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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ FAO(OS) (COMM) 16/2022

Judgment reserved on: 02.02.2026
Judgment pronounced on: 24.02.2026

M S IRCON INTERNATIONAL
LIMITED & ANR. .....Appellants

Through: Mr. Puneet Taneja, Sr. Adv. with Mr. Manmohan Singh Narula, Mr Amit Yadav and Mr Anil Kumar, Advs.

versus

M S CANNON ENGINEERING CONSTRUCTION
CANNON COTTAGE .....Respondent

Through: Mr. Simil Purohit, Sr. Adv. with Mr. Faran Khan, Mr. Sandip Vimadalal, Mr. Manish Doshi, Mr. Rishit Vimadalal and Mrs. Bharti Gupta, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT

% 24.02.2026

OM PRAKASH SHUKLA, J.

Introduction

1. The present intra-court appeal has been preferred by the Appellants under Section 37(1)(c) of the Arbitration and Conciliation Act, 1996[1], read with Section 13 of the Commercial Courts Act, 2015

[1] "The Act", hereinafter

and Section 151 of Code of Civil Procedure, 1908. The appeal assails the judgment dated 01.10.2021[2] passed by the learned Single Judge in O.M.P. (COMM) No. 181/2021, titled as "*M/s Ircon International Limited & Anr. v. M/s Cannon Engineering Construction Cannon Cottage*". The impugned judgment arose out of a petition filed by the Appellants under Section 34 of the Act, seeking to set aside the arbitral award dated 30.01.2021[3] rendered by the learned Sole Arbitrator.

2. The dispute giving rise to the arbitral proceedings pertains to a contract dated 05.11.2014[4], executed between the parties, for the "*Construction of service buildings, loco shed, RCC Trunk Drain and Misc. Civil Works in connection with the Construction of Private Railway Siding for Solapur Super Thermal Power Project of NTPC Limited near Hotgi Railway Station in Solapur District, Maharashtra-Pkg.4*". By the arbitral award, the learned Arbitral Tribunal[5] allowed the majority of the claims raised by the Respondent herein (Claimant before the Tribunal), rejecting only Claim No. 3 and the sole counter-claim made by the Appellants.

3. *Vide* the Impugned Judgment, the learned Single Judge partly allowed the petition under Section 34 of the Act. The learned Single Judge interfered with the arbitral award only to the limited extent of setting aside the grant of pre-award interest for the period from 06.11.2016 till 30.01.2021, holding that the contract expressly prohibited the grant of such interest. The remaining claims, i.e. Claim

[2] "Impugned Judgment" hereinafter
[3] "Arbitral Award" hereinafter
[4] "contract" hereinafter
[5] "Tribunal" hereinafter

Nos. 1, 2, 4, and 5, along with the entitlement to future interest and costs, were upheld by the learned Single Judge.

4. The present appeal is confined to challenging the impugned judgment only insofar as it upholds the arbitral award in respect of Claim No. 1 (hard rock in earth excavation) and Claim No. 2 (tie bolts for RCC wall), as well as the entitlement to future interest and costs. The Appellants contended that the findings underlying the said claims suffer from patent illegality and, therefore, warrant interference by this Court in the exercise of its jurisdiction under Section 37 of the Act.

Facts

5. The factual matrix, as relevant for the adjudication of the present appeal, is outlined below.

6. NTPC Limited[6] appointed M/s Ircon International Limited[7] as the Project Management Consultant for the Coal Transportation System of its Solapur Super Thermal Power Project (2×660 MW) in Solapur, pursuant to a purchase order dated 01.06.2012. In furtherance of this, a Power of Attorney dated 07.12.2012 was executed in favour of Appellant No.1, authorising it to act on behalf of Appellant No.2, with Appellant No.2 being the employer for the project.

7. For execution of the project, Appellant No.1 issued a Notice Inviting Tender dated 10.07.2014 for Package–4, which pertained to

[6] "Appellant No.2" hereinafter
[7] "Appellant No.1" hereinafter

civil works for the private railway siding of the Solapur Super Thermal Power Project near Hotgi Railway Station, Maharashtra. The scope of work included the construction of service buildings, a locomotive shed, and an RCC trunk drain within the plant area of Appellant No.2. The Respondent emerged as the lowest bidder and was awarded the contract by Letter of Award dated 30.09.2014, for a total contract value of Rs. 21,25,74,013. The formal contract was executed on 05.11.2014.

8. The work under the contract was to be executed in two schedules, i.e., Schedule 'A' for the Service Building and Loco Shed, valued at Rs. 4,52,26,447, and Schedule 'B' for the Corridor Drain, with a total value of Rs. 16,73,47,566.

9. The Respondent was required to execute the works in accordance with the Central Public Works Department Specifications, 2009[8], which were part of contract. The description of quantities and rates was prescribed in the Bill of Quantities[9] attached to each Schedule, and the rates provided in CPWD DSR-2013 were applicable, including for extra works executed under the contract.

10. Clause 2.1 of the CPWD Specifications prescribed that earthwork shall be classified under specified categories, namely all kinds of soils, ordinary rock, and hard rock, with each category measured separately for the purpose of determining the applicable rates. The measurement of such excavation was required to be carried

[8] CPWD specifications
[9] "BOQ" hereinafter

out in accordance with Clause 2.11 of the said CPWD Specifications.

11. CPWD-DSR-2013 prescribed rates for centering and shuttering of RCC walls of any thickness under Item No. 5.9.2, which was adopted in the BOQ for Schedule-B under Item No.7. However, CPWD-DSR-2013 also separately prescribed rates for the use of tie bolts under Item No. 5.10, which were not expressly included within the scope of BOQ Item No.7.

12. The Respondent commenced execution of the Schedule B works in November 2014. During execution, disputes arose regarding payments for certain items, which the Respondent claimed were either extra works or otherwise payable at higher rates.

13. While executing the corridor drain works under Schedule B, the Respondent encountered hard rock at several locations during excavation. The Respondent claimed that excavation of such hard rock was not covered under the BOQ and thus, warranted payment as an extra item. On 19.11.2014, the Respondent informed Appellant No. 1 that hard rock had been encountered and requested a site inspection for proper classification. The Project Head subsequently conducted a site inspection, recorded reduced levels, and classified the material as hard rock in the Field Book, verified by Mr Appa Rao, Engineer at the site. This classification was also reflected in the 2nd to 5th Running Account[10] Bills. However, payment towards the claimed extra item was not released.

