour of other claimants against the petitioner were challenged by the petitioner in Arb.O.P.(Com. Div.) Nos.602 of 2023, 74, 423 to 429 of 2024, 92 and 172 of 2025 and this Court, by a common order dated 09.04.2025, had dismissed the Section 34 applications filed by the petitioner and upheld the arbitral awards passed in favour of the respective claimants. This Court had further held

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that the arbitral awards passed by the Arbitrator in favour of the claimants do not suffer from patent illegality and it is also not opposed to public policy.

5. Since this Court had already rejected the very same grounds raised by the petitioner in these petitions in connected matters in Arb.O.P.(Com.Div.) Nos.602 of 2023, 74, 423 to 429 of 2024, 92 and 172 of 2025, dated 09.04.2025, this Court will have to dismiss these petitions as well. Accordingly, these petitions are dismissed. No costs.

18.08.2025

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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ABDUL QUDDHOSE. J.

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