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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-11-2026

CORAM

THE HON'BLE MR JUSTICE N. SATHISH KUMAR

AND

THE HON'BLE MR.JUSTICE GK.MUTHUKUMAAR

OSA No. 186 of 2021
CNR: {HCMA010571882021}
&
C.M.P.No.8181 of 2021

Case QR

Nadippisai Pulavar K.P.Ramasamy
Co-op, Sugar Mill, Rep. By Its Administrator,
Thalainayar, Mayiladuthurai Taluk, Nagapattinam
District

..Appellant(s)

Vs

Thirumagal Enterprise Limited
Meenambakkam, Chennai- 600114, Rep. By Its
Vice President.
Amended Vide Order Of Court Dated 05.10.2026
Made In Cmp.24862 Of 2026 And Osa.186 Of
2021 Nskj And Gkmj

..Respondent(s)

Original Side Appeal filed under Section 37 of Arbitration and Conciliation Act, 1996, to set aside the order dated 25.02.2021 made in O.P No. 866 of 2013 by the learned Single Judge of this Court and thereby set aside the award insofar as allowing the claim of the respondent herein and dismissing the counter claim of the appellant herein.

For Appellant(s): Mr.Abdul Hameed
Additional Advocate General-IV
for Mr.R.Balaramesh

For Respondent(s): Mr.Rahul Balaji

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JUDGMENT

(Judgment of the Court was delivered by N.Sathish Kumar J.)

A challenge has been made to the order of the learned single Judge dismissing the Original Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996. The claim was made by the respondent for a sum of Rs.6,09,47,540.64.

2. The claimant/Respondent was the successful tenderer and was awarded a contract for supply of Machineries and for Commissioning for the expansion of the capacity of Sugar Mill of the appellant and it was agreed between the parties that the contracts for "Supply and Commissioning" is separate and the contract for erection is separate. It was also agreed that separate rate should be quoted for erection of the machineries. The total value of the contract price as mentioned in the Letter of Intent was Rs.2119.69 lakhs. The basic price indicated in the Letter of Intent was Rs.1870.00 lakhs as against the Tender Price of Rs.1,745.00 lakhs. It is stated that the difference of Rs.125 lakhs between the tender price and the Letter of Intent price was on account of placing order on the claimant for additional 3HW Turbo Set which was Rs.125 lakhs and excise duty thereon as per the contents made in their letter dated 12.05.1992. It is also stated that the price excludes the erection charges, spares and cost of optional items. It was agreed that the base date is

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10.05.1991 for calculation of escalation on MS, SS and brass items as per the Minutes dated 19.04.1991 and that the claimant agreed to commission the plant in 18 months time from the date of signing of the agreement.

3. The claimant/respondent herein preferred the claim on the ground that despite supply and erection of the machineries, the amount has not been settled. The claim was made by the respondent for a sum of Rs.6,09,47,540.64 together with final increase towards additional work and interest at 22% per annum from the date of claim statement till date of realisation including post-reference and post award interest.

4. Though the counter claim is raised by the appellant, the learned sole Arbitrator after analyzing the entire evidence adduced on both sides allowed the claim of the respondent/claimant to the extent of Rs.2,61,09,476.81 with interest at 12% p.a on Rs.84,84,271.60 from the date of award and the claim of Rs.70 lakhs was rejected. The learned Arbitrator also held that Ex.C5 agreement is not a turnkey agreement, but it is only supply and commissioning contract and the letter of intent was superseded by Ex.C5-agreement. The learned Arbitrator allowed the counter claim only to the extent of Rs.52,667/- and rejected all other counter claim on merits. In addition, the Tribunal imposed costs to the tune of Rs.35,60,345/- on the respondent.

5. The award passed by the learned sole Arbitrator was challenged before the learned single Judge mainly on the ground that the supply was

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not made in time and therefore, there was a delay on the part of the respondent. The learned single Judge after going through the entire facts found that no grounds have been made out to interfere with the award passed by the learned sole Arbitrator after considering all the contentions made. The learned single Judge also held that the grounds raised in the petition does not come within the purview of Section 34 and that the Section 34 Court cannot function as an Appellate Tribunal or a civil Court referring to the Fiza Developers Principle (***Fiza Developers and Inter-Trade Private Limited Vs. AMCI (India) Private Limited*** reported in (***2009) 17 SCC 796).*** Challenging the same, the present intra-court appeal has been filed under Section 37 of the Arbitration and Conciliation Act, 1996.

6. Heard the learned counsel for the appellant and the learned counsel for the respondent and perused the entire materials placed on record.

7. In the light of the submissions made, now the point that arises for consideration in this appeal is, whether the appellant has made out any of the grounds enumerated under Section 34 of the Arbitration and Conciliation Act, 1996 warranting interference with the well-reasoned award passed by the learned sole Arbitrator.

8. The factual findings rendered by the Arbitrator have been challenged. During submissions, the learned Additional Advocate General

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contended that although one of the claims, for a sum of Rs. 3,22,890/-, was neither the subject matter of the earlier supply contract nor mentioned in the notice issued under Section 21 of the Arbitration and Conciliation Act, the Arbitrator has awarded that amount. Consequently, it was submitted that the award is unsustainable in law.