[10] "RA" hereinafter

2026:DHC:1626-DB

14. On 08.12.2014 and 25.12.2014, the Respondent reiterated its claim that hard rock had been excavated and that the BOQ under Schedule B did not contemplate rates for the same.

15. Due to the non-finalisation of the classification and the applicable rates, the corresponding payments were withheld. As a result, on 03.03.2015, the Respondent expressed its inability to proceed without approval for higher rates and indicated that it would either suspend the work or continue subject to payment of interest for delayed payments.

16. On 09.06.2015, Appellant No.1 informed the Respondent that payment for extra items would be considered only upon approval from the competent authority. Further, on 22.06.2015, based on the recommendation of an internal committee dated 04.06.2015[11], it was conveyed that the trench for the corridor drain fell under the category of "ordinary rock" as per CPWD Specifications.

17. The Respondent disputed the above classification and, in December 2015, arranged for an independent geological assessment by an expert from Walchand College, Maharashtra. The expert inspected the site in the presence of Mr Appa Rao and opined that the excavated material was basaltic. The report was forwarded to Appellant No.1 on 24.12.2015.

18. As the project neared completion, on 03.02.2016, the Respondent sought permission for blasting in addition to mechanical

[11] "internal committee report", hereinafter

excavation to expedite the completion of the work. The Respondent also submitted an updated list of extra items. Instead of granting permission, on 05.03.2016, Appellant No.1 directed the separate stacking of hard rock for measurement purposes, which the Respondent objected to as belated and impracticable due to site constraints.

19. Disputes also arose concerning the payment for tie bolts used in RCC wall shuttering and surface finishing of RCC/CC works. The Respondent claimed that the tie bolts, not covered under the BOQ item for shuttering corresponding to CPWD-DSR Item No. 5.9.2, were necessary and payable as an extra item under CPWD-DSR Item No. 5.10.4. The Appellants, however, argued that the shuttering rate was a composite rate covering standard shuttering accessories and that no separate approval for the use of tie bolts had been issued by the Engineer-in-Charge, as required under Clause 10 of the General Conditions of the Contract[12]. Likewise, the Respondent claimed surface finishing of the RCC as an extra item, asserting that it was not included in the BOQ, a claim denied by the Appellants on the ground that the same stood covered within the agreed contractual rates.

20. The abovementioned issues were repeatedly raised in joint meetings held on 02.11.2015 and 15.01.2016. However, the disputes remained unresolved.

21. During the pendency of the works, disputes also arose concerning statutory levies. By a notification dated 11.05.2015, the

[12] "GCC" hereinafter

Government of Maharashtra enhanced the royalty rates on building materials, and the excise duty on steel was revised from 12% to 12.5% with effect from 01.03.2015. The Respondent paid the royalty and deposited Rs. 12,80,000/- with the Government Treasury on 23.03.2016, receiving royalty clearance certificates from the Tahsildar, South Solapur. The Respondent thereafter sought reimbursement of Rs. 8,31,936.39/- towards the enhanced royalty and excise duty, which the Appellants declined, asserting that the contracted rates were inclusive of statutory levies.

22. The works were completed on 30.06.2016, and the Respondent demobilised its resources, submitted its 21st and final RA Bill on 07.08.2016 for Rs. 49,19,440.53, which included claims for disputed items and statutory reimbursements. While part payment was made, the balance amount was withheld by the Appellants, citing the execution of non-mandatory extra work without permission and outstanding royalty issues. The Respondent accepted the partial payment under protest.

23. The principal issues in disputes between the parties were: (i) the classification of earthwork under Schedule B work as hard rock or ordinary rock and payment accordingly; (ii) payment for tie bolts used in RCC wall shuttering; (iii) surface finishing of RCC/CC works; (iv) reimbursement of enhanced statutory levies; and (v) release of amounts withheld from the final bill.

24. As the issues remained unresolved despite repeated communications and representations, the Respondent invoked

arbitration under Clause 56 of the GCC by notice dated 23.01.2019. The Chairman and Managing Director of Appellant No.2 thereafter, referred the disputes to arbitration and appointed Justice (Retd.) Sunil Ambwani as the Sole Arbitrator by letter dated 01.04.2019.

Proceedings before the Arbitral Tribunal and Arbitral Award

25. The Respondent raised five claims before the learned Arbitral Tribunal. After considering the pleadings, documentary evidence, and submissions of the parties, the arbitral proceedings culminated in the arbitral award. The learned Arbitrator allowed the majority of the claims raised by the Respondent, rejected the counter-claim filed by Appellants and awarded pre-award interest, future interest, and costs. The summary of the claims and amounts awarded is provided below:

Sr. No.	Particulars	Claimed Amount (Rs.)	Awarded Amount (Rs)
Claim No.1	Hard Rock in Earth Excavation	2,09,24,546.52 (before adjustment of already paid)	1,17,55,347.74
Claim No.2	Tie bolt for RCC Wall Shuttering	58,07,364.75	54,08,398.79
Claim No.3	Providing finish two RCC/PCC Surface	52,25,983.32	NIL
Claim No.4	Additional cost of excise duty and Increase in Royalty Charges	8,31,936.39	8,31,936.39
Claim No.5	Final Bill	49,19,400.53	49,19,400.53

26. *Claim No.1*: The Respondent claimed that the original BOQ

provided rates only for excavation in ordinary rock. However, during execution, hard rock was encountered and excavation was carried out in it. The Respondent, therefore, treated the excavation in hard rock as extra work and sought payment, after adjusting the amounts already paid towards excavation in ordinary rock. Appellant No.1 disputed the claim, arguing that the material did not qualify as hard rock under Clauses 2.1, 2.6 and 2.11 of the CPWD Specifications and relied on an internal committee report that classified the material as ordinary rock.

27. After examining the CPWD Specifications, contemporaneous records, and the evidence presented, the learned Arbitrator held that the material encountered during excavation was classifiable as hard rock. The Tribunal noted that the occurrence of hard rock was timely reported by the Respondent and was recorded in the Field Book following a site inspection. The report was signed by both the Respondent and the Appellants' site representative. Additionally, the Tribunal observed that the internal committee's classification of the material as ordinary rock was inconsistent with the CPWD Specifications and the contemporaneous records.

28. The Tribunal further relied on an independent geological assessment, conducted in the presence of Appellant No.1's site representative, which confirmed the material to be basaltic rock, and the expertise of the assessor remained undisputed. After considering the contractual provisions, site records, and expert evidence, the Tribunal allowed Claim No. 1, after adjusting the amounts already paid.

