

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 1922 of 2014****With****R/FIRST APPEAL NO. 1923 of 2014****FOR APPROVAL AND SIGNATURE:****HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL** **--Sd/-****and****HONOURABLE MS. JUSTICE NISHA M. THAKORE** **--Sd/-**

=====

Approved for Reporting	Yes	No
		No

=====

JAIN IRRIGATION SYSTEMS LTD**Versus****GUJARAT GREEN REVOLUTION CO LTD & ORS.**

=====

Appearance:**MR RASESH H PARIKH(3862) for the Appellant(s) No. 1****MR.HEMANG H PARIKH(2628) for the Appellant(s) No. 1****NANAVATI & CO.(7105) for the Defendant(s) No. 1****RULE SERVED for the Defendant(s) No. 2,3**

=====

CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL**and****HONOURABLE MS. JUSTICE NISHA M. THAKORE****Date : 22/07/2026****ORAL JUDGMENT****(PER : HONOURABLE MS. JUSTICE NISHA M. THAKORE)****1. The present appeals are filed under Section 37 of the**

Arbitration and Conciliation Act, 1996 (herein after referred as 'the Act of 1996'), by the original applicant being aggrieved and dissatisfied with the judgment and order dated 1st March, 2014 passed by the learned 10th Ad-hoc Addl. District Judge at Vadodara in Civil Misc. Application no.74 of 2011, whereby the learned Judge has dismissed the application under Section 34 of the Act, preferred by the present appellant challenging the award dated 31st December, 2010 passed by the learned Arbitrator.

2. In the cognate appeal being First Appeal no.1923 of 2014, the challenge is to the judgment and order dated 31st March 2014 passed by the learned Addl. District Judge, Vadodara in Civil Misc. Application no.390 of 2013, whereby the learned Judge has dismissed the application preferred by the present appellant challenging the award dated 27th March, 2013 passed by the learned Arbitrator.

Since common questions of facts and law have been raised in the present appeals arising between the same parties, the appeals were heard together and are decided by this common judgment.

3. In order to appreciate the controversy involved in both the appeals, it would be appropriate to consider the facts of the case which are summarized hereunder:-

3.1 The appellant company is incorporated and registered under the provisions of the Companies Act, 1956 engaged in

the business of manufacturing of Drip Irrigation Systems. The respondent no.1 company is appointed as Nodal Agency by the Government of Gujarat pursuant to the order dated 9th May, 2005 for the purpose of implementation of Micro Irrigation System (hereinafter referred as 'MIS', in short) across the State. The appellant was engaged as registered supplier by the respondent no.1 for the purpose of supply and installation of Micro Irrigation Systems (MIS). In this regard, a tripartite agreement dated 11th May, 2006 was entered with the respondents including the farmers, subject to certain terms and conditions mentioned therein.

3.2 Another agreement dated 22nd March, 2007 was executed between the appellant and the respondent no.1 for the purpose of engaging the appellant as supplier for the supply and installation of dripper lines in selected Districts across the State, subject to terms and conditions. It is the case of the appellant that as per the aforesaid agreements the requisite material was supplied to the respondents after thorough quality check. As per the appellant, the product was verified and tested by SGS India Private Limited which is a third-party Inspection Agency appointed by the respondent no.1 and a report in this regard also confirmed that "system is okay" which clearly suggests that there was no manufacturing defect in the MIS supplied by the appellant. In compliance with Clause 3.13 of the tripartite agreement, a certificate in this regard was also issued in favor of the farmers.

3.3 Despite aforesaid quality check, complaints were

received from only 12 farmers of Shantipura Kampa village on the ground that the dripper lines supplied under the Micro Irrigation Scheme were defective and therefore demanded replacement.

3.4 The respondent nos.1 and 2 vide a letter dated 11th December, 2007 without verifying the actual issue, cautioning the appellant company to replace the drip line materials supplied to the farmers failing which they will have no option but to purchase the drip line material and supply the same to the farmers and by way of replacement at the cost of the appellant company. Another letter dated 19th December, 2007 the said respondents informed the appellant company about their decision to replace disputed drip line materials to all the 12 complainant farmers by adjusting the cost of replacement against the appellant company's security deposit / bank guarantee lying with them.

3.5 According to the appellant company in view of Clause 7.3 of the work order, the appellant was required to replace the MIS only in the event of there being any manufacturing defect in the MIS within the guarantee/warranty period of 5 years from the date of installation of the MIS. It was also pointed-out to the respondent no.1 vide a communication dated 28th December, 2007 reiterating the fact that the non-emission of drip line was due to clogging and clogging cannot be considered as manufacturing defect. The appellant company had therefore raised an objection of raising funds by revoking security deposit / bank guarantee further inviting the

attention of the respondent to the clause of resolution of disputes by arbitration in view of terms and conditions of work order and the tripartite agreements. The appellant, simultaneously vide a letter dated 28th December, 2007 also requested the respondent to appoint an Arbitrator and to withdraw their decision as communicated vide a letter dated 11th December, 2007 and 19th December, 2007 until the appointment of Arbitrator. However, the respondent vide a letter dated 24th March, 2008 addressed to the concerned bank, invoked the bank guarantee of the appellant without its consent. The opponent had encashed a bank guarantee of Rs.26,70,336/- on 10th January, 2008 against the estimated expenditure to reinstall the Micro Irrigation System. The further time was consumed with regard to pursuing the matter for referring the same to the arbitration which constrained the appellant company to move the petition before the High Court. The High Court by an order dated 21st August, 2009 was pleased to allow such application thereby appointing the learned retired Judge as sole Arbitrator to resolve the disputes between the parties and to pass an award. Pursuant to the aforesaid directions of the High Court, the matter was placed before the Arbitral Tribunal.

