
(2026) 02 DEL CK 1610

In the Delhi High Court

Case No : FAO(OS)(COMM) No. 10 Of 2026 & Civil Miscellaneous Petition No. 3484 Of 2026

M/s L And D JV

APPELLANT

Vs

Container Corporation Of India Ltd

RESPONDENT

Date of Decision : 03-02-2026

Acts Referred:

Civil Procedure Code, 1908 — Order 41 Rule 1
Arbitration and Conciliation Act, 1996 — Section 34

Citation : (2026) 02 DEL CK 1610

Hon'ble Judges : Anil Kshetarpal, J; Amit Mahajan, J

Bench : Division Bench

Advocate : Sarthak Sawhney, R. K. Joshi, Ojusya Joshi, Shabnam Joshi

Final Decision : Dismissed

Judgement

Anil Kshetarpal, J

1. The present Appeal, preferred by the Appellant, assails the correctness of judgment and order dated 05.08.2025 [hereinafter referred to as the 'Impugned Order'] passed by the learned Single Judge in O.M.P.(COMM) 440/2024, whereby the petition filed by the Appellant under Section 34 of the Arbitration and Conciliation Act, 1996 [hereinafter referred to as the '1996 Act'] challenging the arbitral award dated 04.07.2024, passed by the learned Arbitral Tribunal, came to be dismissed.

2. The issue which arises for consideration in the present Appeal is whether, in exercise of appellate jurisdiction under Section 37 of the Arbitration and Conciliation Act, 1996, this Court ought to interfere with the order passed by the learned Single Judge dismissing the Appellant's petition under Section 34, particularly when the arbitral award rests on a finding that the Appellant is barred from raising any claim on account of the No Claim Certificate and allied declarations executed by it.

FACTUAL MATRIX:

3. In order to appreciate the controversy involved in the present Appeal, it would be apposite to briefly advert to the material facts giving rise thereto.

4. The Respondent awarded a works contract to the Appellant pursuant to a tender issued during the year 2013 for execution of earthwork and allied civil works relating to development of land at a Container Freight Station at Vallarpadam, Cochin, Kerala. The contract was an item-rate contract governed by the General Conditions of Contract and the Special Conditions of Contract, and the scope of work was defined by the Bill of Quantities [hereinafter referred to as 'BOQ'] forming part of the tender documents. Under the contractual arrangement, the BOQ specifying items of work and approximate quantities was prepared by the Respondent, and the Appellant was required to execute the works in accordance therewith, under the supervision of the Respondent.

5. The scheduled date of commencement of work was 02.03.2014 and the stipulated date of completion was 01.01.2015. The work, however, came to be completed on 26.06.2017, whereafter completion was certified and the works were put to use by the Respondent. During the course of execution of the contract, disputes arose between the parties in relation to the execution of the works, payments made therefor, and responsibility for alleged defects and rectification.

6. The Appellant asserted that, during execution, it was required to carry out certain additional and rectification works beyond the original scope of the BOQ, allegedly on account of site conditions and directions issued by the Respondent. It was also alleged that payments of running account bills were delayed, that certain deductions were wrongfully made, and that amounts towards earnest money deposit were liable to be refunded. According to the Appellant, the additional works were executed under compulsion and without commensurate payment.

7. The Respondent, on the other hand, disputed the aforesaid assertions and contended that the works executed by the Appellant were governed by the contractual terms, that no extra or variation works were duly established in accordance with the contract, and that any rectification carried out was within the Appellant's contractual obligations. The Respondent further denied liability towards additional payments and interest.

8. In view of the disputes, the Appellant invoked the arbitration clause contained in the contract and referred the disputes to arbitration. Before the learned Arbitral Tribunal, the Appellant filed its Statement of Claims, inter alia, seeking amounts towards alleged extra and variation works, recovery of deductions made from running account bills, refund of earnest money deposit, and interest on alleged delayed payments. The Respondent contested the claims by filing its Statement of Defence.

9. Upon consideration of the pleadings and material placed on record, the learned Arbitral Tribunal framed issues and examined the claims raised by the Appellant. As regards the claim relating to extra and variation works, the learned Tribunal found that the Appellant had failed to specifically plead or establish the particulars of such alleged extra work and that no material sufficient was produced to demonstrate execution of work beyond the contractual scope as defined in the BOQ. The learned Tribunal accordingly held that the Appellant had not been able to substantiate its entitlement to additional payment on this account.