2026:DHC:1626-DB

29. *Claim No.2:* This claim concerned the payment for tie bolts used in RCC wall shuttering for the trunk drain, which the Respondent asserted was an extra item necessitated by technical requirements to achieve the required thickness of the wall. Appellant No. 1 disputed the claim, contending that the BOQ rates for shuttering were comprehensive and included the cost of all necessary items required for shuttering tie bolts. Further, Appellants contended that no prior approval for the use of tie bolts had been granted by the Engineer-in-Charge and that they were used at the Respondent's discretion.

30. The Tribunal observed that while shuttering was covered under the BOQ, the cost of tie bolts was not included therein. It was noted that the efficacy and use of tie bolts in the execution of the RCC walls was not in dispute. Therefore, the Tribunal concluded that the payment for tie bolts could not be denied solely for the lack of formal approval.

31. The Tribunal further held that deviation or excess work executed at the instance of the contractor fell within the scope of Clause 11 of the GCC. The Tribunal found that timely intimations were provided by the Respondent on 19.11.2014 regarding hard rock and on 15.01.2015 regarding tie bolts. In the absence of any approval or rejection by the Appellants within the stipulated period and given that the Appellants had accepted the benefit of the executed work, the Tribunal ruled that the claims could not be rejected merely for lack of formal written approval under Clause 10.

32. *Claim No. 3, 4 and 5:* The Tribunal rejected Claim No. 3(Surface Finishing of RCC/PCC Works), holding that the work executed did not fall within the scope of RCC/CC surface finishing. The Tribunal further observed that, in any case, no approval had been obtained from the Engineer-in-charge. The Tribunal allowed Claim No. 4(Excise Duty and Royalty Charges), holding that Clause 17.5 of the Special Conditions of Contract[13] entitled the contractor to reimbursement for statutory levies imposed after the bid date subject to producing the documentary evidence in proof of payment. The Tribunal noted that the enhanced royalty, notified on 11.05.2015, and increased excise duty, effecting from 01.03.2015, fell under the purview of this clause. Documentary evidence of payment was undisputed, and reimbursement was accordingly directed. Claim No. 5(Final Bill) was also allowed, as the final bill submitted by the Respondent was deemed justifiable.

33. *Counter- Claim*: The Tribunal rejected the sole counter-claim filed by Appellants for the recovery of alleged royalty and penalties on minor minerals. The Tribunal held that the revenue demand did not substantiate any unauthorised extraction. The Counter-Claim was based on demand notices and orders dated 03.07.2015 and 16.01.2016, which had been set aside and remanded by the Upper Commissioner on 19.12.2019 and had not attained finality. In the absence of any crystallised or enforceable liability, the counter-claim was deemed unsustainable and was rejected.

[13] "SCC" hereinafter

2026:DHC:1626-DB

34. On the issue of interest, the Tribunal observed that the contract prohibited the award of interest, as per Clauses 16.1 and 50.3 of the SCC. However, the Tribunal awarded compensation at the rate of 12.5% per annum on Claim Nos. 2, 4, and 5 under Section 70 of the Indian Contract Act, 1872[14], effective from 06.11.2016 (three months after the submission of the final bill dated 07.08.2016). Furthermore, the Tribunal directed that if the Appellants failed to make payment within six weeks from the date of the award, the Respondent would be entitled to claim interest from the Executing Court in accordance with Section 31(7) of the Act.

35. The Tribunal awarded arbitration costs to the Respondent amounting to Rs. 13,45,850/-.

Impugned Judgment

36. Aggrieved by the arbitral award, the Appellants filed a petition under Section 34 of the Act. The challenge was made in its entirety, primarily on the grounds that the award was vitiated by patent illegality as it was contrary to the terms of the Contract and made in disregard of the documentary evidence placed on record.

37. In respect of Claim No. 1, relating to hard rock excavation, the learned Single Judge observed that the issue was a pure question of fact and fell within the exclusive domain of the Arbitral Tribunal. The Court noted that the Tribunal's finding was supported by contemporaneous correspondence between the parties, entries in the

[14] "ICA" hereinafter

2026:DHC:1626-DB

Field Book signed by the Appellant's officials, and the geological report from Walchand College identifying the excavated material as basaltic rock, as well as, prior payments made for hard rock excavation at the same site to another contractor who had excavated the same site up to earth surface. The Court found no patent illegality or perversity in the Tribunal's reasoning and, therefore, declined to interfere with the award on this ground.

38. With respect to the use of tie bolts in the shuttering of the trunk drain, the learned Single Judge noted the Tribunal's finding that tie bolts were used for effective execution of the work and were necessary in accordance with the CPWD Specifications. The Court noted that this determination was a factual one, and the Appellants themselves conceded that the issue was not amenable to interference under Section 34 of the Act.

39. On the issue of non-approval by the Engineer-in-Charge, the learned Single Judge noted that the Respondent had sought approval for the extra item within the prescribed time under Clause 11 of the GCC. However, no decision was taken by the Engineer-in-Charge. The Court held that the Appellants could not take advantage of their own inaction, and therefore, no interference was warranted on this issue.

40. As regards reimbursement of enhanced royalty and excise duty, the learned Single Judge observed that the Tribunal had correctly applied Clause 17.5 of the SCC, which entitles the contractor to

reimbursement of statutory levies imposed after the bid date. The Court further rejected the Appellants' challenge to the Tribunal's rejection of the counter-claim for the recovery of alleged royalty. The Court noted that the demand notice underlying the counter-claim had been set aside and remanded by the Upper Commissioner and thus, no crystallised liability existed against the Respondent.

41. On the issue of interest, the learned Single Judge concurred with the Tribunal's decision to decline interest in light of the express contractual prohibition under Clauses 16.1 and 50.3 of the SCC. However, the Court held that the Tribunal had erred in awarding compensation at the rate of 12.5% per annum under Section 70 of the ICA on certain claims. The Court observed that this amounted to a colourable circumvention of the contractual prohibition on the award of interest and therefore constituted patent illegality. However, the entitlement of future interest was sustained, as it flows statutorily under Section 31(7)(b) of the Act.

42. In light of the above discussions, the learned Single Judge concluded that the arbitral award did not disclose any infirmity within the narrow grounds of interference under Section 34 of the Act, except to the extent that the Tribunal had awarded compensation at the rate of 12.5% per annum till the date of the award on certain claims, despite the express contractual prohibition. The award, therefore, stood upheld, with the exception of the issue relating to the award of compensation at the specified rate.