9. It is well settled that while exercising jurisdiction under Section 37 as against the order of the learned single Judge passed under Section 34 of A and C Act, this Court cannot interfere with such order unless any perversity or other grounds contemplated under Section 34 of the Act are made out. The Hon'ble Supreme Court in ***Sepco Electric Power Construction Corporation Vs. GMR Kamalanga Engergy limited,*** has held as follows:

> *"72. The decision in MMTC Limited (supra), as referenced recently by a coordinate Bench of this Court in Reliance Infrastructure Limited (supra), unfolds in an involute manner that a court under Section 37 of the 1996 Act can only determine as to whether the concerned court under Section 34 has not travelled beyond the parameters of the scope therein. No independent evaluation is permitted on the merits of the award.*
>
> *73. An observation to a similar corollary was also determined by a 3-Judge Bench of this Court in Konkan Railway Corporation Limited v. Chenab Bridge Project Undertaking54, while assailing the reinterpretation of the contractual terms in the following manner:*

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> *"25. The principle of interpretation of contracts adopted by the Division Bench of the High Court that when two constructions are possible, then courts must prefer the one which gives effect and voice to all clauses, does not have absolute application. The said interpretation is subject to the jurisdiction which a court is called upon to exercise. While exercising jurisdiction under Section 37 of the Act, the Court is concerned about the jurisdiction that the Section 34 Court exercised while considering the challenge to the arbitral award. The jurisdiction under Section 34 of the Act is exercised only to see if the Arbitral Tribunal's view is perverse or manifestly arbitrary. Accordingly, the question of reinterpreting the contract on an alternative view does not arise. If this is the principle applicable to exercise of jurisdiction under Section 34 of the Act, a Division Bench exercising jurisdiction under Section 37 of the Act cannot reverse an award, much less the decision of a Single Judge, on the ground that they have not given effect and voice to all clauses of the contract. This is where the Division Bench of the High Court committed an error, in re-interpreting a contractual clause while exercising jurisdiction under Section 37 of the Act. In any event, the decision in Radha Sundar Dutta v. Mohd. Jahadur Rahim [AIR 1959 SC 24] , relied on by the High Court was decided in 1959, and it pertains to proceedings arising under the Village Chaukidari Act, 1870 and Bengal Patni Taluks Regulation of 1819. Reliance on this judgment particularly for interfering with the concurrent interpretations of the contractual clause by the Arbitral Tribunal and Single Judge under Section 34 of the Act is not justified."*

74. A juxtaposition of this provision with the jurisprudence of the Code of Civil Procedure, 1908 instantiates it to function akin to a second appeal under the latter. While the initial probe is initiated during a recourse under Section 34 of the 1996 Act, and if it further affirms the award, a court exercising the mandate of

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Section 37 ought to employ caution and reluctance to alter with the concurrent findings."

10. As a matter of right, the Court cannot interfere with the order passed under Section 34 of A and C Act. During the course of submissions, the appellant could not point out any perversity in the findings rendered by the learned Arbitrator warranting interference by this Court. The factual aspects of the matter have been duly considered by the learned Arbitrator. The Arbitrator in his wisdom has appreciated the entire factual aspect and the documents placed before him and rendered the findings.

11. It is pertinent to refer to the case of the Hon'ble Supreme Court in C & C Constructions Limited Vs. Ircon International Limited reported in (2025) 4 SCC 234 regarding the scope of Section 37, wherein it has been held as follows:

> *"34. As far as scope of interference in an appeal under Section 37 of Arbitration Act is concerned, the law is well settled. In the case of Larsen Air Conditioning and Refrigeration Company v. Union of India and Ors.3 in paragraph 15, this court held thus (SCC page 478):*
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> > *"15. The limited and extremely circumscribed jurisdiction of the court under Section 34 of the Act, permits the court to interfere with an award, sans the grounds of patent illegality i.e. that "illegality must go to the root of the matter and cannot be of a trivial nature"; and that the Tribunal "must decide in accordance with the terms of the contract, but if an arbitrator construes a term of the contract in a reasonable*

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> *manner, it will not mean that the award can be set aside on this ground" [ref : Associate Builders [Associate Builders v. DDA, (2015) 3 SCC 49 : (2015) 2 SCC (Civ) 204] , SCC p. 81, para 42]. The other ground would be denial of natural justice. In appeal, Section 37 of the Act grants narrower scope to the appellate court to review the findings in an award, if it has been upheld, or substantially upheld under Section 34." (emphasis added)*

35. In the case of Konkan Railway Corporation Limited v. Chenab Bridge Project Undertaking4 in paragraph 18, this court held thus:

> *"18. At the outset, we may state that the jurisdiction of the court under Section 37 of the Act, as clarified by this Court in MMTC Ltd. v. Vedanta Ltd. [MMTC Ltd. v. Vedanta Ltd., (2019) 4 SCC 163 : (2019) 2 SCC (Civ) 293] , is akin to the jurisdiction of the court under Section 34 of the Act. [Id, SCC p. 167, para 14:"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 3 (2023) 15 SCC 472 4 (2023) 9 SCC 85 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."] Scope of interference by a court in an appeal under Section 37 of the Act, in examining an order, setting aside or refusing to set aside an award, is restricted and subject to the same grounds as the challenge under Section 34 of the Act."*

12. In view of the above judgments and principles regarding interference of the Court under Section 37 of A and C Act, we are of the view that such finding cannot be interfered with and this Court cannot re-appreciate the evidence.

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In the result, this Original Side Appeal is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(N.S.K.,J.) (G.K.M.,J.)
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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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