IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF NOVEMBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE K.S.BHARATH KUMAR

COMMERCIAL APPEAL NO.131 OF 2024

BETWEEN:

1. EXECUTIVE ENGINEER
   PWD AND IWTD DEPARTMENT,
   RAICHUR,
   DIST. RAICHUR - 584 101.

...APPELLANT

(BY SRI. MANU K., ADVOCATE)

AND:

Digitally signed by RAKSHA
Location: high court of karnataka

1. M/S. HAIGREEVA INFRATECH PROJECTS LTD.,
   NO.101, 4TH MAIN, NGEF LAYOUT,
   SANJAYA NAGARA,
   BANGALORE - 560 094.
   REPRESENTED BY ITS AUTHORISED SIGNATORY.

2. SRI. B.N. CHANDRASHEKHARAIAH
   ENGINEER-IN-CHIEF (RETD.),
   KARNATAKA PWD,
   NO.651, 12TH CROSS, 5TH MAIN,

M.C. LAYOUT, VIJYANAGAR,
BANGALORE - 560 040.

…RESPONDENTS

(BY SRI. HARISHCHANDRA REDDY, ADVOCATE FOR C/R1,
V.O.D. 01-07-2026, NOTICE TO R2 D/W.)

THIS COMMERCIAL APPEAL IS FILED UNDER SECTION 13(1-A) OF THE COMMERCIAL COURTS ACT, 2015 R/W SECTION 37(1)(C) OF THE ARBITRATION AND CONCILIATION ACT, 1996, PRAYING TO CALL FOR RECORDS FROM THE FILE OF THE HON'BLE LXXXIX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AT BENGALURU (CCH-90) IN COM. A.P.122/2022 ALONG WITH THE ARBITRATION RECORDS OF THE ARBITRAL TRIBUNAL WHICH HAVE BEEN RECEIVED ON THE FILE OF THE HON'BLE LXXXIX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AT BENGALURU (CCH-90) IN COM. A.P.122/2022 AND ETC.,

THIS COMMERCIAL APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 05.10.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, ***K.S.BHARATH KUMAR, J.,*** PRONOUNCED THE FOLLOWING :

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE K.S.BHARATH KUMAR

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE K.S.BHARATH KUMAR)

The appellant has preferred the instant Commercial Appeal under Section 13 (1-A) of the Commercial Courts Act, 2015 read with Section 37(1)(c) of the Arbitration and Conciliation Act, 1996, (hereinafter referred to as `Arbitration and Conciliation Act'), impugning the judgment dated 30.01.2024, passed by the learned LXXXIX Addl.City Civil & Sessions Judge, Bengaluru (CCH-90), in Com.A.P.No.122/2022, whereby the Commercial Court dismissed the petition filed by the appellant herein under Section 34 of the Arbitration and Conciliation Act and the Arbitral Award dated 23.11.2021 was confirmed.

2. We have heard Sri Manu K., learned counsel appearing on behalf of the appellant and Sri Harishchandra Reddy, learned counsel appearing on behalf of respondent No.1/claimant.

3. It is submitted by the learned counsel appearing on behalf of the appellant that, during the year 2011, the

Railway authorities proposed to construct a road Over Bridge No.107-A, at railway KM 568/6-7 on Raichur Bachi (Lingasugur Road) SH-20 in KM 1.3500, near Basaweshwara Circle. The construction of the said approach road to new railway over bridge was entrusted to the respondent No.1 by inviting tenders. Respondent No.1 participated in the tender process and on being a successful bidder, was awarded the work in terms of the letter dated 17.05.2011. Subsequently, an Agreement dated 18.06.2011 was entered into between the parties for a contract value of Rs.4,96,75,052/- and work order was issued on 28.06.2011. The original period for completion of the work was nine months, ending on 28.03.2012. However, the mark-out was furnished only on 12.12.2012 and, on that basis, the revised completion date was treated as 11.09.2013. The work was completed on 05.02.2014.

4. During the execution of the said contract, the design and specifications underwent certain changes, including enhancement of the carriageway width and

alteration of the specifications of the retaining walls, resulting in revision of the project cost. Thereafter, a Supplementary Agreement dated 20.11.2014 was subsequently executed between the parties.