2026:DHC:1626-DB

Rival Contentions Before This Court

43. Mr. Puneet Taneja, learned Senior Counsel appearing for the Appellants, contended that the award on Claim No. 1 was vitiated by patent illegality, as the Tribunal classified the excavation under Schedule B as hard rock, disregarding the mandatory criteria set forth in Clauses 2.1, 2.6, and 2.11 of the CPWD Specifications. It was argued that hard rock classification is limited to cases requiring blasting or, where blasting is prohibited, excavation by mechanical means such as chiselling or equivalent methods. Since the internal committee report specifically opined that the material could be loosened by light blasting, which is expressly excluded from hard rock classification under Clause 2.1(b), the Tribunal's treatment of the excavation as hard rock was contended to be contrary to the terms of the contract.

44. Learned Senior Counsel further submitted that Clause 2.6 mandates prior written approval of the Engineer-in-Charge for blasting, and Clause 2.11 prescribes specific procedures for stacking and measuring hard rock, however, none of these procedures were followed in the present case. In the absence of compliance with these requirements, it was contended that the mere unilateral use of mechanical equipment or a belated request for blasting permission could not justify classifying the excavation as hard rock.

45. Learned Senior Counsel argued that the Tribunal erred in relying on Field Book entries and the Walchand College geological report, despite the internal committee report classifying the material as

ordinary rock. It was submitted that such third-party opinions or site-level entries, especially those signed by an officer who had no authority to bind the Appellants to any extra financial obligation, could not override the clear contractual mandate. The reliance on such extraneous material, despite the unambiguous nature of the contract, was contended to constitute patent illegality. The Appellants cited the judgment in ***Godhra Electricity Co. Ltd & Anr v. State of Gujarat & Anr***.[15], to assert that subsequent material or conduct should be considered only when the terms of the contract are unclear.

46. With regard to Claim No. 2, concerning the use of tie bolts, it was contended that BOQ Item 5.9.2 prescribes a composite rate for centering and shuttering of walls of any thickness, irrespective of whether tie bolts or other materials are used. It was pointed out that the use of tie bolts was neither mandated by the contract nor directed by the Engineer-in-Charge but was used by the Respondent at its own discretion a matter of the contractor's discretion. Therefore, it was argued that the Tribunal erred in treating the use of tie bolts as an extra item, as their cost stood subsumed within the shuttering rate, and since the Respondent used them purely for its own convenience, no independent claim for payment could be sustained.

47. In *arguendo*, it was contended that even assuming excavation in hard rock and the use of tie bolts to be extra items, the award on Claim Nos. 1 and 2 was unsustainable due to non-compliance with Clause 10, which requires prior written instructions from the Engineer-in-Charge as a condition precedent for the execution of extra

[15] **(1975) 1 SCC 199**

work. In the absence of such authorisation, Clause 11, being a *sequitur* to Clause 10, could not be invoked. By permitting payment without satisfying this threshold requirement, the Tribunal was contended to have departed from the contractual scheme by relying on Clause 11, rendering the award vitiated by patent illegality.

48. Learned Senior Counsel for the Appellants further relied on the judgment of the Single Judge in ***K.R. Anand v. DDA***[16], where the award granted for extra work without complying with the condition of explicit written permission was set aside.

49. It was further submitted that, despite a clarification dated 09.06.2015 expressly stipulating that the contractor was not bound to execute any extra item without approval from the competent authority, the Respondent proceeded to execute extra work unilaterally. The Learned Senior Counsel argued that the Respondent acted in contravention of the clarification and the contractual scheme, and, thereafter, cannot derive any contractual benefit from such unilateral conduct.

50. Learned Senior Counsel also submitted that the award of future interest was contrary to the express bar on any interest at any stage under Clause 50 of the SCC, and therefore, the learned Single Judge erred in upholding the entitlement to award of future interest by resorting to Section 31(7) of the Act. Reliance was placed on the judgment in ***Union of India v. Manraj Enterprises***[17].

[16] **1997 SCCOnline Del 307**
[17] **(2021) SCC Online SC 1081**

2026:DHC:1626-DB

51. Lastly, it was argued that the award of the entire arbitration costs of Rs. 13,45,850/- was arbitrary, as Claim No. 3 was rejected and the Tribunal itself recorded that such costs were not payable in respect of Claim Nos. 1 and 4. Therefore, it was contended that only proportionate costs ought to have been awarded. Reliance was placed on ***Xerox India Ltd. Vs. Computers Unlimited & Another***[18]**,** in support of this contention.

52. *Per contra,* Mr. Sunil Purohit, learned Senior Counsel for the Respondent submitted that the Tribunal's finding on hard rock excavation was a pure finding of fact, based on the CPWD Specifications, contemporaneous Field Book entries, an expert report prepared in the presence of the Engineer-in-Charge's site representative, and evidence showing that similarly situated contractors were paid for hard rock at the same site. It was argued that the Tribunal's view was plausible, neither perverse nor patently illegal, and thus, beyond interference under Section 37 of the Act.

53. With respect to Claim No. 2, the learned Senior Counsel contended that the Tribunal correctly held that, in accordance with the applicable CPWD Specifications, the use of tie bolts was necessary due to the depth and thickness of the RCC drain walls. Since the cost of tie bolts was not included in the relevant BOQ item, the Tribunal rightly treated the use of tie bolts as an extra item and awarded payment accordingly.

[18] **(2014) SCC Online Del 159**

54. It was further submitted that the reliance on Clause 10 by the Appellants was misconceived, as Clause 10 applies only to deviations directed by the Engineer-in-Charge, whereas contractor-proposed extra items are governed by Clause 11. The Respondent had duly complied with Clause 11 by notifying the Engineer-in-Charge about encountering hard rock on 19.11.2014 and seeking approval for the use of tie bolts on 15.01.2015. Therefore, the Tribunal's interpretation of the contractual scheme, as affirmed by the learned Single Judge, represented a plausible view and warranted no interference.

55. The learned Senior Counsel further submitted that the Respondent is entitled to the future interest as it is statutorily mandated under Section 31 of the Act irrespective of the agreement between the parties.

56. Lastly, it was submitted that the award of awarding costs lies within the discretion of the Arbitral Tribunal, and the contention that only proportionate costs could be awarded was without merit.

