2026 INSC 552

Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 769-770 OF 2026

GUJARAT WATER SUPPLY AND SEWERAGE BOARD ... **APPELLANT**

VERSUS

SARYU PLASTICS PVT. LTD. ... **RESPONDENT**

J U D G M E N T

ALOK ARADHE, J.

1. These appeals arise out of the judgment dated 11.11.2022, as corrected on 16.12.2022, passed by the Division Bench of the High Court of Gujarat at Ahmedabad (hereinafter referred to as "the High Court").

2. The facts giving rise to the filing of these appeals are stated hereinafter:

Factual Background

2.1. The appellant, namely Gujarat Water Supply and Sewerage Board (hereinafter referred to as "the Board"), was constituted by the State of Gujarat under the provisions of the Gujarat Water Supply and Sewerage Board Act, 1978

(Act No.18 of 1979). The Board was established with the overarching objective of providing sustainable water supply and sanitation services across the State of Gujarat.

2.2. The respondent, Saryu Plastics Pvt. Ltd. (hereinafter referred to as "the Company"), is a company incorporated under the Companies Act, 1956 and was engaged in the business of manufacture and supply of PVC pipes. The Company is registered as a small-scale industrial unit with the District Industry Centre, Mehasana.

2.3. Between 1998 and 2000, the Board awarded several rate contracts to the Company for the supply of PVC pipes covering the years 1998-1999 to 2001-2002. An internal audit report submitted by M/s. Pipara & Company, Chartered Accountants, for the year 1999-2000 revealed certain irregularities and lapses, pointing to alleged excess payments made to PVC pipe suppliers. Acting upon these findings, the Board, by order dated 03.10.2001, commissioned the said Chartered Accountants firm to conduct a comprehensive audit and verify the extent of excess payments. The audit report dated 19.06.2002

confirmed excess payments by each division during the relevant period. Consequently, by order dated 29.08.2003, the Board blacklisted the Company. The disputes between the parties relate to the supply of PVC pipes during the period from 1998 to 2002.

2.4. After the passage of more than a decade from the crystallization of these disputes, the Company requested the Board to appoint an Arbitrator for their adjudication. Pursuant to this request, on 03.04.2012, the parties executed an Arbitration Agreement and one Mr. K.J. Wadher was appointed as the Sole Arbitrator. Clause 4 of the Arbitration Agreement stipulated that the mandate of the Arbitrator would be operative for a period of six months for the purpose of concluding the arbitral proceedings. The Agreement further provided that the arbitration proceedings must be completed within six months, that both parties shall fully co-operate during this period with a positive attitude to complete the arbitration within the earmarked time, and that both parties shall fully co-operate in the Arbitration Proceeding and act such that the decision can

be made within six months from the commencement of the proceedings.

3. The chronological progression of events which is relevant for the determination of the issues involved in the appeals is set out in detail as under: -

3.1. On 19.04.2012, Mr. K.J. Wadher communicated his consent to act as an Arbitrator.

3.2. On 21.05.2012, the Arbitrator addressed a letter to the parties seeking submission of certain specified details, which were required to be furnished prior to 10.06.2012.

3.3. On 22.06.2012, a preliminary meeting of the Arbitral Tribunal was convened, at which directions were issued for filing of pleadings. The Statement of Claim (SOC) was to be filed by 10.07.2012, with a reply thereto to be filed within one month. The parties were also called upon to produce documents sought vide the Arbitrator's letter dated 21.05.2012.

3.4. On 29.09.2012, the Company filed its Statement of Claim raising an aggregate claim of Rs.24,57,99,732/- against the Board on various courts.

3.5. On 03.10.2012, the Company filed a revised Statement of Claim at the request of the Board.

3.6. By 21.11.2012, the time limit for concluding arbitration proceedings had expired on 18.10.2012. However, the Arbitrator requested the parties to grant an extension for rendering the Arbitral Award till 31.03.2012.

3.7. On 26.12.2012, the Board issued a communication consenting to the extension of the arbitral period till 31.03.2013.

3.8. On 16.01.2013, the Company issued a further communication also consenting to extension of the period till 31.03.2013.

3.9. On 02.03.2013, at the second arbitral meeting, the Arbitrator requested a further extension to render the Arbitral Award till 30.06.2013, and the parties consented to the same. The Record of Proceedings shows that, despite the submission of the SOC five months prior, the Board had still not submitted a point-wise reply.