5. Thereafter, disputes arose between the parties with regard to the amounts claimed by respondent No.1. Hence, respondent No.1 sought appointment of an Arbitrator and filed C.M.P.No.200003/2019 before this Court. By order dated 22.10.2019, this Court appointed Sri.B.N.Chandrashekharaiah as the sole Arbitrator to adjudicate the disputes arising out of the agreement. Respondent No.1 filed its statement of claim before the learned Arbitrator raising nine claims. After conclusion of the proceedings, by the Award dated 23.11.2021, the Arbitral Tribunal allowed six claims and an aggregate sum of Rs.4,54,89,696/- was awarded together with interest. Being aggrieved by the said Award dated 23.11.2021 passed by the learned Arbitrator, the appellant instituted Com.A.P.No.122/2022 under Section 34 of the Arbitration and Conciliation Act.

6. The Commercial Court, after hearing both parties, noticing the limited scope of interference under Section 34 of the Arbitration and Conciliation Act, held that the award could not be interfered with merely because another view was possible. It further rejected the objections regarding constitution and jurisdiction of the Arbitral Tribunal by holding that the appointment made by this Court in C.M.P.No.200003/2019 was valid and that no prejudice has been demonstrated by the appellant. Further on the question of limitation, the Commercial Court held that the claims made were within time having regard to the extension of time granted on 07.07.2015, the subsequent price variation bill and the invocation notice dated 15.02.2018.

7. The Commercial Court further upheld the award on the final bill and price adjustment, holding that the appellant had failed to finalise the accounts and that the contractual provisions permitted price adjustment during the extended period. The partial award towards idling of machinery and labour were sustained on the ground that

the delay in handing over the site and changes in design had prolonged the work. The award towards overhead charges based on Emden's Formula, as also legal expenses and interest, was also upheld. It was consequently held that no ground under Section 34 of the Arbitration and Conciliation Act had been made out and the petition was dismissed with costs.

8. It is contended by the learned counsel appearing on behalf of the appellant that the Commercial Court, while exercising jurisdiction under Section 34 of the Arbitration and Conciliation Act, traveled beyond the reasons contained in the award, re-appreciated the material on record and supplemented the reasoning of the Arbitrator without independently considering the grounds urged by the appellant for setting aside the award.

9. It is further contended that the constitution of the Arbitral Tribunal was contrary to Clause 4(a) of the Special Conditions of Contract and that the appellant's objection under Section 16 of the Arbitration and Conciliation Act

regarding jurisdiction of the Tribunal was rejected without assigning any reasons and on an erroneous factual premise.

10. It is further contended that the claims were barred by limitation and that the Arbitrator failed to properly adjudicate the issue framed in that regard. It is submitted that the notice invoking arbitration dated 15.02.2018 was beyond three years from the accrual of the respective causes of action. It is also contended that disputed documents and calculations were relied upon without the claimant's witness being subjected to cross-examination, thereby violating principles of natural justice.

11. As regards the final bill, it is submitted that the same was produced for the first time along with the statement of claim dated 09.01.2020, contrary to Clause 47 of the conditions of contract, remained uncertified and was also barred by limitation.

12. As regards price adjustment, it is contended that the contract did not confer such entitlement and that the

Government Orders relied upon had neither been pleaded nor produced. Particular exception is taken to the reliance placed on the Government Order dated 26.02.2016, which was neither part of the pleadings nor evidence and had been issued after completion of the contract.

13. It is further contended that the Supplementary Agreement superseded the earlier agreement and, in the absence of any reservation of claims towards the final bill, price escalation, idling or overhead charges, no such claims could thereafter be maintained under the original agreement. The claims towards idling of machinery and labour are stated to be barred by limitation and unsupported by reliable evidence of mobilisation or expenditure. It is also contended that, when the site had not been handed over during the relevant period, the assumption that machinery and labour remained idle at site, was untenable.

14. It is further contended that the respondent No.1 failed to mitigate the alleged loss and produce any

material to show that the machinery could not have been deployed elsewhere. With regard to overhead charges, it is contended that no actual expenditure was proved and that application of Emden's Formula without foundational evidence was impermissible.

