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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Date of Decision: 05.08.2026

M/S VALECHA ENGINEERING LTD. Appellant

Versus

STATE OF HARYANA AND ANR Respondents

CORAM: HON'BLE MS. JUSTICE LAPITA BANERJI

Present : Mr. Lajpat Rai Sharma, Advocate for
Mr. Vivek Khatri, Advocate
for the appellant.

Mr. Sandeep Chhabra, Addl.AG, Haryana.

LAPITA BANERJI, J. (Oral)

1. Under challenge in the present appeal is a judgment dated November 26, 2014 passed by the learned Additional District Judge, Faridabad.

2. By the impugned judgment, the learned ADJ, Faridabad had set aside the impugned award dated March 30, 2011 passed by the learned sole Arbitrator.

3. The brief facts required to be noted for the adjudication of the present appeal are set out hereinafter:-

- (i) A contract was entered into between the appellant/contractor and respondent No.1-State in 2004. The appellant had concluded the contract on November 15, 2004. Admittedly, the contract was for a period of less than one year.



(ii) The appellant-contractor had submitted a price escalation bill to the tune of Rs.55,81,569/-. The said bill was processed and paid by the respondent-State. The amount of the said bill was later recovered from the appellant on the ground that there was no provision for price escalation as per Clause 47 of the Conditions of Contract since the contract was for less than one year. The learned Arbitrator, relying on Clause 47 of the General Conditions of Contract, allowed the claim of the appellant and directed payment of the same to the appellant along with interest @ 13.50% compounded annually from March 26, 2009 till the date of actual realization of the amount.

(iii) The learned ADJ, Faridabad, after discussing Clause 13.4 of the Contract and Clause 47 of the Conditions of Contract, came to the finding that the price escalation was applicable only to contracts which were for a period of 12 months and above. Therefore, he set aside the impugned award.

4. Learned counsel appearing on behalf of the appellant submits that the scope of interference in an application under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the 1996 Act') is extremely limited and the learned Arbitrator was the master of appreciating the quality and quantity of evidence before him. It is only the learned Arbitrator who could interpret the terms of the contract and once the learned Arbitrator came to the finding that Clause 47 of the Conditions of Contract was applicable also to the contracts which were for less than 12 months, then the learned ADJ, Faridabad, could not sit over his decision as a Court of appeal and take a different view



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even, if an alternative view was possible.

5. Learned counsel appearing on behalf of the State submits that the learned Arbitrator completely misdirected himself by not appreciating Clause 13.4 of the Contract which clearly stipulated that the price escalation clause will not be applicable to contracts for less than a period of 12 months.

6. This Court has heard the learned counsel for the parties and perused the material on record.

7. Clause 13.4 of the Contract is set out hereinunder:-

“13.4 That rates and prices quoted by the bidder shall be fixed for the duration of the contract and shall not be subject to adjustment on any account (for contracts upto 12 months period).”

Or

13.4 The rates and prices quoted by the bidders are subject to adjustment during the performance of the contract in accordance with the provision of Clause 47 of the Conditions of Contract (for contracts more than 12 months period).

FOOTNOTE: choose one and delete the other.”

8. From a plain and literal reading of Clause 13.4 of the Contract, it clearly appears that for contracts upto 12 months, there would not be any adjustment on any account whatsoever, whereas for contracts over 12 months, the rates and prices quoted by the bidders would be subject to adjustment during the performance period of the contract, keeping in mind the provisions of Clause 47 of the Conditions of the Contract. The footnote makes it very clear that once a particular period of contract is chosen, the condition with regard to the other period would



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stand deleted.

9. It is undisputed that the duration of work was less than 12 months. Therefore, the price adjustment clause contained in the Conditions of the Contract for increase or decrease in the rates and prices of labour, material, fuels, and lubricants, etc. could not be taken into account by the learned Arbitrator to award price escalation to the appellant-claimant. Clause 47 of the Conditions of Contract is reproduced hereinafter:-

“47. Price Adjustment.