Analysis

57. We have heard the learned Senior Counsel for both parties at length and have conducted a comprehensive examination of the entire appeal record, including the impugned judgment rendered by the learned Single Judge, as well as the arbitral award rendered by the learned Arbitrator.

58. This Court is called upon to exercise its appellate jurisdiction under Section 37 of the Act to examine the correctness of the

judgment passed by the learned Single Judge whereby the objections to the arbitral award were rejected. Therefore, it is pertinent to reiterate that the scope of interference under Section 37 is extremely circumscribed**.** An appellate court does not exercise plenary appellate jurisdiction but only examines whether the Court exercising jurisdiction under Section 34 has acted within the limits prescribed by law. In ***Punjab State Civil Supplies Corpn. Ltd. and Anr v. Sanman Rice Mills & Ors***[19], the Hon'ble Supreme Court succinctly summarised the settled position on this matter, in the following words-

> "14. It is equally well settled that the appellate power under Section 37 of the Act is not akin to the normal appellate jurisdiction vested in the civil courts for the reason that the scope of interference of the courts with arbitral proceedings or award is very limited, confined to the ambit of Section 34 of the Act only and even that power cannot be exercised in a casual and a cavalier manner.
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> ******
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> 20. In view of the above position in law on the subject, the scope of the intervention of the court in arbitral matters is virtually prohibited, if not absolutely barred and that the interference is confined only to the extent envisaged under Section 34 of the Act. The appellate power of Section 37 of the Act is limited within the domain of Section 34 of the Act. It is exercisable only to find out if the court, exercising power under Section 34 of the Act, has acted within its limits as prescribed thereunder or has exceeded or failed to exercise the power so conferred. The Appellate Court has no authority of law to consider the matter in dispute before the arbitral tribunal on merits so as to find out as to whether the decision of the arbitral tribunal is right or wrong upon reappraisal of evidence as if it is sitting in an ordinary court of appeal. It is only where the court exercising power under Section 34 has failed to exercise its jurisdiction vested in it by Section 34 or has travelled beyond its jurisdiction that the appellate court can step in and set aside the order passed under Section 34 of the Act. Its power is more akin to that superintendence as is vested in civil courts while exercising revisionary powers. The arbitral award is not liable to be interfered unless a case for interference as set out in the earlier part of the decision, is made out. It cannot be disturbed only for the reason

[19] **2024 SCC OnLine SC 2632**

2026:DHC:1626-DB

> that instead of the view taken by the arbitral tribunal, the other view which is also a possible view is a better view according to the appellate court.
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> 21. It must also be remembered that proceedings under Section 34 of the Act are summary in nature and are not like a full-fledged regular civil suit. Therefore, the scope of Section 37 of the Act is much more summary in nature and not like an ordinary civil appeal. The award as such cannot be touched unless it is contrary to the substantive provision of law; any provision of the Act or the terms of the agreement."

59. It thus follows that while exercising jurisdiction under Section 37, this Court neither reappreciates the evidence nor reassesses the merits of the arbitral findings. Interference is warranted only where the Section 34 court has either failed to exercise the jurisdiction vested in it or has exceeded the bounds of such jurisdiction. The appeal must, therefore, be examined strictly on the touchstone of whether the impugned judgment or the arbitral award discloses any jurisdictional error, patent illegality, or perversity warranting appellate intervention.

60. Measured against the aforesaid parameters, we find that the learned Single Judge has rendered a detailed and well-reasoned judgment, examining the arbitral award claim-wise and categorically addressing each contention advanced by the Appellants. The present appeal, in our view, is a reiteration of the arguments already considered and rejected by the learned Single Judge, in the hope of securing a different outcome at the appellate stage. No jurisdictional error or patent illegality is demonstrated so as to warrant interference by this Court.

61. Before both this Court and the learned Single Judge, the

foremost challenge raised by the Appellants was to the finding of the learned Tribunal regarding the classification of excavation forming part of the Schedule B earthwork as hard rock. The Appellants vehemently contended that the material encountered was ordinary rock, and that the Tribunal's contrary conclusion was in contravention of the contractual framework, particularly the definitions contained in Clause 2.1 of the CPWD Specifications governing the classification of soils, which are reproduced hereunder-

> ***"2.1 CLASSIFICATION OF SOILS***
> *2.1.0 The earthwork shall be classified under the following categories and measurement separately for each category:*
> *a) All kind of soils: Generally any strata, such as sand, gravel, loam, clay, mud, black cotton moorum, shingle, river or nallah bed boulders, siding of roads, paths etc. and hard core, macadam surface of any description (water bound, grouted tarmac etc.), lime concrete mud concrete and their mixtures which for excavation yields to application of picks, showels, jumper, scarifiers, ripper and other manual digging implements.*
> *b) Ordinary rock: Generally any rock which can be excavated by splitting with crow bars or picks and does not require blasting, wedging or similar means for excavation such as lime stone, sand stone, hard laterite, hard conglomerate and unreinforced cement concrete below ground level.* ***If required light blasting may be resorted to for loosening the materials but this will not in any way entitle the material to be classified as "Hard rock".***
> *c) Hard rock: Generally any rock or boulder for the excavation of which blasting is required such as quartzite, granite, basalt, reinforced cement concrete {reinforcement to be cut through but not separated from concrete) below ground level and the like.*
> *d) Hard rock {blasting prohibited); Hard rock requiring blasting as described under (c) but where the blasting is prohibited for any reason and excavation has to be carried out by chiseling, wedging, use of rock hammers and cutters or any other agreed method."*
>
> (Emphasis supplied)

62. The Appellants relied on Clause 2.1(b) of the CPWD Specifications, contending that even where light blasting is resorted to for loosening the material, such excavation does not qualify as hard

rock. The internal committee report had opined that the rock could be loosened by light blasting, which the Appellants argued indicated that the material fell within the contractual definition of ordinary rock. Therefore, the Appellants submitted that the Tribunal's finding, which classified the material as hard rock, suffers from patently illegality. In this context, reference may be made to the reasoning of the Tribunal-