3.10. On 07.05.2013, 11.05.2013, 24.05.2013 and 25.05.2013, arbitration proceedings were scheduled but the Board

remained absent on each occasion for one reason or another.

3.11. On 05.06.2013, the Company further revised its SOC.

3.12. On 12.06.2013, the Arbitrator issued a letter recording that the parties had delayed the proceedings and that, in consequence, the time to render the Arbitral Award required extension up to 30.09.2013. The letter specifically noted that the Board had not been attending the arbitration proceedings, which indicated that the Board was not serious about resolving the dispute.

3.13. On 27.06.2013, at the third Arbitral Meeting, the Arbitrator recorded that the Board had still not filed a point-wise factual reply to the SOC of the Company, despite repeated reminders and letters sent on 02.03.2012, 20.05.2013 and 12.06.2013, as well as the Company's supplementary letters dated 19.03.2013, 28.03.2013 and 18.05.2013.

3.14. On 28.09.2013, the Arbitrator addressed a letter to the parties recording that the Board had given assurances to submit its point-wise factual reply to the claim statement, including all relevant details regarding deposits, within one

month before 31.07.2013. Despite the passage of two further months, the Board was unable to fulfil its assurances and had given a vague letter dated 13.09.2013 citing invalid reasons.

3.15. On 01.12.2013, the Arbitrator took note of the fact that the Company had submitted its SOC on 10.07.2012, which was revised on 01.10.2012. Despite multiple extensions, reminder letters and the lapse of several months, the Board had not acted seriously and had avoided attending the arbitration meetings by furnishing varying reasons. The Arbitrator granted the Board time till 31.12.2013 to submit its reply and extended the time to render the Arbitral Award till 31.03.2014.

3.16. On 26.12.2013, the Board filed its final Reply to the SOC.

3.17. On 20.02.2014, the Board issued a letter to the Arbitrator stating, *inter alia,* that it had filed a detailed Reply to the SOC and that nothing further was required to be submitted at that stage. The letter stated that any remaining unclarity would be clarified during the personal hearing.

3.18. On 28.03.2014, the Arbitrator noted that the Board, instead of providing the factual details sought by the Arbitrator, had replied with a negative response. The factual details to be submitted by the Board remained incomplete. The Board proposed extension of the arbitration date to June, 2014. Time was granted to the Board till 15.06.2014 to submit the pending factual details.

3.19. On 09.06.2014, the Arbitrator received the Rejoinder from the Company dated 05.06.2014. He requested extension of time till 30.09.2014 to peruse the voluminous documents and arrive at a final conclusion and pass an Award.

3.20. On 30.06.2014, the Board sought time till 15.08.2014 to submit a Reply to the Company's Rejoinder, while consenting to extension of the period of arbitration till 30.09.2014.

3.21. On 30.09.2014, the Arbitrator noted the failure of the Board to submit pertinent documents which had been sought by the Arbitrator and the Company. The Arbitrator stated that he would require three to four months to arrive at an Award,

and on his own account extended time to render the Award till 31.03.2015.

3.22. On 27.03.2015, the Arbitrator noted the failure of the Board to address factual clarifications sought by him through various letters. On account of a fresh submission of five volumes of documents on 10.03.2015, the Arbitrator sought further time to render the Award till 30.06.2015.

3.23. On 23.06.2015, the Arbitrator, on his own, extended the time to render the Award till 31.08.2015 in light of the voluminous documents.

3.24. On 26.08.2015, the Arbitrator once again requested the parties to extend the mandate up to 30.09.2015.

3.25. On 04.09.2015, while agreeing to the extension, the Board alleged that only three Arbitral meetings had been convened over the preceding three years and that the last meeting had been convened on 27.06.2013. The Board accordingly requested that the matter be fixed for a hearing.

3.26. On 29.09.2015, the Arbitrator again requested extension of his mandate till 15.11.2015.

3.27. On 07.10.2015, the Arbitrator issued a communication fixing a meeting on 15.10.2015, as requested by the Board.

3.28. On 14.10.2015, the Board communicated by email that it would not be able to attend the Arbitral meeting scheduled on 15.10.2015.

3.29. On 27.10.2015, the Arbitrator recorded that the matter was treated as closed as the Board's representative had not attended the said meeting. The Arbitrator further stated that he had prepared the Award on the basis of the documents submitted, a copy of which was dispatched to the parties.