47.1. Contract price shall be adjusted for increase or decrease in rates and price of labour, materials, fuels and lubricants in accordance with the following principles and procedures and as per formula given in the contract data:

(a) The price adjustment shall apply for the work done from the start date given in the contract data upto end of the initial intended completion date or extensions granted by the Engineer and shall not apply to the work carried out beyond the stipulated time for reasons attributable to the contractor.

(b) The price adjustment shall be determined during each month from the formula given in the contract data.

(c) Following expressions and meanings are assigned to the work done during each month:

R= Total value of work done during the month. It would include the amount of secured advance granted, if any, during the month, less the amount of secured advance recovered, if any during the month. It will exclude value for works executed under variations for which price adjustment will be worked separately based on the terms mutually agreed.”



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10. The learned Arbitrator clearly misdirected himself by holding that Clauses 13.4 and 47 were contradictory to each other and ambiguous. On a plain reading of Clause 13.4 and Clause 47 of the Conditions of Contract, the position that unequivocally emerges is that Clause 47 was only applicable to the contracts for a period of more than 12 months. Therefore, this Court holds that the award suffers from an error of fact apparent on the face of the record. Once a literal meaning can be assigned to a clause which is neither perverse nor arbitrary, there is no scope for interpretation of the clause.

11. Learned counsel for the appellant has relied upon the judgment of a Coordinate Bench of this Court in '*Union of India and another vs. Shibboo Mal and Sons and another*' reported in 2003 (3) ICC 753 to submit that once an agreement has been interpreted in a particular manner by the learned Arbitrator, the said finding should not be interfered with. The relevant question there was with regard to the interpretation of Clause 62(G).

12. According to the learned counsel for the appellant, under Clause 62(G), the parties had agreed to the decision of the Commander-Works-Engineer (CWE) as final, where there was a deviation of price within the meaning of Clause 62. The learned Arbitrator held that, in the case at hand, the question was whether with regard to ridicule change the decision of CWE will be final even though there was no indication in the clause with regard to the same. The learned Arbitrator held that the decision of the CWE would only be relevant to cases of price deviation. The interpretation given to Clause 62(G) by the learned Arbitrator was upheld by the learned ADJ in an application under Section 34 of the 1996



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Act. The said judgment was not interfered with by the Coordinate Bench of this Court. The learned Arbitrator took into consideration the literal meaning of the clause in dispute.

13. The said case of ***Shibboo Mal and Sons*** (supra) is completely distinguishable from the facts of the present case as the learned Arbitrator have failed to consider the literal meaning of the clauses.

14. He then relies on the judgment of a Coordinate Bench of this Court in '***Haryana State Electricity Board Vs. M/s Sunil Engineering Works***' reported in 1998 AIR (Punjab and Haryana) 296. There is no dispute with the proposition that appreciation of evidence is a matter to be ordinarily done by the learned Arbitrator and a Court could never question such appreciation even if a different conclusion could be arrived at by the Court from the one arrived at by the learned Arbitrator. The question in the present case is not of appreciation of evidence, but of plain reading of Clause 13.4, which is reproduced hereinabove. Therefore, this case also does not come to the aid of the appellant in any manner.

15. Next he relies on the judgment of a Coordinate Bench of this Court in '***State of Haryana Vs. Marshal Engineer***' reported in 2008 (Sup1) ArbiLR 301, for the proposition that a question of fact is to be decided by the learned Arbitrator after taking into consideration the entire evidence on record and the same should not be interfered with by the Courts hearing an application under Section 34 of the 1996 Act or an appeal under the said Act.

16. Again, there is no dispute with regard to the said proposition. The question in that the case was with regard to the entitlement of the parties to exemption by applying a 10% shrinkage deduction because of



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deployment of heavy machinery in clearance and bank strengthening work that was allotted to the respondent. After analyzing the entire evidence on record the learned Arbitrator decided that no deduction for shrinkage was available to the respondent.

17. Reliance upon the aforesaid judgment is completely misplaced.

18. In the light of aforesaid discussion, FAO-4175-2015 is **dismissed.**

19. Pending misc. application(s), if any, shall also stand **disposed of.**

(LAPITA BANERJI)
JUDGE

05.08.2026
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No