15. Learned counsel appearing for the appellant placed reliance on the following decisions:-

(i) Ssangyong Engineering & Construction Co. Ltd. Vs. National Highways Authority of India, reported in (2019) 15 SCC 131;

(ii) Hindustan Petroleum Corporation Ltd. Vs. Banu Constructions & Anr. reported in 2021 SCC OnLine Mad 724;

(iii) Chennai Water Desalination Ltd. Vs. Chennai Metropolitan Water Supply and Sewerage Board, reported in MANU/TN/5922/2022;

(iv) State of Gujarat Vs. M/s Kothari & Associates, reported in (2016) 14 SCC 761;

(v) Unibros Vs. All India Radio, reported in 2023 SCC OnLine SC 1366;

(vi) Batliboi Environmental Engineers Ltd. Vs. Hindustan Petroleum Corporation Ltd., reported in 2023 SCC OnLine SC 1208;

(vii) Board of Control for Cricket in India Vs. Deccan Chronicle Holding Ltd., reported in 2021 SCC OnLine Bom 834;

(viii) Anheuser Busch InBev India Ltd. Vs. Scarpe Marketing Pvt. Ltd., reported in ILR 2022 KAR 544;

(ix) Hindustan Construction Company Ltd. Vs. Bihar Rajya Pul Nirman Nigam Ltd. & Ors, reported in (2026) 3 SCC 264;

(x) Adavya Projects Pvt. Ltd. Vs. Vishal Structurals Pvt. Ltd. & Ors, reported in (2025) 9 SCC 686;

(xi) Power Grid Corporation of India Ltd. Vs. Siemens Ltd, reported in 2013 SCC OnLine Del 843;

(xii) Oil and Natural Gas Corporation Ltd. Vs. Interocean Shipping (India) Pvt. Ltd., reported in 2017 SCC OnLine Bom 10032;

(xiii) Hindustan Cables Ltd. Vs. M/s Joy Maa Santoshi Saw Mill, reported in 2025 SCC OnLine Cal 9716, and

(xiv) Bentwood Seating System Pvt. Ltd. Vs. Airport Authority of India, reported in 2021 SCC OnLine Del 3989.

16. Per contra, learned counsel appearing for respondent No.1 sought to justify the impugned judgment passed by the Commercial Court. It is contended that the challenge to jurisdiction and constitution of the Arbitral Tribunal is untenable, particularly in view of the order dated 22.10.2019, passed by this Court in C.M.P.No.200003/2019, appointing the sole Arbitrator. It is contended that the proceedings were conducted on the basis of documents and submissions after affording full opportunity to both parties and hence, the appellant cannot have any grievance with regard to the award passed by the Arbitral Tribunal and the judgment passed by the Commercial Court.

17. Further on the point of limitation, it is contended that the claims were not barred, since the work was completed on 05.02.2014, the defect-liability period expired on 05.02.2015, extension of time was granted on

07.07.2015 without levy of liquidated damages and the claimant thereafter submitted its price-adjustment bill and issued reminders before invoking the arbitration Clause. It is also contended that the final accounts remained unsettled and that the disputes therefore continued to subsist. It is also contended that the appellant had committed breach of the contract by failing to hand over the site and furnish the mark-out within the stipulated time, resulting in delay in commencement and completion of the work.

18. It is also contended that the subsequent execution of the Supplementary Agreement and grant of extension of time without levy of liquidated damages are relied upon as acknowledging the delay attributable to the appellant. It is further contended that the subsequent execution of the Supplementary Agreement and grant of time without levying liquidated damages are attributable to the appellant. It is further contended that the Supplementary Agreement did not extinguish the claimant's rights under the original contract.

19. It is next contended that the claim for price adjustment was supported by Clause 40 of the General Conditions of Contract and by the extension of time granted by the appellant, while the claims towards idling of machinery and labour arose on account of the delayed handing over of the site and prolongation of the contract. It is further contended that the Tribunal has not accepted the amounts claimed, but had partly allowed the claims only after considering the material on record and assigning reasons.

20. Further, with regard to overhead charges, legal expenses and interest, it is contended that the prolongation of the contract resulted in additional recurring expenditure and that the Tribunal had assessed the claims on recognised principles and the material placed before it. The award of legal expenses and interest is also sought to be sustained on the ground that the claimant was compelled to resort to arbitration for recovery of its legitimate dues and had incurred financial liability on account of delayed payment. It is also

contended that the award is neither contrary to the fundamental policy of Indian law nor vitiated by patent illegality, perversity or violation of natural justice.