3.30. On 27.10.2015, the Arbitrator passed the Arbitral Award partly allowing the Company's claims and awarding an amount of Rs.1.01 Crores with simple interest at 21.675% on account of payment of outstanding amounts of Rs.79,98,361/-, and Rs.21,99,157/- on account of escalation of price. However, the claim regarding compensation of cost for legal and administrative proceedings and the cost of arbitration proceedings was

rejected. The Award was dispatched by courier on 29.10.2015 and received by the Board on 30.10.2015.

3.31. On 28.10.2015, the Board issued an email stating that its inability to appear on behalf of the Board cannot be construed to mean that nothing further required to be submitted on behalf of the Board. It was further stated that under such circumstances, the Board had not extended the mandate, and that it would proceed in accordance with Section 14 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act').

3.32. On 29.10.2015, the Arbitrator sent a reply to the Board's letter dated 28.10.2015 stating that by the time the Board's email was received, the Award had already been delivered.

3.33. On 08.11.2015, the Arbitrator issued a corrected Award making corrections to Paragraph 54(c) of the Arbitral Award.

4. The Board filed an application under Section 34 of the Act on 03.12.2015, which, upon the constitution of the Commercial Courts, came to be renumbered as a Commercial CMA. On 07.12.2015, the Company filed an application under Section 33

of the Act seeking correction in paragraph 54(c) of the Award by substituting the expression "simple interest" with "compound interest".

5. By order dated 01.02.2016, the Arbitrator held that since proceedings under Section 34 of the Act were already pending before the Commercial Court, the matter ought to be placed before that Court for adjudication. On 26.04.2016, the Company filed an application under Section 33 and 34 of the Act, which was subsequently withdrawn.

6. By judgment dated 31.01.2017, the Commercial Court rejected the application filed by the Company under Section 34 of the Act, holding the same to be not maintainable. The Company challenged the said order by filing a writ petition before the High Court, which was withdrawn on 03.08.2017.

7. The Company thereafter filed a review application seeking restoration of the commercial appeal withdrawn by it and prayed that the same be heard on merits. By order dated 25.09.2018, the Commercial Court modified the Arbitral Award and granted compound interest for the *pendente lite* period as well.

8. By order dated 17.10.2018, the Commercial Court rejected the application filed by the Board under Section 34 of the Act. The Board thereafter preferred two appeals challenging (i) the judgment dated 25.09.2018 passed in the review proceedings, and (ii) the judgment dated 17.10.2018 rejecting its application under Section 34 of the Act.

9. The High Court, by judgment dated 11.11.2022, dismissed both appeals filed by the Board. It is against the said judgment that the present appeals have been filed before this Court.

SUBMISSIONS

10. Learned senior counsel appearing on behalf of the Board submitted that the mandate of the Arbitrator stood extended only up to 30.09.2015. It was contended that the Board had expressly declined the Arbitrator's request seeking extension of mandate till 15.11.2015. It was further submitted that, despite the expiry of the mandate, the Arbitrator, by communication dated 07.10.2015, fixed the matter for hearing on 15.10.2015. It was urged that the letter dated 14.10.2015 sent by the Board could neither be construed as consent for extension of the mandate nor as indicating any extended date. Reliance was also

placed on the tracking report to demonstrate that the Award had been dispatched to the Board on 29.10.2015 and was delivered on 30.10.2015. It was, therefore, contended that the Arbitrator had proceeded to pass the Award even after expiry of his mandate and despite receipt of the Board's communication dated 28.10.2015.

11. It was further contended that the Award had been rendered in violation of the principles of natural justice and procedural fairness, without affording an effective opportunity of hearing to the Board. It was urged that mere participation in arbitral proceedings does not confer jurisdiction upon the Arbitrator. It was also submitted that while the Arbitrator had originally granted simple interest for the *pendente lite* period and compound interest for the post-Award period, the Commercial Court, in exercise of review jurisdiction, impermissibly modified the Award by granting compound interest for the *pendente lite* period as well. It was pointed out that, under the original Award, the liability of the Board was approximately Rs.30.38 crores, whereas pursuant to the modified Award, the liability had escalated to Rs.144.93 crores. It was contended that the Commercial Court lacked jurisdiction to entertain and allow the

review petition. In support of the aforesaid submissions, reliance was placed on the decision of Bombay High Court[1] and decisions of this Court[2].