10. With respect to the claim for interest on delayed payment of running account bills, the learned Arbitral Tribunal examined the dates on which the bills were raised and the dates on which payments were released, and held that all payments in respect of Running Account Bills had been made by September 2016. The Tribunal further held that the claim for interest, having been raised for the first time in the Statement of Claims filed in the year 2021, was barred by limitation. The judgments relied upon by the Appellant in support of its claim for interest was distinguished on facts.

11. On the aforesaid reasoning, the learned Arbitral Tribunal rejected the claims raised by the Appellant and passed the arbitral award dated 04.07.2024. Aggrieved by the same, the Appellant filed a petition under Section 34 of the 1996 Act, being O.M.P.(COMM) 440/2024, before this Court, contending that the award suffered from perversity, patent illegality, and was contrary to law.

12. The learned Single Judge, upon hearing the parties and perusing the arbitral record, dismissed the petition vide the Impugned Order. The learned Single Judge held that the findings returned by the learned Arbitral Tribunal were based on appreciation of evidence, that the Tribunal was the master of the evidence, and that no ground warranting interference under Section 34 of the 1996 Act was made out.

CONTENTIONS OF THE PARTIES:

13. Contentions of the Appellant:

13.1 Learned counsel appearing for the Appellant, while drawing attention of this Court to the findings recorded by the learned Arbitrator under Issue Nos.2 and 3 of the Award, submitted that the Tribunal had, in fact, returned findings indicating that the Appellant was entitled to recover amounts quantified at Rs. 32,32,618.82/- and Rs. 45,45,605/-. It was contended that after recording such findings, the learned Arbitrator erred in ultimately dismissing the Appellant's claim petition in its entirety, thereby rendering the Award internally inconsistent and unsustainable in law.

13.2 It was further submitted on behalf of the Appellant that the learned Arbitral Tribunal, while adjudicating certain issues arising out of the disputes between the parties, had recorded findings which, according to the Appellant, indicated that

the difficulties encountered during execution of the works were not attributable to any lapse or deficiency on its part. It was contended that the material placed before the Tribunal, including technical assessments and contemporaneous correspondence exchanged between the parties, demonstrated that the issues at site arose due to conditions beyond the Appellant's control and not on account of faulty execution. Proceeding on this basis, it was urged that once the Tribunal had returned findings which exonerated the Appellant from responsibility for the difficulties faced at site, the rejection of the claim for reimbursement of alleged additional or rectification works was unsustainable.

13.3 It was further argued that the continued utilization of the site by the Respondent even after remedial measures were undertaken indicated that rectification efforts had in fact been carried out and had achieved their intended purpose, thereby lending support to the Appellant's claim that work beyond the original contractual scope had been executed. According to the Appellant, the failure of the learned Arbitrator to grant relief despite such findings rendered the Award inconsistent and liable to interference.

13.4 Learned counsel also relied upon correspondence exchanged between the parties, including letters dated 20.05.2016, 24.06.2016, 19.10.2016 and 11.12.2017, which, according to the Appellant, had been duly proved during the arbitral proceedings. It was urged that the failure of the learned Arbitrator to adequately consider the said correspondence rendered the findings under Claim No.1 unsustainable.

13.5 Assailing the rejection of Claim No. 5 relating to interest on delayed payment of Running Account Bills, learned counsel for the Appellant submitted that the learned Arbitrator erred in holding the said claim to be barred by limitation. It was contended that the period of limitation ought to have been computed from the date of payment of the final bill, which was admittedly paid on 19.05.2020, after a substantial delay following completion of the work.

13.6 It was contended that payments made under the Running Account Bills were adjustable against the final bill and, therefore, delay in settlement of the final bill constituted a fresh and independent cause of action. It was urged that even if payments under the RA Bills had been made by September 2016, the obligation to make payment of the final bill arose only upon completion of the work and, therefore, the claim for interest could not have been held to be time-barred.

13.7 Learned counsel for the Appellant also tried to submit that the learned Single Judge erred in declaring that the Appellant's claim for delayed payments was incorrect and in failing to appreciate the contractual stipulations governing the timeline for release of payments.

14. Contentions of the Respondent:

14.1 Per contra, learned counsel for the Respondent supported the Impugned

Order and submitted that the present Appeal is devoid of merit and liable to be dismissed both on grounds of maintainability and on merits, and that no case for interference under Section 37 of the 1996 Act is made out.

14.2 At the outset, an objection was raised with respect to the maintainability of the Appeal on the ground of limitation and procedural defect. It was submitted that the Appellant had re-filed the Appeal after a delay of 75 days without filing a certified copy of the Impugned Order. It was further submitted that even in the application seeking condonation of delay, the Appellant had not averred that it had applied for a certified copy of the Impugned Order, which is a mandatory procedural requirement.