> *"g. The excavated rock would either fall in the category of ordinary rock or hard rock as defined in CPWD specifications. For ordinary rock the specifications provide it to be any rock which can be excavated by splitting with crow bars or picks and does not require blasting, wedging of similar means for excavation. If required, light blasting may be resorted to for loosening the materials but this will not be in any way entitling the material to be classified as hard rock. In category 'D' hard rock (blasting prohibited) the hard rock is classified as a rock requiring blasting as described in 'c' but where blasting is prohibited for any reason and the excavation has to be carried by chiselling, wedging, use of rock hammers and cutters or any other agreed method. It is not denied by the Respondent that the observed rock / bounder encountered in excavation were not feasible to be excavated by manual means. The Committee opined that it can be loosened by light blasting or using hydraulic breaker. The tribunal is unable to appreciate the reasons given in the recommendations of the Committee and the stand taken by the Respondents that the earth work excavated falls under the category of ordinary rock, when the Committee had clearly formed an opinion that the excavation of the encountered rock could not be carried out by manual means (crow bar or picks) but could be carried out by light blasting using hydraulic rock breaker.*
>
> *h. The observations and recommendations of the committee which also included of Mr. Appa Rao, the Engineer present at site and who had verified the entries of hard rock in the field book signed by him at the time of excavation, are contradictory and thus the Tribunal is of the considered opinion that the earth work encountered by the Claimant would fall within the category of hard rock as per CPWD specification classification of soils."*
>
> (Emphasis supplied)

63. The relevant recommendations of the internal committee report relied upon by the Appellants are as follows:

2026:DHC:1626-DB

> *"iii. The observed rock/boulder encountered in excavation is not feasible to excavate by manual means (cow bar or picks) but can be loosed by light blasting or using hydraulic rock breaker. As per CPWD specifications, this type of rock falls under category of Ordinary rock."*

64. The Tribunal, interpreting the definitions of ordinary rock and hard rock under the CPWD Specifications, proceeded on the premise that Clause 2.1(b) applies to situations where the rock is otherwise capable of manual excavation. Upon examining the internal committee report, the Tribunal found an apparent contradiction. While the committee opined that the material was ordinary rock, it also recorded that excavation by manual means was not feasible. This contradiction, coupled with the fact that the material could not be excavated manually, led the Tribunal to conclude that the material could not be treated as ordinary rock and therefore fell within the definition of hard rock.

65. We find no infirmity in the reasoning adopted by the Tribunal. The internal committee report did not merely state that light blasting might be used, but also categorically opined that excavation could not be carried out manually and would require mechanical means or light blasting. In this context, the Tribunal's interpretation that Clause 2.1(b), which relates to ordinary rock is inapplicable constitutes a plausible interpretation and well-reasoned view, given the undisputed fact that the material was incapable of manual excavation.

66. The learned Single Judge also noted that the Tribunal's conclusion was supported by ample material on record, including

2026:DHC:1626-DB

contemporaneous Field Book entries, the geological report of Walchand College, site inspections conducted in the presence of the Engineer's representative, and the overall conduct of the parties during the execution of the works. The reliance on such material was not to dilute the contractual criteria but rather to substantiate the Tribunal's classification of the material.

67. The Appellants' contention that the terms of the contract were unambiguous and therefore, the learned Arbitrator was precluded from the use of contemporaneous material or conduct of the parties is misconceived. The material relied upon by the Tribunal was not intended to vary or override the contractual definitions but to ascertain whether the stipulated conditions were in fact satisfied. The Tribunal's reliance on this material was therefore appropriate and does not constitute an impermissible resort to extrinsic evidence so as to vitiate the award.

68. We find no merit in the Appellants' submission that the absence of prior approval for blasting or strict compliance with stacking and measurement formalities relevant in determining the nature of the material encountered. These provisions govern post-classification processes and do not dictate the foundational issue of whether the material should be classified as hard rock or ordinary rock. In any event, the Tribunal based its conclusion on a cumulative assessment of contemporaneous records and expert material, not merely on the unilateral use of mechanical equipment by the respondent.

2026:DHC:1626-DB

69. The submission that Mr Appa Rao, the on-site Engineer, lacked authority to bind the Appellants on matters involving financial implications is also without merit. The Tribunal, after appraising the relevant clauses, correspondences, and site records, found that Mr Rao acted as the authorised representative of the Engineer-in-Charge. In our view, this finding is a pure finding of fact and is well supported by the evidence. The attempt to revisit this issue before this Court is merely a renewed effort in the hope that the said arguments may find favour at the appellate stage.

70. In the present case, we concur with the learned Single Judge that the determination of whether the material encountered during excavation was ordinary rock or hard rock is essentially a question of fact, lying within the exclusive domain of the Arbitral Tribunal as the final arbiter of facts. This is a trite principle of law, consistently reiterated in decisions such as ***State of Rajasthan v. Puri Construction Co. Ltd.***[20], ***MCD v. Jagan Nath Ashok Kumar and Another***[21], and ***Oswal Woollen Mills Ltd. v. Oswal Agro Mills Ltd***[22]**,** wherein it has been held that the appreciation of evidence lies squarely within the domain of the learned Arbitrator, and re-evaluation of finding of fact is outside the limited jurisdiction vested in the Court under Section 37 of the Act.

71. It is apt to conclude that the finding of the Tribunal regarding the classification of the material was not a case of rewriting the contract between the parties, but rather one of construing and applying

[20] **(1994) (6) SCC 485**
[21] **(1987) 4 SCC 497**
[22] **(2018) 16 SCC 219**

its terms to the facts on record. The Tribunal's conclusion reflects a careful interpretation and application of the contract, which cannot be interfered with merely because an alternative view is possible.

72. Another ground of challenge raised by the Appellants concerned Claim No. 2, wherein they contended that the use of tie bolts in RCC wall shuttering for the trunk drain was not mandated under the contract and was adopted purely as a matter of executional convenience by the Respondent without permission. The Appellants argued that, in the absence of any explicit contractual stipulation requiring the use of tie bolts, the Tribunal erred in treating their use as necessary and in allowing payment by classifying the same as an extra item.

73. We note that this identical contention was raised before the learned Single Judge, who recorded that the learned Senior Counsel for the Appellants had, *albeit* reluctantly, conceded that the findings returned by the Tribunal on the issue of the use of tie bolts were findings of fact not amenable to re-examination under Section 34 of the Act. Despite such concession, the contention has been reiterated before us.

74. Upon our perusal of the arbitral award and the impugned judgment, we find that the learned Arbitrator returned a clear finding that the use of tie bolts was in compliance with the CPWD Specifications. Their efficacy and quantity were also not disputed. The learned Single Judge also noted that the conclusion arrived at by the learned Arbitrator was based on due appreciation of documentary

evidence, as well as the oral testimony and cross-examination of the Engineer-in-Charge. These findings, being factual in nature, are based on the evidence on record, and the reasons cited by the Tribunal have been concurred with by the Court exercising jurisdiction under Section 34 of the Act. As such, there is no scope for interference by this Court.