12. *Per contra*, learned senior counsel appearing on behalf of the Company submitted that the Arbitrator had continued the proceedings by extending the mandate and that the Board had never objected thereto. It was further submitted that even in its communication dated 14.10.2015, the Board had not specifically asserted that the mandate of the Arbitrator had expired. It was pointed out that the Board had not sought any adjournment or requested fixation of a further date of hearing. It was therefore contended that the plea regarding expiry of the Arbitrator's mandate is devoid of substance. Learned senior counsel further submitted that neither the arbitration agreement contemplated an oral hearing nor had the Board specifically demanded one. Attention was invited to the Award to contend that, upon a holistic reading thereof, it becomes evident that the Arbitrator intended to grant compound interest and that the reference to

[1] **Bharat Oman Refineries Limited** v. **M/s. Mantech Consultants, Civil Appeal No.702 of 2011**

[2] **NBCC Limited v. J.G. Engineering Pvt. Ltd., (2010) 2 SCC 385; Jayesh H. Pandya and Anr.** v. **Subhtex India Limited and Ors., (2020) 17 SCC 383; Gayatri Balasamy** v. **ISG Novasoft Technologies Ltd., (2025) 7 SCC 1** and **Bharat Udyog Ltd.** v. **Ambernath Municipal Council through Commissioner and Anr., (2026) SCC OnLine SC 463.**

"simple interest" in the operative portion was merely inadvertent. It was accordingly submitted that the Commercial Court rightly exercised review jurisdiction in correcting the error and granting compound interest to the Company. Lastly, it was urged that the concurrent findings of fact recorded by the Commercial Court as well as the High Court do not warrant interference by this Court in exercise of appellate jurisdiction.

13. We have considered the rival submission made on both sides and have perused the record.

ISSUES

14. The issues which arise for consideration in these appeals are (i) whether the arbitral mandate had validly subsisted at the time, the Arbitral Award came to be passed; (ii) whether the Arbitrator despite letter dated 28.10.2015, sent by the Board dispatched the Award on 29.10.2015; (iii) whether the arbitral proceeding were conducted in accordance with principles of natural justice; and (iv) whether the Commercial Court possessed jurisdiction to modify the Award in exercise of powers under Section 33(i)(a) of the Act to substitute the simple interest awarded by the arbitral tribunal for *pendente lite* period with compound interest.

15. We shall now deal with the **first issue** i.e., about the subsistence of the mandate of the Arbitrator at the time when the Award was passed. As already noticed, the Arbitration Agreement dated 03.04.2012, provided that mandate of the Arbitrator would be six months. The Arbitrator entered the reference on 19.04.2012. The mandate of the Arbitrator expired on 18.10.2012, which admittedly was extended up to 30.09.2014 with consent of the parties. The Arbitrator by communication dated 30.09.2014 extended his mandate unilaterally. The relevant extract of the aforesaid communication sent to the Board reads as under: -

> "Under the circumstances, to study the bulky documents submitted by both the parties (about more than 4000 pages) and for want of proper para wise reply of Claim Statement / Rejoinder by the Respondent, I will require at least 3 to 4 Months to come to the conclusion of amicable and judicious award and hence the time limit for Arbitration Proceeding is further extended up to 31 March 2015."

16. On 27.03.2015, the Arbitrator on his own, extended the time to render the Award up to 30.06.2015. The relevant extract of the communication addressed to the Board reads as under: -

> "This final submission containing volume 1 to 5 with pages no.1 to 755 is received by me on DT. 10/03/2015 from the Claimant. The final submission is also a bulk volume containing more than 700 pages and to study the same, minimum 3 months are required by me so that the judicial and amicable award be finalised. Thus the time limit of Arbitration proceedings is further extended up to 30th June 2015 instead of 30th March 2015, which may please be noted."

17. On 23.06.2015, the Arbitrator again unilaterally extended the time limit for delivering the arbitration Award up to 31.08.2015. The relevant extract of the communication dated 23.06.2015 sent to the Board reads as under: -

> "The study of the above documents and the interpretation of the various, legal and final provisions including the various conditions given by the respective chief engineers in their supply holders etc., the more time will be required for study of the same and to workout proper interpretation and conclude the Arbitration, etc. further more time will be required by me to complete the Arbitration Award and hence the time limit is further extended up to 31st August 2015, which may please be noted."