14.3 In this regard, reliance was placed on Order XLI Rule 1 of the Code of Civil Procedure, 1908, to contend that every appeal must be accompanied by a copy of the judgment appealed against and that such copy necessarily implies a certified copy. Reliance was further placed on the judgments passed by the Supreme Court in *Jagat Dhish Bhargava v. Jawahar Lal Bhargava* 1960) SCC OnLine SC 149; and *Shakuntala Devi Jain v. Kuntal Kumari* (1968) SCC OnLine SC 139 to submit that an appeal filed without a certified copy of the impugned judgment is incomplete and not to be adjudicated.

14.4 On merits, it was submitted that while adjudicating Issue No.7, the learned Arbitral Tribunal had categorically held that the Appellant, after having signed the No Claim Certificate, Full and Final Settlement Certificate and, in particular, the No Demand Certificate dated 20.05.2020, stood precluded from claiming any amount in relation to the contract works. It was submitted that this finding constituted an independent and complete bar to the claims raised by the Appellant.

14.5 It was further submitted that once the learned Arbitral Tribunal had arrived at the aforesaid conclusion, any observations made while dealing with other issues, including Issue Nos.2 and 3, could not be relied upon to seek relief. According to the Respondent, the operative conclusion of the Award is one of dismissal of the claims and the Appellant cannot selectively rely upon intermediate findings while ignoring the determinative conclusion.

14.6 With respect to Claim No.5 relating to interest on delayed payment of Running Account Bills, it was submitted that the learned Arbitral Tribunal had rightly held the claim to be barred by limitation. It was contended that the claim for interest on delayed payments was admittedly raised for the first time in the Statement of Claims filed in the year 2021.

14.7 It was submitted that payments in respect of RA Bills No.1 to 9 had been made between 24.10.2014 and 27.09.2016 and that the limitation must be computed from the dates on which the amounts became due and payable. Reliance was placed on the judgment of this Court in *KP Rana v. DDA* 2025 SCC OnLine Del 8372 to contend that limitation in respect of such claims begins to run from the date when payment becomes due.

14.8 Reliance was also placed on *Bharat Heavy Electricals Limited v. UB Engineering Limited* 2020 SCC OnLine Mad 170 and *Essar Procurement Services Ltd. v. Paramount Constructions* 2016 SCC OnLine Bom 9697 to submit that where a claim has not been raised in the final bill, the claimant cannot subsequently contend that limitation would commence from the date of settlement of the final bill and that the cause of action with respect to each Running Account Bill is distinct.

14.9 Lastly, it was submitted that the present Appeal essentially seeks re-appreciation of facts and evidence, which is impermissible in proceedings under Section 37 of the 1996 Act. It was urged that both the learned Arbitral Tribunal and the learned Single Judge have returned concurrent findings of fact and that no ground warranting interference is made out.

ANALYSIS & FINDINGS:

15. This Court has considered the submissions advanced by learned counsel for the parties and perused the material on record.

16. At the outset, it is necessary to bear in mind the limited scope of interference by this Court while exercising appellate jurisdiction under Section 37 of the 1996 Act. It is well settled that an appeal under Section 37 is not in the nature of a regular first appeal and does not permit re-appreciation of evidence or re-examination of factual findings returned by the Arbitral Tribunal. Interference is warranted only where the order passed under Section 34, or the award itself, is shown to suffer from perversity, patent illegality apparent on the face of the record, or is in conflict with the fundamental policy of Indian law. If the view taken by the learned Arbitrator is a plausible one, the Court exercising jurisdiction under Sections 34 or 37 cannot substitute its own view merely because another interpretation may also be possible.

17. In the present case, learned counsel for the Appellant placed considerable emphasis on the findings recorded by the learned Arbitral Tribunal under Issue Nos. 2 and 3 of the Award. It was submitted that while adjudicating the said issues, the learned Arbitrator recorded findings which, according to the Appellant, recognized its entitlement to recover amounts quantified at Rs.32,32,618.82/- and Rs.45,45,605/-. On that basis, it was argued that the ultimate dismissal of the claim petition was contradictory and unsustainable.

18. This submission, though attractive at first blush, does not withstand closer scrutiny of the Award read as a whole. First of all, it is evident from the record that the Appellant had substantially pressed its challenge in relation to Issue Nos.1 and 5, a position which has also been noticed by the learned Single Judge in the Impugned Order. More importantly, while adjudicating Issue No.7, the learned Arbitral Tribunal returned a categorical and unequivocal finding that the Appellant, after having executed the No Claim Certificate, Full and Final Settlement Certificate and, in particular, the No Demand Certificate dated 20.05.2020, stood precluded from raising any further monetary claims in relation

to the contract works.