21. In support of his contentions, learned counsel appearing on behalf of respondent No.1 placed reliance on the following decisions :

(i) ***M/s Vidyawati Construction Company Vs. Union of India reported in MANU/SC/0100/2025;***

(ii) ***Welspun Specialty Solutions Ltd. & Ors. Vs. Oil and Natural Gas Corporation Ltd. & Ors reported in MANU/SC/1059/2021;***

(iii) ***J.G. Engineering Pvt. Ltd. Vs. Union of India & Anr reported in MANU/SC/0527/2011;***

(iv) ***McDermott International Inc. Vs. Burn Standard Co. Ltd. & Ors reported in MANU/SC/8177/2006;***

(v) ***Dyna Technologies Pvt. Ltd. Vs. Crompton Greaves Ltd reported in MANU/SC/1765/2019;***

(vi) Haryana Tourism Ltd. Vs. M/s Kandhari Beverages Ltd MANU/SC/0033/2022; reported in

(vii) Atlanta Ltd. Vs. Union of India reported in MANU/SC/0059/2022;

(viii) Reliance Infrastructure Ltd. Vs. State of Goa reported in MANU/SC/0553/2023;

(ix) In Konkan Railway Corporation Ltd. Vs. Chenab Bridge Project Undertaking reported MANU/SC/0900/2023;

(x) M/s Larsen Air Conditioning and Refrigeration Company Vs. Union of India & Ors reported in MANU/SC/0876/2023;

(xi) S.V. Samudram Vs. State of Karnataka & Another reported in MANU/SC/0016/2024;

(xii) Bombay Slum Redevelopment Corporation Pvt. Ltd. Vs. Samir Narain Bhojwani reported in MANU/SC/0564/2024;

(xiii) Morgan Securities and Credits Pvt. Ltd. Vs. Videocon Industries reported in MANU/SC/1084/2022;

(xiv) Somdatt Builders-NCC-NEC (JV) Vs. National Highways Authority of India & Ors reported in MANU/SC/0109/2025;

(xv) M/s C & C Constructions Ltd. Vs. IRCON International Ltd., reported in MANU/SC/0128/2025;

(xvi) A.C. Chokshi Share Broker Pvt. Ltd. Vs. Jatin Pratap Desai & Another, reported in MANU/SC/0168/2025;

(xvii) Ramesh Kumar Jain Vs. Bharat Aluminium Company Ltd. (BALCO), reported in MANU/SC/1699/2025;

(xviii) Jan De Nul Dredging India Pvt. Ltd. Vs. Tuticorin Port MANU/SC/0031/2026; Trust reported in

(xix) Madhya Pradesh Road Development Corporation Ltd. Vs. M/s Jabalpur Corridor Pvt. Ltd reported in MANU/SC/0582/2026, and

(xx) The Executive Engineer Vs. M/s BSR Infratech India Ltd passed in COMAP No.478/2025, by order dated 09.01.2026.

22. We have heard learned counsel appearing for appellant and respondent No.1 and perused the materials on records.

23. It is seen from the records that the appellant had raised an objection under Section 16 of the Arbitration and Conciliation Act calling in question the jurisdiction of the learned sole Arbitrator. The objections regarding jurisdiction of the learned Arbitrator was filed on 29.02.2020 simultaneously along with the Statement of Defence and the proceedings dated 30.10.2020 also record that the jurisdictional objection had been raised along with the Statement of Defence. Therefore, the said objections raised by the appellant was within the time stipulated under Section 16(2) of the Arbitration and Conciliation Act. Mere raising of the objections within the stipulated time would not, by itself, contemplate nor establish that the constitution of the Arbitral Tribunal was invalid.

