2026:PHHC:115508

FAO-560-2021(O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

206 **FAO-560-2021(O&M)**
DATE OF DECISION : 19.08.2026

M/S S.R. ENGINEERING CONSTRUCTION …APPELLANT

Versus

UNION OF INDIA AND OTHERS … RESPONDENTS

CORAM : HON'BLE MS. JUSTICE LAPITA BANERJI

Present : Mr. Ghanshyam Das Dhiman, partner of appellant-firm in person.

Mr. Arun Gosain, Sr. Govt. Counsel with
Ms. Swati Arora, Advocate and
Mr. Ramandeep Singh Sandhu, Advocate
for respondents No.1 to 3.

LAPITA BANERJI, J.(ORAL)

Under challenge in the present appeal is a judgment dated March 05, 2021 passed by the Additional District Judge, Chandigarh under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as "the 1996 Act"). Vide the impugned judgment, the learned ADJ upheld the arbitral award dated February 27, 2006.

2. A partner in person appearing for the appellant-firm submits that the learned Arbitrator misdirected himself in allowing the counter claims of respondents No.1 to 3 by giving a go-bye to the period of limitation of three years. The cause of action in the present arbitration proceedings arose in 1994. The arbitration proceedings were invoked in August 2003 and the respondents No.1 to 3 raised their counter claims before the learned Arbitrator on November 17, 2003 which was more than eight years after the accrual of the cause of action. The said counter claims

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2026:PHHC:115508

were erroneously entertained by the learned Arbitrator. He submits that the reply filed by Garrison Engineer on behalf of the Union of India should not have been accepted because it was only the Chief Engineer who was authorized to file the reply on behalf of the Union of India. He also contends that claim No.3 raised by the appellant-firm was erroneously not entertained by the learned Arbitrator and the fixed deposit receipts furnished as security have not been released in favour of the appellant-firm. Hardly, any finding was arrived at by the learned ADJ on claim No.3 raised by the appellant-firm. Vide the impugned judgment dated March 05, 2021, the learned ADJ also misdirected himself by upholding the award and not appreciating that the counter claims of the respondents were time barred.

3. This Court has heard Mr. Ghanshyam Das Dhiman, the partner of the appellant-firm, appearing-in-person and also the learned counsel appearing on behalf of respondents No.1 to 3 and perused the material on record.

4. At the very outset, Article 112 of the Limitation Act, 1963 (hereinafter referred to as "the 1963 Act") is set out hereinafter:-

	Description of suit	Period of limitation	Time from which period begins to run
112	Any suit (except a suit before the Supreme Court in the exercise of its original jurisdiction) by or on behalf of the Central Government or any State Government, including the Government of the State of Jammu and Kashmir.	Thirty years	When the period of limitation would begin to run under this Act against a like suit by a private person.

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2026:PHHC:115508

5. It is amply clear from a perusal of the Article 112 of the 1963 Act that any suit brought by or on behalf of the Central Government or State Government can be entertained within the limitation period of 30 years unless a suit is brought before the Supreme Court of India in exercise of its original jurisdiction.

6. Admittedly, the cause of action arose in 1994 and the counter claims by respondents No.1 to 3 were filed in 2003. Therefore, it is amply clear that the counter claims were raised before the learned Arbitrator by respondents No.1 to 3 within a period of 30 years. Therefore, this Court finds no merit in the contention raised on behalf of the appellant-firm that the counter claims were allowed beyond a period of limitation by the learned Arbitrator and not interfered with erroneously by the learned ADJ.

7. As far as the reply being signed on behalf of respondents No.1 to 3 by the Garrison Engineer is concerned, the learned counsel appearing on behalf of respondents No.1 to 3 submits that the said person was duly authorized to verify and affirm the said reply in favour of the respondents concerned.

8. The third argument raised by Mr. Dhiman is regarding the non-appreciation of claim No.3 by the learned Arbitrator. Claim No.3 is set out hereinafter:-

> *"Claim No.3: Claim for refund of additional security deposit including accrued interest (compound), etc."*

9. As far as the said claim was concerned, the submission on behalf of the appellant-firm was that it had deposited Special Term Deposit

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2026:PHHC:115508

Receipt (STDR) which despite requests for release, along with accrued interest, made to the Union of India, was not released.

10. The learned Arbitrator held that STDR was required as per the necessary condition No.22 of IAFW-2249 as the appellant-firm was not enlisted with the Chief Engineer Western Command. In May 1994, the appellant-firm was requested to submit a fresh STDR in place and stead of the old one but the appellant-firm had failed to do so. Therefore, the retention money was encashed by the respondent-Union of India. The learned Arbitrator held that the submission of STDR was a statutory requirement and since a fresh one was not submitted by the appellant-firm, the old one was encashed by the respondent-Union of India. Therefore, there was no accrued interest that could have been refunded as it could not be collected by Union of India itself. Upon finalization of the final bill after adjusting of retention money the same was on the minus side.

