



\$~104

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4603/2025**

NAMASTHETU INFRATECH PVT LTD

.....Petitioner

Through: Mr. Tushar Singh, Mr. Hasmit
Trivedi and Ms. Aastha Kaushik,
Advs.

versus

CHIEF CONSTRUCTION

ENGINEER R AND D CENTRAL & ORS.

.....Respondents

Through: Mr. J. S. Rawat, Adv. for R-1 and 2
along with Mr. D. Srinivasan, Tecl.
Asst.

Mr. Nishant Gautam, CGSC, Ms.
Archana Surve, GP and Mr. Vipul
Verma, Mr. Prithvi, Advs. for R-3.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

22.05.2025

%

1. The present petition seeks the following prayers:-

“a. issue a Writ of Certiorari or any other appropriate Writ, quashing and setting aside the Impugned Letter dated 08.10.2024 sent by Respondent No. 1 to the Petitioner;

b. issue a Writ of Mandamus, directing Respondent Nos. 1 and 2 to release reimbursement to the Petitioner as per the terms of the Letter dated 30.11.2022 issued by the Respondent No. 3 to the Chairman, Defence Research and Development Organisation, Ministry of Defence; and

c. pass any other order or direction which this Hon'ble Court may deem fit and proper in the facts of the present case.”

2. The disputes between the parties have arisen in the backdrop of a Letter of Intent (LoI) dated 28.02.2022, in terms of which respondent no.1



awarded a contract for the ‘construction of a Vertical Shaft Based Underground Storage Structure at Site NAAG for the Defence Research and Development Organization (DRDO)’ to the petitioner at an estimated cost price of Rs.15,33,28,209/-.

3. As per the LoI, the work was stipulated to be completed within 18 months i.e., by 27.08.2021. However, admittedly, the said work, after a delay of approximately 3 months, was completed by the petitioner on 27.11.2021. It is contended that the aforesaid delay was attributable to the respondent no.1.

4. Pursuant to completion of the work, the respondent no.1 issued a Performance Certificate dated 31.05.2024 in favour of the petitioner. It is submitted that the work has been completed to the satisfaction of the respondents.

5. The disputes between the parties have arisen on account of the alleged failure of the respondent no.1 to incorporate various additional amounts due and payable to the petitioner in the Final Bill. It stated that the petitioner accepted the amounts released by the respondent no.1 towards the Final Bill under protest.

6. It is the case of the petitioner that it is entitled to certain additional amounts, duly sanctioned by the Union of India *vide* letter dated 30.11.2022, addressed to the Chairman, Defence Research and Development Organisation, Ministry of Defence, DRDO Bhawan, New Delhi pertaining to reimbursement for abnormal variation in the prices of steel for ongoing civil works *inter-alia* in connection with the contract in question. The said letter/communication reads as under:

“To



The Chairman,
Defence Research and Development Orgn
Ministry of Defence, DRRO Bhawan
New Delhi-110011.

Subject: **REIMBURSEMENT DUE TO VARIATION IN PRICES
OF STEEL FOR THE ONGOING CIVIL WORKS (FOR THE
PERIOD) FROM 01ST NOVEMBER 2020)**

Sir,

1. I am directed to refer to Gal/MoD letter No Admin/87116/DWP/RD-28/1957/D(R&D) dated 28th May 1999 regarding "Works Procedure for R&D Construction Establishment 1999" and to convey the sanction of the President for Reimbursement due to abnormal variation in prices of Steel (Reinforcement steel & Structural Steel only) for the ongoing civil works of DCW&E {other than maintenance works} for the period with effect from 1st Nov 2020 as a one time measure.

2. The Standard Operating procedure (SOP) for working out variation in prices may be considered as per the existing SOP of CPWD MANUAL-2019. Also, in case compensation due to the abnormal increase in steel prices is to be paid, it should be adjusted by an average 10 % reduction on this account.

3. Further, the reimbursement due to variation in prices of steel for the ongoing civil works (for the period from 01 November 2020) is to be capped at 30/o of contract value.

4 The expenditure involved will be debitable to Major Head 4076, sub heads will be as per respective sanctions/ Admin Approvals within the permissible tolerance as per the respective Competent Financial Authority's (CFAs) approval.

5. This -issues with the concurrence of Ministry of Defence (Finance/R&D) vide their Dy No. 567/MoD/Fin (R&D) dated 24 Nov 2022.

-sd-

(Harsha Rani)

Under Secretary to the Govt. of India."

7. It is submitted that in terms of the decision as recorded in the said letter dated 30.11.2022, the petitioner is entitled to reimbursement. It is



further submitted that the concerned Technical Officer 'C' of the respondent no.1 has issued a communication dated 15.11.2023, stating as under:

"To

To
Chief Construction Engineer(R&D) Central
Rao Tula Ram Marg,
Behind Army HQ Camp
PB No.8,
DELHI CANT- 110 010

15 Nov 2023

(Kind Attn : Shri Akhilesh K Singh, Addl. CCE)
PROVISION OF VERTICAL SHAFT BASED UNDERGROUND STORAGE
STRUCTURE AT SITE NAAG CCE(R&D)CENTRAL /DRDO-CFEES/06 OF
2019-20. Dtd. 28/02/2020

Refer NIPL letter No. NIPL/CCE(R&D)C/NAAG/555/2023-24 Dtd 23 Oct 2023.

2. M/s Namasthetu Infratech Pvt Ltd, Mumbai have submitted STEEL ESCALATION RAR Bill in duplicate vide their letter above for the subject work. The bill has been checked and an amount of Rs. 41,53,36l.OO(including IT, WCT and GST) is recommended for necessary action at your end.

(D SRINIVASULU)
Technical Officer 'C'
For Project Manager, CCE (R&D) C"

8. It is submitted that the aforesaid communication also establishes the entitlement of the petitioner. The grievance of the petitioner is that despite the same, the necessary amounts have not been released by the concerned sanctioning authority i.e. the office of Chief Construction Engineer, R&D, Central (respondent no.1). Instead, without taking note of the substantive entitlement of the petitioner and the aforesaid verification carried out by the Technical Officer, the impugned letter dated 08.10.2024 has been issued denying reimbursement to the petitioner.



9. It is submitted that the aforesaid letter does not disclose any reasons for denying the reimbursement of the petitioner despite the claim of the petitioner in this regard having been duly verified.

10. Learned counsel for the respondents disputes the entitlement of the petitioner. It is also pointed out by learned counsel for the respondent no.3 that there exists an arbitration clause in the agreement between the parties which the petitioner is at liberty to invoke for adjudication of any outstanding claim/s.

11. Since the impugned order does not disclose any reason as to why the petitioner has not been given the benefit of the decision taken by the respondent no.3 vide letter dated 30.11.2022 despite necessary verification/s and sanction/s having been (allegedly) accorded in respect thereof (including by the concerned project manager), the concerned Sanctioning Authority (respondent no.1) is directed to afford an opportunity of hearing to the petitioner and if the petitioner is found eligible for the necessary reimbursement, necessary sanction/s for the same be accorded. If the reimbursement is sought to be denied to the petitioner, let a reasoned order be passed.

12. In the opinion of the Court, it would be apposite to carry out the above exercise to obviate the possibility of the parties being subject to unnecessary and expensive arbitration/adjudicatory proceedings.

13. The petition is disposed of, in the above terms.

SACHIN DATTA, J

MAY 22, 2025/cl