24. It would be relevant to examine Clause 4 of the Special Conditions of Contract, which deals with appointment of sole Arbitrator. Clause 4 contemplates appointment of a sole Arbitrator. Clause 4 of the Special Conditions of Contract reads as under :

> *"4.* ***Arbitration (Clause 24)***
>
> *4.1. The procedure for arbitration shall be as follows :*
>
> *(a) In case of dispute or difference arising between the Employer and the Contractor relating to any matter arising out of or connected with this agreement, it shall be settled in accordance with the Arbitration and Conciliation Act 1996. The disputes or differences shall be referred to a Sole Arbitrator. The Sole Arbitrator shall be appointed by agreement between the parties, failing such agreement, by the Appointing Authority (any one of the Organisations as per list enclosed in Annexure).*
>
> *(b) Arbitration proceedings shall be held at ……, Karnataka, India.*
>
> *(c) The cost and expenses of arbitration proceedings will be paid as determined by the Arbitrator. However the expenses incurred by each party in connection with the preparation,*

presentation, etc., shall be borne by each party itself.

(d) Performance - under the contract shall continue during the arbitration proceedings and payments due the Contractor by the Employer shall not be withheld, unless they are the subject matter of the arbitration proceedings."

On careful perusal of the said Clause 4 of the Special Conditions of the Contract (*referred supra),* it can be seen that the same contemplates appointment of a sole Arbitrator by agreement between the parties and failing such agreement through one of the designated appointing authorities.

25. The respondent No.1/claimant had proposed the name of Sri.B.N.Chandrashekharaiah and on the appellant failing to respond to the said proposal, approached this Court in C.M.P.No.200003/2019. Pursuant to service of notice and appearance by the appellant, no objection was raised to the proposed appointment and, by order dated 22.10.2019, this Court appointed Sri.B.N. Chandrashekharaiah as the sole Arbitrator. The

appointment was made by this Court in exercise of the power under Section 11 of the Arbitration and Conciliation Act and hence, the same cannot be treated as an unilateral appointment by respondent No.1.

26. The learned Arbitrator pursuant to filing of the application by the appellant under Section 16 of the Arbitration and Conciliation Act on 29.02.2020, in the proceedings held on 30.10.2020, the Arbitral Tribunal has considered the objections raised by the appellant and passed a detailed order rejecting the objections raised by the appellant with regard to jurisdiction of the sole Arbitrator.

27. Further, the Commercial Court has also examined the aspect of jurisdiction raised by the appellant as considered by the sole Arbitrator. The Commercial Court has categorically held that, in the proceedings initiated by the respondent No.1 before this Court in C.M.P.No.200003/2019, the appellant did not choose to file their statement of objections and this Court vide order

dated 22.10.2019, allowed the said C.M.P.No.200003/2019 and accordingly appointed Sri B.N.Chandrashekaraiah as the sole Arbitrator as nominated by the respondent No.1 and kept all issues, including the issue relating to the constitution of the Arbitral Tribunal, open for adjudication by the sole Arbitrator.

28. The Commercial Court has also given a finding stating that the contention of the appellant that the learned sole Arbitrator erroneously and without recoding any reasoning, dismissed the application filed by the appellant on the sole ground that the appellant had preferred the said application subsequent to filing the statement of defence, is wholly contrary as evidenced from the proceedings dated 29.02.2020 before the learned sole Arbitrator.

29. The appellant has not denied the letter dated 15.02.2018, issued by the respondent No.1 seeking consent of the appellant for appointment of the Arbitrator.

In spite of receipt of the said letter dated 15.02.2018, the appellant has not communicated its rejection of the request made by the claimant for appointment of Sri B.N.Chandrashekaraiah as the sole Arbitrator.

30. Further, pursuant to the appointment of the sole Arbitrator by this Court in C.M.P.No.200003/2019 and pursuant to the rejection of the objections filed by the appellant under Section 16 of the Arbitration and Conciliation Act, regarding jurisdiction of the Arbitral Tribunal, the appellant had availed all the opportunities provided by the Arbitral Tribunal and participated in the proceedings. Therefore, when the appellant has participated before the sole Arbitrator in the entire proceedings, at a belated stage is not entitled to raise dispute/objections regarding constitution of the Arbitral Tribunal.

31. The sole Arbitrator has duly considered the objections raised by the appellant and has rejected the said objections by assigning valid reasons and further the

Commercial Court has also considered the said aspect of the matter and has held that the learned sole Arbitrator has rightly rejected the objections filed by the appellant regarding jurisdiction of the Arbitral Tribunal. Since the learned Arbitrator and the Commercial Court have duly considered the aspect of jurisdiction raised by the appellant, this Court does not find any valid reasons to interfere with the said findings under Section 37 of the Arbitrator and Conciliation Act.