18. The Board by a communication dated 04.09.2015 addressed to the Arbitrator, agreed to extend the mandate of the Arbitrator up to 30.09.2015. The Arbitrator by letter dated 29.09.2015 requested for extension of mandate till 15.11.2015. The Arbitrator on 07.10.2015 issued a communication fixing a meeting on 14.10.2015. The Board responded to the aforesaid communication by an email dated 14.10.2015. The aforesaid email reads as under: -

> "With reference to above referred letter it is to inform you that, because of pre-engagements, it will not be possible to be present before your honor on 15.10.2015. Please take note of it and requested to do needful."

19. Thus, from the aforementioned facts, it is evident that Arbitrator after expiry of the mandate, on 30.09.2014, which was extended with the consent of the parties, unilaterally extended the mandate thrice up to 30.09.2015. The Board did not at any point of time raise an objection that the mandate of the Arbitrator had expired. In response to the request of the Arbitrator dated 29.09.2015, for extension of mandate up to 15.11.2015, the Board did not respond. In response to the communication dated 07.10.2015, of the Arbitrator fixing the date of hearing on

15.10.2015, the Board in its email dated 14.10.2015 only expressed the inability to attend the hearing. The Board did not take an objection that the mandate of the Arbitrator had already expired.

20. Party autonomy, coupled with minimal intervention of judicial authorities, has been the guiding principle for the Act. This is perhaps the reason for not providing a statutory timeline for delivering the Awards and prescribing consequences of not delivering them on time. The absence of time limit under the Act had resulted in Arbitration remaining pending for several years without intervention of the Court, thereby defeating the very object of the Arbitration as a speedy dispute resolution mechanism. Section 29A of the Act was amended with retrospective effect from 23.10.2015 to effectively deal with delays with arbitral proceedings and provided for timeline for delivery of the Award[3].

21. In the facts of the present case, Section 29A of the Act does not apply. At the relevant time, there was no statutory provision prescribing that an extension of the mandate of the Arbitrator must be in a particular form or be reduced to writing. The

[3] **C. Velusamy** v. **K Indhera; 2026 SCC OnLine SC 142**

ground of challenge to the Award is not based on breach of any statutory provision. The Arbitrator had unilaterally extended the mandate on three occasions and even after expiry of the mandate had fixed a date of hearing. The Board did not raise any objection in its email dated 14.10.2015 that the mandate of the Arbitrator has expired. The Board thus had tacitly agreed to extension of the mandate of the Arbitrator. The Award was delivered on 27.10.2015. Thereafter, the Board on 28.10.2015 sent an email that it had not extended the mandate of the Arbitrator, and it shall proceed under Section 14 of the Act. The grievance of the Board about the expiry of the mandate of the Arbitrator is a matter governed by the contract and not by the statute. The Board participated in the proceeding before the Arbitrator and had acquiesced with the alleged invalidity and cannot be allowed to turn around after the Award was passed and is estopped from challenging the Award on the ground that the mandate of the Arbitrator had expired. In so far as reliance placed by the Board on the decision of this Court[4] is concerned, suffice to say that in the said decision, the Arbitrator did not have mandate in the absence of a valid arbitration agreement.

[4] **Bharat Udyog Ltd. (supra)**

This Court in the aforesaid decision held that question of waiver or estoppel did not arise as there cannot be any estoppel against the statute. The said decision has no application to the facts of the instant case. For the aforementioned reasons, we answer the **first issue** in the affirmative.

22. We advert to the **second issue** i.e., whether the Award was dispatched on 29.10.2015 after receipt of the email dated 28.10.2015 sent by the Board. The Company in Para 11 have taken a specific stand that the copies of the Award were sent through the courier on 27.10.2015 to the parties. It has been stated by learned senior counsel for the Company that a copy of the receipt issued by courier was produced before the High Court and the same has been tendered to us. The aforesaid receipt discloses that the Arbitrator has dispatched the Award by courier on 27.10.2015. The Board has placed reliance on tracking report of the courier service which indicates that the Award was delivered on 30.10.2015. From perusal of receipt, it is evident that the copies of the Award were delivered to the parties on 27.10.2015. We, therefore, answer the **second issue** in the negative.

23. We deal with the **third issue**, namely whether the arbitral proceedings were conducted in accordance with principles of natural justice. This issue needs to be examined in the light of the conduct of the Board throughout the arbitration proceedings. The arbitral proceedings were conducted over a protracted period stretching from April 2012 to October 2015 – more than three and a half years. During this period, the Board was afforded repeated and numerous opportunities to participate, file pleadings, produce documents, and address the Arbitrator. The Board's failure to avail itself of these opportunities in a timely and effective manner cannot now be converted into a grievance about denial of natural justice.