75. Another contention raised by the Appellants related to alleged non-compliance with Clause 10 of the GCC. The Appellants argued that the execution of any extra item was permissible only after receiving written instructions from the Engineer-in-Charge, which was admittedly absent prior to the excavation of hard rock or the use of tie bolts. They further contended that Clause 11, being merely a provision to determine rates, could not be invoked independently of Clause 10, and the learned Arbitrator, by doing so, impermissibly re-wrote the contract. Clauses 10 and 11 are reproduced below for our consideration:

> *"10. The Engineer-in-Charge shall have power (i) to make alteration in, omissions, from additions to, or substitutions for the original specifications, drawings, designs and instructions that may appear to him to be necessary or advisable during the progress of the work, and (ii) to omit a part· of the works in case of non-availability of a portion of the Site or for any other reasons and the Contractor shall be bound to carry out the Works in accordance with any Instructions given to him in writing signed by the Engineer-in-Charge and such alterations, omissions, additions or substitution shall form part of the Contract as if originally provided therein and any altered, additional or substituted work which the Contractor may be directed to do in the manner above specified as part of the Works, shall be carried out by the Contractor on the same conditions in all respects including price on which he agreed to do the main work. Any alterations, omissions, additions or substitutions which radically change the original nature of· the contract shall be ordered by the Engineer-in-Charge as a deviation and in the event of any deviation being ordered which in the opinion of the Contractor changes the*

original ·nature of the Contract, he shall nevertheless carry it out and the disagreement if any, as to the nature of work and the rate to be paid therefore shall be resolved in accordance with Condition 56.

11. In the case of contract items, substituted items, contract-cum-substituted items, or additional items which exceed the limits laid down in sub-para (vi) of Condition 10 above, the contractor may, within fourteen days of receipt of order or ·occurrence of the excess claim revision of the rates, supported by proper analysis, for the work in excess of above-mentioned limits, provided that if the rates so claimed are in excess of the rates specified In the Schedule of Quantities or of those derived in accordance with the provisions of sub-para (i) to (iv) of Condition 10 by more than five per cent, inform the Engineer- In-Charge under advice to the Accepting Authority and the Engineer-in-Charge shall, within three months of receipt of the claim supported by analysis, after giving consideration to the analysis of the rates submitted by the Contractor, determine the rates on the basis of market rates and if the rates so determined exceed the rates specified in the Schedule of Quantities or those derived in accordance with the provisions of sub-paras (i) to (iv) of condition 10 by more than five percent, the Contractor shall be paid in accordance with the rates so determined. In the event-of the Contractor falling to claim revision of rates within the stipulated period, or if the rates determined by the Engineer-in-charge within a period three months of receipt of the claim supported by analysis are within five percent of the rates specified in the Schedule of Quantities or of those determined in accordance with the provisions of sub-paras (i) to (iv) of Condition 10, the Engineer-in-Charge shall make payment at the rates as specified in the Schedule of Quantities or those already determined under sub-paras (i) to (iv) of Condition 1C for the quantities in excess of the limits laid down in subpara (vi) of Condition 10."

(Emphasis supplied)

76. In our view, a plain and harmonious reading of Clauses 10 and 11 of the GCC leaves little room for doubt that the two clauses operate in distinct fields. Clause 10 clearly vests the Engineer-in-Charge with the authority to direct alterations, additions, omissions or substitutions to the original scope of work, and applies where such deviations are ordered through written instructions. The contractor's obligation under Clause 10 is thus predicated upon a direction emanating from the

Engineer-in-Charge.

77. Clause 11, on the other hand, addresses a materially different situation. It entitles the contractor to propose and seek revision of rates where extra work arises during execution, subject to compliance with the prescribed notice and procedure. It mandates that the contractor notify the Engineer-in-Charge within fourteen days of such occurrence, and that the Engineer-in-Charge determines the rates within three months thereafter. Read thus, Clause 11 operates in a separate and distinct sphere from Clause 10.

78. The reliance placed by the Appellants on the decision in ***K.R. Anand*** (supra) is misplaced. The said decision was based on a contractual framework where payment for extra work was contingent upon written instructions issued by the Engineer-in-Charge. The present contract, however, expressly incorporates Clause 11, which governs the framework for additional or excess work proposed by the contractor and entitles the contractor to payment subject to compliance with the prescribed procedure.

79. In ***Parsa Kente Collieries Ltd. v. Rajasthan Rajya Vidyut Utpadan Nigam Ltd.***[23], the Supreme Court held that the interpretation of contractual terms is primarily within the domain of the learned Arbitrator, and interference is warranted only where the interpretation adopted is one that no fair-minded or reasonable person could possibly arrive at. More recently, in ***Prakash Atlanta (JV) v. National***

[23] **(2019) 7 SCC 236**

Highways Authority of India[24], the Supreme Court reiterated that arbitral findings regarding the interpretation of the contract cannot be supplanted merely because an alternative view is plausible. Based on this principle, the learned Arbitrator's reliance on Clause 11 cannot be construed as re-writing or travelling beyond the contractual terms but constitutes a reasonable and plausible interpretation of the relevant contractual clauses.

80. We find no infirmity in the learned Arbitrator's invocation of Clause 11 of the GCC instead of Clause 10. The Tribunal carefully examined compliance with the said clause and recorded that the Respondent promptly notified the Appellants upon encountering hard rock on 19.11.2014 and sought approval for the use of tie bolts by notice dated 15.01.2015.

81. The Appellants' contention regarding unilateral execution without approval was rejected by the Tribunal on the ground that the Appellants failed to respond within the stipulated period. Having continued to accept the execution of the work without objection, the Appellants were therefore disentitled to resist payment on the ground of the absence of formal approval.

82. In our considered view, there was neither express approval nor rejection or direction to stop the work by the Appellants in clear terms when the extra work was being executed. Having remained *supine*, while continuing to derive the benefit of the executed work, the Appellants cannot now be permitted to take advantage of their own

[24] **2026 SCC OnLine SC 98**

inaction. The maxim *nullus commodum capere potest de injuria sua propria* squarely applies, as a party cannot be allowed to profit from its own default. Such conduct strikes at the very foundation of fairness and equity and admits of no indulgence whether under Section 34 or Section 37 of the Act.