32. It is next contended by the appellant that the claims raised by the claimant are barred by limitation. It is seen from the materials available on record that the work was completed on 05.02.2014, the defect-liability period expired on 05.02.2015 and extension of time was granted on 07.07.2015 without levying any penalty and further the price-adjustment bill was thereafter submitted and reminders were issued on 15.02.2018 prior to invoking the arbitration clause.

33. It is further seen that the final accounts had also remained unsettled. The Arbitral Tribunal has duly taken into consideration the delayed handing over of the site, changes in the scope of work, extension of time without levying penalty, subsequent submission of the price adjustment bill and non-finalisation of the accounts and has rightly held that the claims raised by the claimant are not barred by limitation.

34. Hence, appreciating the said reasons assigned by the learned Arbitrator, the Commercial Court has found that there are no grounds to interfere with the said finding regarding limitation. Therefore, the findings arrived at by the sole Arbitrator and the Commercial Court, on the basis of the said circumstances, cannot be characterised as suffering from patent illegality warranting interference by this Court by exercising the power under Section 37 of the Arbitration and Conciliation Act.

35. The contention relating to the final bill, price adjustment, idling charges, overheads, litigation and the

effect of the Supplementary Agreement essentially concern interpretation of the contractual terms and appreciation of the material before the Tribunal. The learned Arbitrator has not accepted the claims in their entirety, but partly allowed some claims while rejecting others. The manner in which the individual claims were dealt with also indicates that the Tribunal had considered the respective heads of claim on their merits.

36. The findings recorded by the learned Arbitrator are solely on the basis of the contractual provisions and the materials placed before the Tribunal and hence, they cannot be said to suffer from any perversity, patent illegality or jurisdictional error.

37. Further the Commercial Court has also examined at length the challenge to the Arbitral Award with reference to the grounds available under Section 34 of the Arbitration and Conciliation Act and has found no patent illegality, perversity or violation of principles of natural justice warranting interference. Hence, the contention

that the Commercial Court traveled beyond the Award is unsustainable.

38. The grounds raised in this appeal are those which have been urged before the learned Arbitrator as well as the Commercial Court. We find that the grounds raised by the appellant does not fall within the scope and ambit of any of the grounds enumerated in Section 34(2) of the Arbitration and Conciliation Act. Further the said grounds urged by the appellant also do not amount to patent illegality appearing on the basis of the record as contemplated under Section 34 (2-A) of the Arbitration and Conciliation Act.

39. The scope of interference by this Court in an appeal under Section 37 of the Arbitration and Conciliation Act has been categorically laid down by the Hon'ble Apex Court in ***MMTC Ltd., Vs. Vedanta Ltd.,*** *reported in* ***(2019) 4 SCC 163.*** The Apex Court held as follows :

> *" **11**. As far as Section 34 is concerned, the position is well-settled by now that the Court does not sit in appeal over the arbitral award and may interfere on*

merits on the limited ground provided under Section 34(2)(b)(ii) i.e. if the award is against the public policy of India. As per the legal position clarified through decisions of this Court prior to the amendments to the 1996 Act in 2015, a violation of Indian public policy, in turn, includes a violation of the fundamental policy of Indian law, a violation of the interest of India, conflict with justice or morality, and the existence of patent illegality in the arbitral award. Additionally, the concept of the "fundamental policy of Indian law" would cover compliance with statutes and judicial precedents, adopting a judicial approach, compliance with the principles of natural justice, and Wednesbury reasonableness. Furthermore, "patent illegality" itself has been held to mean contravention of the substantive law of India, contravention of the 1996 Act, and contravention of the terms of the contract.

12. *It is only if one of these conditions is met that the Court may interfere with an arbitral award in terms of Section 34(2)(b)(ii), but such interference does not entail a review of the merits of the dispute, and is limited to situations where the findings of the arbitrator are arbitrary, capricious or perverse, or when the conscience of the Court is shocked, or*

14. *As far as interference with an order made under Section 34, as per Section 37, is concerned, it cannot be disputed that such interference under Section 37*

cannot travel beyond the restrictions laid down under Section 34. In other words, the court cannot undertake an independent assessment of the merits of the award, and must only ascertain that the exercise of power by the court under Section 34 has not exceeded the scope of the provision. Thus, it is evident that in case an arbitral award has been confirmed by the court under Section 34 and by the court in an appeal under Section 37, this Court must be extremely cautious and slow to disturb such concurrent findings."