24. The factual narrative demonstrates that it was the Board's own dilatoriness that prolonged the proceedings and necessitated the repeated extensions of the mandate. The Board failed to attend hearings, failed to comply with directions to file point-wise replies, and repeatedly sought adjournments. When, at the Board's own request, a hearing was fixed on 15.10.2015, the Board chose not to attend, merely citing its inability to appear, without seeking an adjournment or proposing an alternative date.

25. In these circumstances, the Arbitrator was fully justified in treating the matter as heard and proceeding to pass the Award. The Board cannot invoke the principles of natural justice to impugn an Award that was delayed substantially on account of its own conduct. The opportunity of hearing afforded to the Board across the entire span of the proceedings was more than adequate. The Board's failure to effectively utilize these opportunities is not a deficiency attributable to the Arbitrator. Accordingly, the **third issue** is answered in the affirmative.

26. Now, we deal with the **fourth issue**, namely whether the Commercial Court possessed jurisdiction to modify the Award in exercise of powers of review to substitute the simple interest awarded by the arbitral tribunal for *pendente lite* period with compound interest. The significance of this issue is underscored by financial implication of the substitution of simple interest with compound interest for the *pendente lite* period. As a result of modification of the Award in review proceeding, the Board's liability escalated from Rs.30.38 crores to Rs.144.93 crores, resulting in staggering increase, that underscores the need for careful and circumspect exercise of jurisdiction in the context of Arbitral Awards.

27. The relevant extract of the Award reads as under: -

> "Therefore, considering likely applicable rate of interest on 27th October 2015 = 1.5x14.45=21.675% per annum to be compounded monthly becomes payable on the Awarded Sum (Principal amount plus interest) from date 27 October 2015 i.e., after declaration of Award to the actual payment is paid, by the Respondent to the Claimant.
>
> (c) The Respondent is directed to pay following amounts to the Claimant:

Claim	Amount As Claimed		
	Amount as Claimed Amount as awarded Principal Rs.	Amount As Claimed Interest accrued on claimed amount up to 27.10.2015 Rs.	Total claim i.e., Principal + Interest Rs.
Release all our outstanding payments	84,46,103/- 79,98,361/-	Simple interest at the rate of 1.5 times the prime lending rates of SBI up to date of award	Please workout
Escalation payments due to extension of Supply period by the respondent in Kheralu dvn.	21,99,157/- 21,99,157/-	Simple interest at the rate of 1.5 times the prime lending rates of SBI up to date of	Please workout

		award	
Compensation of losses due to blacklisting	24,04,21,990 Nil	NOT CONSIDERED	
Cost of legal and administrative proceedings carried out by claimant during pre Arbitration period	5,00,000/- Nil	NOT CONSIDERED, BOTH THE PARTIES TO BEAR THEIR OWN COST	
Cost of present Arbitration	2,00,000/- Nil	BOTH THE PARTIES TO BEAR THEIR OWN COST	

After declaration of award, if payment is delayed for the amount of awarded sum and interest payable, the same shall be paid at the rate of one and half times the prime lending rate of SBI per annum to be compounded monthly becomes payable to the claimant up to the date of actual payment.

During the process of arbitration proceedings, both the parties have submitted large nos. of related documents and legal citation etc. (more than 5000 pages) time to time in support of their arguments and their cases.

All these documents shall be returned to both the parties viz. claimant and respondent.

The parties shall bear their own cost including the fees of the Arbitrator, Advocates, Administrative and incidental charges and costs.

The award is made signed and published by me on 27th Day of October 2015."

28. The following correction in the aforesaid Award was made on 08.11.2015.

Claim	Amount as claimed Amount awarded Principal Rs.	Interest amount as awarded accrued on awarded amount up to 27.10.2015	Total Award amount i.e. Principal + interest Rs.
		(Please Workout the amount Rs.)	
Release all our outstanding payments	84,46,103/- 79,98,361/-	Simple interest at the rate of 1.5 times the prime lending rates of SBI up to date of award	Please workout
Escalation payments due to extension of supply period by the respondents in Xheraludvn.	21,99,197/- 21,99,157/-	Simple interest at the rate of 1.5 times the prime lending rates of SBI up to date of award	Please workout
Compensation of losses due to blacklisting	24,04,21,990 Nil	Not considered	
Cost of legal and	5,00,000/-	Not considered. Both the parties to bear their own	

administrative proceedings carried out by claimant during pre Arbitration period	Nil	cost.
Cost of present Arbitration	2,00,000/- Nil	Both the parties to bear their own cost