19. The finding returned under Issue No.7 is not merely incidental but goes to the root of the maintainability of the claims themselves. The learned Tribunal, upon appreciation of the documentary material and surrounding circumstances, concluded that the execution of the aforesaid certificates constituted a binding accord between the parties, thereby disentitling the Appellant from asserting any further claims arising out of the contract. Such a finding, unless demonstrated to be perverse or legally unsustainable, constitutes an independent and determinative ground for rejection of the claims in their entirety.

20. Once the Tribunal arrived at the conclusion that the Appellant was contractually precluded from raising any further monetary demand in view of the No Claim and No Demand Certificates, any observations made while adjudicating Issue Nos.2 and 3 could not survive as independent basis for grant of relief. It is well settled that an arbitral award must be read in a holistic manner, and isolated findings cannot be torn out of context to assail the ultimate operative conclusion. The operative part of the Award is one of dismissal of the claims, and not the intermediate reasoning recorded while examining individual issues.

21. In view of the aforesaid position, the argument advanced by the learned counsel for the Appellant on the basis of Issue Nos.2 and 3 lacks substance. Even assuming that certain observations under those issues appeared to favour the Appellant, the conclusive finding recorded under Issue No.7 operated as a complete bar to any recovery. The learned Single Judge has taken note of this aspect and has rightly held that no ground for interference under Section 34 was made out.

22. Learned counsel for the Appellant also sought to contend that the learned Single Judge erred in affirming the rejection of the Appellant's claim relating to interest on delayed payment of Running Account Bills. On this aspect, a perusal of the record reveals that the Running Account Bill dated 16.07.2016 came to be paid on 27.09.2016. The learned Arbitrator has recorded a finding that the claim seeking interest on alleged delayed payments was raised for the first time only in the Statement of Claims filed in the year 2021.

23. While adjudicating the claim under Issue No.5, the learned Arbitrator examined the relevant dates of submission and payment of the RA Bills and concluded that the claim for interest was barred by limitation. The Tribunal reasoned that the cause of action, if any, arose when the payments became due and were made, and that the Appellant could not, after the lapse of several years, raise such a claim for the first time in arbitration proceedings. The learned Single Judge has affirmed the said finding, observing that it is based on appreciation of the material on record.

24. This Court finds no perversity or patent illegality in the aforesaid conclusion. The determination of limitation, particularly in the context of claims for interest on delayed payments, is essentially a mixed question of fact and law and falls

squarely within the domain of the Arbitral Tribunal. Once the Tribunal has adopted a reasonable and plausible view on the basis of the evidence before it, the same does not warrant interference in appellate proceedings under Section 37 of the 1996 Act.

24A. In this context, it is also apposite to note that this Court in *Late Sh. Pramod Kumar Jain v. Municipal Corporation of Delhi & Anr.* 2025:DHC:8212-DB, has reiterated that for the purposes of limitation, the cause of action arises when a claim is first asserted and remains unanswered or is not acted upon within a reasonable time, and that subsequent reminders or correspondence do not extend or postpone the commencement of limitation. The Court further emphasized that once limitation begins to run, it cannot be arrested by continued representations or silence of the opposite party. The said principle squarely reinforces the view adopted by the learned Arbitral Tribunal in the present case while adjudicating the claim for interest on delayed payments.

25. The submissions advanced on behalf of the Appellant, when examined in entirety, essentially seek a re-appreciation of evidence and reconsideration of factual findings returned by the learned Arbitral Tribunal. Such an exercise is clearly impermissible within the limited scope of appellate scrutiny under Section 37, particularly where both the Arbitral Tribunal and the learned Single Judge have concurrently rejected the claims after due consideration.

26. In these circumstances, this Court is of the considered view that the Award does not suffer from perversity, patent illegality, or violation of the fundamental policy of Indian law. The approach adopted by the learned Arbitrator is neither arbitrary nor unreasonable, and the learned Single Judge has rightly declined to interfere with the same.

27. Hence, no interference is called for, keeping in view the limited scope of interference against an arbitral award and the concurrent findings recorded by the learned Arbitral Tribunal and affirmed by the learned Single Judge.

CONCLUSION:

28. In view of the foregoing discussion and findings, this Court finds no infirmity in the Arbitral Award dated 04.07.2024 or in the Impugned Order passed by the learned Single Judge. The Appellant has failed to demonstrate any ground warranting interference by this Court in exercise of its appellate jurisdiction under Section 37 of the 1996 Act.

29. The present Appeal, being devoid of merit, is accordingly dismissed. The pending application also stands closed.