83. The objection regarding the grant of future interest, despite a contractual prohibition on interest "at any stage", is no longer *res integra*. The scope and effect of Section 31(7) of the Act have been authoritatively settled by the Supreme Court in ***R.P. Garg v. Telecom Department***[25]**,** in the following terms-

> **"9.** We are of the opinion that the judgment of High Court is clearly erroneous. Firstly, the interest granted by the First Appellate Court only related to post award period, and therefore, for this period, the agreement between the parties has no bearing. Section 31(7)(b) deals with grant of interest for post award period i.e., from the date of the award till its realization. The statutory scheme relating to grant of interest provided in Section 31(7) creates a distinction between interest payable before and after the award. So far as the interest before the passing of the award is concerned, it is regulated by Section 31(7)(a) of the Act which provides that the grant of interest shall be subject to the agreement between the parties. This is evident from the specific expression at the commencement of the sub-section which says "unless otherwise agreed by the parties".
>
> *****
>
> **11.** So far as the entitlement of the post-award interest is concerned, sub-Section (b) of Section 31(7) provides that the sum directed to be paid by the Arbitral Tribunal *shall* carry interest. The rate of interest can be provided by the Arbitrator and in default the statutory prescription will apply. Clause (b) of Section 31(7) is therefore in contrast with clause (a) and is not subject to party autonomy. In other words, clause (b) does not give the parties the right to "contract out" interest for the post-award period. The expression 'unless the award otherwise directs' in Section 31(7)(b) relates to rate of interest and not entitlement of interest. The only

[25] **2024 SCC OnLine SC 2928**

distinction made by Section 31(7)(b) is that the rate of interest granted under the Award is to be given precedence over the statutorily prescribed rate. The assumption of the High Court that payment of the interest for the post award period is subject to the contract is a clear error.

12. The clear position of law that granting post-award interest is not subject to the contract between the parties was recently affirmed in the decision of this Court in *Morgan Securities & Credits (P) Ltd.* v. *Videocon Industries Ltd. (2023) 1 SCC 602*, wherein the court observed as follows:

"24. The issue before us is whether the phrase "unless the award otherwise directs" in Section 31(7)(b) of the Act only provides the arbitrator the discretion to determine the rate of interest or both the rate of interest and the "sum" it must be paid against. At this juncture, it is crucial to note that both clauses (a) and (b) are qualified. While, clause (a) is qualified by the arbitration agreement, clause (b) is qualified by the arbitration award. However, the placement of the phrases is crucial to their interpretation. The words, "unless otherwise agreed by the parties" occur at the beginning of clause (a) qualifying the entire provision. However, in clause (b), the words, "unless the award otherwise directs" occur after the words "a sum directed to be paid by an arbitral award shall" and before the words "carry interest at the rate of eighteen per cent". Thereby, those words only qualify the rate of post-award interest.

25. Section 31(7)(a) confers a wide discretion upon the arbitrator in regard to the grant of pre-award interest. The arbitrator has the discretion to determine the rate of reasonable interest, the sum on which the interest is to be paid, that is whether on the whole or any part of the principal amount, and the period for which payment of interest is to be made — whether it should be for the whole or any part of the period between the date on which the cause of action arose and the date of the award. When a discretion has been conferred on the arbitrator in regard to the grant of pre-award interest, it would be against the grain of statutory interpretation to presuppose that the legislative intent was to reduce the discretionary power of the arbitrator for the grant of post-award interest under clause (b). Clause (b) only contemplates a situation where the arbitration award is silent on post-award interest, in which event the award-holder is entitled to a post-award interest of eighteen per cent."

13. The High Court, therefore, committed an error in relying on the decision of this Court in *Jaiprakash* (supra). The judgment in *Jaiprakash* deals with the issue of prohibition of *pendente-lite* interest and will have no application to the facts of the present case where the claim relates to post-award interest."

(Emphasis supplied)

2026:DHC:1626-DB

84. The Supreme Court has clearly drawn a distinction between pre-award interest under Section 31(7)(a), which is subject to party autonomy, and post-award interest under Section 31(7)(b), which is statutory and cannot be contracted out. The expression "unless the award otherwise directs" in Section 31(7)(b) pertains to the rate of interest, and where the arbitral award specifies a rate, such rates prevails over a statutory rate. In light of this settled legal position, we find that there is no infirmity in the view taken by the learned Single Judge. While the contractual prohibition may validly operate to bar pre-award interest, it does not affect the entitlement to future interest to the Respondent due to the bar in the contract. Therefore, no case for interference is made out.

85. Lastly, we address the objection regarding the award of costs by the learned Arbitrator. The Arbitral Tribunal, having allowed Claim Nos. 1, 2, 4, and 5 in favour of the Respondent and having found the counter-claim to be lacking in *bona fide*, exercised its discretion to award costs of Rs.13,45,850/- to the Respondent, while declining to award costs to the Appellants. The discretion to award costs squarely lies within the domain of the learned Arbitrator under Section 31A of the Act. No perversity, arbitrariness, or manifest injustice has been demonstrated in the exercise of such discretion. Given that the majority of claims were allowed in favour of the Respondent, the award of costs does not shock the conscience of the Court and thus does not warrant interference by us.

2026:DHC:1626-DB

Conclusion

86. In view of the above discussion, we are of the considered view that the Appellants have failed to establish any valid grounds to justify interference with the arbitral award.

87. The present appeal, in substance, seeks a re-appreciation of facts and a substitution of the arbitral view with another possible view. Such an exercise is plainly impermissible within the narrow confines of interference under Section 34 and 37 of the Act, particularly when the view adopted by the Tribunal is a reasonable and legally sustainable one.

88. The findings returned by the Tribunal on the classification of soil for Claim No. 1, the use of tie-bolts for Claim No. 2, the entitlement to post-award interest, and the grant of costs are not only plausible but also justified on the facts of the case. These findings are supported by contemporaneous records, technical material, and the conduct of the parties during execution of the works. They fall squarely within the exclusive domain of the Arbitral Tribunal as the final arbiter of facts and the interpretation of the contract.

89. No element of arbitrariness, perversity, or patent illegality is discernible in the arbitral award. Therefore, the arbitral award cannot be characterised as a re-writing of the contract, as contended by the Appellants, but rather constitutes a legitimate exercise of arbitral discretion within the bounds of the agreement and the governing law.

2026:DHC:1626-DB

90. For the reasons aforesaid, the present appeal is accordingly dismissed.

91. There shall be no order as to costs.

OM PRAKASH SHUKLA, J.

C.HARI SHANKAR, J.

FEBRUARY 24, 2026*/ss/pa/at/gunn*