29. A plain reading of the Award, as corrected on 08.11.2015, makes it unambiguous that the Arbitrator had awarded a sum of Rs.1.01 crores along with simple interest at the rate of 21.675% per annum for the *pendente lite* period, and compound interest from the date of the Award till realisation. On 07.12.2015, the Company filed an application under Section 33 of the Act seeking correction of paragraph 54(c) of the Award by substituting the expression "simple interest" with "compound interest". Upon the Arbitrator declining to adjudicate the matter in view of the pending proceedings under Section 34 before the Commercial Court, the Company filed a fresh application and, thereafter, a review petition seeking restoration of the withdrawn commercial appeal. By its order dated 25.09.2018, the Commercial Court, purporting to exercise review jurisdiction,

modified the Arbitral Award and granted compound interest for the *pendente lite* period as well.

30. Section 33(1)(a) of the Act confers upon the arbitral Tribunal the limited power to correct any computational, clerical, or typographical errors in an Award. The provision is neither designed nor intended to serve as a vehicle for the substantive modification of an Award or the review of the merits of the findings recorded therein. This position is well settled by the authoritative pronouncements of this Court. This Court[5] has categorically held that Section 33 of the Act does not contemplate a review of the Award. The power vested in the Tribunal under that provision is confined strictly to the correction of typographical, arithmetic, and clerical errors, and cannot be stretched to re-examine or revise the substantive findings of the Award. This Court has reiterated[6] that the power of modification of an Award under Section 33 of the Act extends only to the correction of arithmetical or clerical errors and does not permit any material change to the Award.

[5] **State of Arunachal Pradesh** v. **Damani Construction Co.; (2007) 10 SCC 742**
[6] **Gyan Prakash Arya** v. **Titan Industries Ltd.; (2023) 1 SCC 153**

31. Applying these principles to the facts of the present case, it is evident that the substitution of “simple interest” with “compound interest" for the *pendente lite* period is not, by any stretch of legal reasoning, a correction of a computational, clerical, or typographical error. The Arbitrator had consciously and deliberately awarded simple interest for the *pendente lite* period, as it appears from the express terms of the Award and the corrected version thereof. The characterisation of the mode of interest – whether simple or compound - goes to the very of the Arbitrator’s assessment of the equities of the case and reflects a substantive determination on the merits. It is neither a slip of the pen, nor an inadvertent arithmetical mistake, nor a clerical oversight that could be remedied under Section 33(1)(a).

32. The Commercial Court, therefore, manifestly exceeded its jurisdiction in purporting to exercise powers under Section 33(1)(a) of the Act to direct such a substitution. The review jurisdiction of the Commercial Court could not have been employed to achieve a result that was impermissible even under the limited corrective power expressly conferred by Section 33(1)(a). To hold otherwise would be to render Section 33 an instrument of review and appellate correction, which is plainly

contrary to the scheme of the Act and the consistent judicial interpretation placed upon it. Accordingly, the **fourth issue** is answered in the negative.

CONCLUSION

33. For the reasons stated hereinabove, the following conclusions emerge:

(i) The Arbitral mandate validly subsisted at the time when the Arbitral Award was passed.

(ii) The Arbitral Award was dispatched on 27.10.2015, before the email dated 28.10.2015 sent by the Board.

(iii) The Arbitral proceedings were conducted in accordance with the principles of natural justice.

(iv) The Commercial Court in purported exercise of powers under Section 33(i)(a) of the Act erred in substituting the words "compound interest" in place of "simple interest" in the Award dated 27.10.2015 passed by the Arbitrator.

34. In view of preceding analysis, the impugned judgment and decree dated 11.11.2022, as corrected on 16.12.2022, and order dated 25.09.2018 passed by the Commercial Court substituting

the words "compound interest" in place of "simple interest" for *pendente lite* period is quashed and set aside. The Company is held entitled to "simple interest" at the rate of 21.675% for *pendente lite* period.

35. Accordingly, the appeals are disposed of. There shall be no order as to costs.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[ALOK ARADHE]

NEW DELHI;
MAY 26, 2026.