11. The view of the learned Arbitrator is a possible view that this Court is not willing to interfere with. This Court finds no perversity or arbitrariness in the reasoning given by the learned Arbitrator while rejecting claim No.3. Learned ADJ also correctly refrained from interfering with the said findings. Accordingly, challenge under Section 34 of the 1996 Act by the appellant-firm was rejected.

12. It is well settled that the scope for interference in an application under Section 34 and an appeal under Section 37 of the 1996 Act is extremely limited. Reference can be made to the decision of the Apex Court in ***Associate Builders versus Delhi Development***

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***Authority*, (2015) 3 SCC 49.** The relevant extract is reproduced hereinafter:-

> *"12. xxxxx xxxxxxx xxxxxx xxxxx xxxxx*
>
> *It must clearly be understood that when a court is applying the "public policy" test to an arbitration award, it does not act as a court of appeal and consequently errors of fact cannot be corrected. A possible view by the arbitrator on facts has necessarily to pass muster as the arbitrator is the ultimate master of the quantity and quality of evidence to be relied upon when he delivers his arbitral award. Thus an award based on little evidence or on evidence which does not measure up in quality to a trained legal mind would not be held to be invalid on this score. Once it is found that the arbitrators approach is not arbitrary or capricious, then he is the last word on facts.*
>
> *xxxx xxxxx xxxx xxxx xxxx xxxx*
>
> *An arbitral tribunal must decide in accordance with the terms of the contract, but if an arbitrator construes a term of the contract in a reasonable manner, it will not mean that the award can be set aside on this ground. Construction of the terms of a contract is primarily for an arbitrator to decide unless the arbitrator construes the contract in such a way that it could be said to be something that no fair minded or reasonable person could do. It was opined by this court that when it comes to setting aside of an award under the public policy ground, it would mean that the award should shock the conscience of the court and would not include what the court thinks is unjust*

> *seeking to substitute its view for that of the arbitrator to do what it considers to be "justice".*
> *xxxx xxxxx xxxx xxxx xxxx xxxx"*

13. *A beneficial reference may be made to the decision of the Apex Court* in ***Konkan Railway Corporation Limited vs. Chenab Bridge Project Undertaking,*** **(2023) 9 SCC 85.** The relevant extract is reproduced hereinafter:-

> *"14. Analysis: 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., (2019) 4 SCC 163****, is akin to the jurisdiction of the court under Section 34 of the Act. 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.*
>
> *15. Therefore, the scope of jurisdiction under Section 34 and Section 37 of the Act is not akin to normal appellate jurisdiction. It is well-settled that courts ought not to interfere with the arbitral award in a casual and cavalier manner. The mere possibility of an alternative view on facts or interpretation of the contract does not entitle courts to reverse the findings of the Arbitral Tribunal."*

14. Reliance placed upon by the partner of the appellant-firm in person on the judgment of **M/s B and T AG Vs. Ministry of Defence,** *2023 AIR (SC) 2731* is also misplaced since in that case, the petition under Section 11(6) of the 1996 Act was at the instance of a private company based in Switzerland. In such case, the Court held that the claim was

hopelessly barred by limitation as the petitioner-company by its conduct slept over its right for more than five years. The said case cannot be held to be a proposition for suits/counter claims filed by the Central/State Governments and the period of limitation under Article 112 of the 1963 Act.

15. The reliance placed by the learned counsel appearing on behalf of respondents No.1 to 3 on a judgment dated July 20, 2016 passed by a Division Bench of the High Court of Judicature at Madras in O.S.A. No.352 of 2008 and M.P. No.1 of 2008-**M/s Vimal Pharma Vs. Union of India and another** squarely addresses the issue. The relevant paragraphs of the said judgment are reproduced hereinafter:-

> *"8. The learned Single Judge has also considered the plea of limitation on the basis of Article 112 of the Limitation Act, 1963 and ultimately found that the counter claim made in the arbitration proceedings on the side of the first respondent is not barred by limitation.*
>
> *10. From a mere perusal of Article 112 of the Limitation Act, 1963, it is made clear that if a claim is made by the State, the limitation is thirty years and not three years.*
>
> *11. In the instant case, the first respondent, as stated earlier, is nothing but Union of India and it has claimed liquidated damages as on 31.3.1985. The arbitration proceeding has been initiated in the year 2003. Since arbitration proceeding has been initiated in the year 2003, as per Article 112 of the Limitation Act, 1963, counter claim made on the side of the first respondent is not barred by limitation and therefore, the contention*

put forth on the side of the appellant/petitioner does not hold good."

16. In the light of the aforesaid discussion, the present appeal being FAO-560-2021 is **dismissed**.

17. Interim order, if any, stands vacated.

18. Connected application(s), if any, shall also stand disposed of.

(LAPITA BANERJI)
JUDGE

August 19, 2026
Prince

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No