40. Further these principles were reaffirmed in ***Konkan Railway Corpn. Ltd. Vs. Chenab Bridge Project*** *reported in* ***(2023) 9 SCC 85,*** wherein the Apex Court held that the jurisdiction of the court under Section 37 of the Arbitration Act is akin to its jurisdiction under Section 34 of the Arbitration Act, and that the scope of interference in an appeal under Section 37 of the Arbitration Act, while examining an order setting aside or refusing to set aside an award, is restricted to and subject to the same grounds as a challenge under Section 34 the Arbitration Act. It was also held that the jurisdiction under Sections 34 and 37

the Arbitration and Conciliation Act is not in the nature of normal appellate jurisdiction.

41. The narrow jurisdiction under Section 37 of the Arbitration Act was also laid down in ***UHL Power Company Ltd. Vs. State of Himachal Pradesh,*** *reported in* ***(2022) 4 SCC 116.*** This line of reasoning was further affirmed in ***Larsen Air Conditioning & Refrigeration Co. Vs. Union of India,*** *reported in* ***(2023) 15 SCC 472,*** wherein the Apex Court held that the jurisdiction of the court under Section 34 of the Arbitration Act is limited and extremely circumscribed, permitting interference only on the ground of patent illegality which goes to the root of the matter and is not of a trivial nature.

42. The Apex Court in ***Delhi Airport Metro Express Private Limited Vs. Delhi Metro Rail Corporation Limited*** *reported in* ***(2022) 1 SCC 131,*** held that a Court exercising jurisdiction under Section 34 of the Arbitration Act cannot re-appreciate evidence or reassess the factual findings of the arbitral Tribunal. Mere erroneous application of law or erroneous appreciation of evidence is insufficient. A finding

of fact by the Arbitral Tribunal, even if another view is possible, cannot be interfered with so long as the view taken by the Tribunal is a plausible one.

43. The Apex Court in ***Punjab State Civil Suppliers Corporation Limited and Another, Vs. M/s Sanman Rice Mills and Others,*** *reported in* ***2024 INSC 742,*** held that an Arbitral Award is not liable to be interfered with only on the ground that the award is illegal or is erroneous in law, that too upon reappraisal of the evidence adduced before the Arbitral Tribunal. Even an award which may not be reasonable or is non-speaking to some extent cannot ordinarily be interfered with by the Courts. It is also well settled that even if two views are possible, there is no scope for the Court to reappraise the evidence and to take the different view other than what has been taken by the arbitrator.

44. Further, in ***Somdatt Builders-NCC-NEC(JV) Vs. National Highways Authority of India and Ors.,*** *reported*

in ***2025 INSC 113,*** the Apex Court after considering the case law on the point, held as under :

> *" 42. As already discussed above, the Arbitral Tribunal had interpreted Clause 51 in a reasonable manner based on the evidence on record. This interpretation was affirmed by the learned Single Judge exercising jurisdiction under Section 34 of the 1996 Act. Therefore, Division Bench of the High Court was not at all justified in setting aside the arbitral award exercising extremely limited jurisdiction under Section 37 of the 1996 Act by merely using expressions like 'opposed to the public policy of India', 'patent illegality' and 'shocking the conscience of the court'. As reiterated by this Court in Reliance Infrastructure Ltd. (supra), it is necessary to remind the courts that a great deal of restraint is required to be shown while examining the validity of an arbitral award when such an award has been upheld, wholly or substantially, under Section 34 of the 1996 Act. Frequent interference with arbitral awards would defeat the very purpose of the 1996 Act."*

45. In the instant case, the grounds raised are not that as specifically referable to Section 34(2) or Section 34(2-A) of the Arbitration and Conciliation Act. Therefore, no error can be found in the findings, reasoning and

conclusions arrived by the Commercial Court. Since the appeal is devoid of merits, we do not find any good grounds to interfere with the impugned judgment. Accordingly, the appeal is ***dismissed.***

Pending interlocutory applications, if any, shall stand *disposed of*.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(K.S.BHARATH KUMAR)
JUDGE

bk/