4. Before the Arbitral Tribunal, the appellant - original claimant, had prayed for following reliefs:

- (i) *A declaration that claimant is not liable to replace the disputed drip lines, as non-emission of drip lines is due to clogging and clogging is not a manufacturing defect;*

- (ii) *An award directing the respondent to refund to the claimant security deposit / bank guarantee encashed partially on 10th January, 2008 amounting to Rs.26,70,336/- along with interest thereon at the rate 18% per annum from the date of encashment of bank guarantee;*
- (iii) *An award directing the respondent to refund to the claimant the amount of Rs.3,07,791/- partially encashed on 7th April, 2008 and received by the respondent by invoking the said bank guarantee along with interest thereon at the rate of 18% per annum from the date of encashment of bank guarantee;*
- (iv) *An award directing the respondent to pay to the claimant an amount of Rs.60,00,000/- as and by way of damages for the loss of business and reputation suffered by the plaintiff due to the act of the respondent;*
- (v) *Costs;*
- (vi) *To grant such further and other reliefs as the learned Arbitrator deems fit and proper in the facts and circumstances of the case may require.*

5. The respondents no.1 and 2 have appeared before the learned Arbitrator and have submitted their written statement explaining the circumstances whereby they were compelled to invoke the bank guarantee, highlighting the fact that the claimant did not address the complaints of the farmers and failed to replace the defective drips. The third respondent, i.e. the affected farmer, had asserted that the product in question was defective. Upon such a complaint being made, the responsible officer of respondent no.1 had personally

inspected the product in question and having noted the defect in the product, necessary actions were taken. It was further asserted that frequent acid treatments were given, despite that the drip system remained in non-working condition. The learned Arbitrator had framed the following issues after inviting suggestions and having agreed to the amendment settled the issues:

- 1(a) Whether the claimant proves that the defect in the drip lines is due to clogging?*
- (b) Whether the respondent proves that there was manufacturing defect in the system supplied to the farmers by the claimant?*
- (c) Whether the respondent proves that the claimant is liable to replace the drip lines free of cost in terms of Clause 7.3 of the agreement dated 22nd March 2007?*
- (d) What is the effect of the warranty / guarantee for five years as per Para - 6 of the tripartite agreement between the parties?*
- 2(1) Whether the farmers undertook or failed to undertake proper maintenance of the drip lines as per the guidelines provided by the claimant at the time of their installation?*
- (2) Whether there have been multiple complaints of clogging of drip lines?*
- (3) Is it proved that the action of the respondent and encashment of bank guarantee was arbitrary and in breach of agreement / agreements between the parties?*

- (4)(a) Whether the claimant is entitled to Rs.26,70,336/- or any part thereof?*
- (b) Whether the claimant is entitled to refund of Rs.3,07,791/- against the encashment of bank guarantee on 7th April 2008 by the respondent?*
- (c) Whether the claimant proves claim of damages in the sum of Rs.60,00,000/- as alleged?*
- (d) Is the claimant entitled to interest at the rate 18% on the above claim or any of them?*
- (5) What order / award for interest?*
- (6) What award?*

6. The learned Arbitrator, upon hearing the learned Counsels for the respective parties and having perused the material on record, has, at the outset, closely examined the facts of the case as well as the relevant clauses appearing in the tripartite agreement. On appreciation of the relevant clauses of the tripartite agreement, the learned Arbitrator has noted that the responsibility of repairs and maintenance of the system has clearly been cast upon the supplier, i.e. appellant herein. Further, on appreciation of the various letters with regard to the complaints of the farmers and the reply addressed by the claimant, he noticed that there was a serious defect in the dripper which was not rectified though it was required to be repaired within a period of five days as agreed in the contract.

7. Considering the list of events, the learned Arbitrator was

of the view that sufficient opportunity was given to the claimant to rectify the defects for solving the problem or for having the defective parts tested scientifically at their end. Considering the averments made by the learned advocates for the respective parties, learned Arbitrator was of the view that what is precisely required to be considered in the arbitration proceedings was as to whether the defect was manufacturing defect or not. Appreciating the principal ground raised by the claimant that the defect was one of clogging and choking resulting from spoils of water sticking in the dripper, the Arbitrator found that the respondents have asserted that clogging is not due to external impurity or sediment but a process problem. As against the aforesaid contention raised by the claimant and the defense set-out by the respondents, the respondents have placed on record the report received from CIPET.

8. The learned Arbitrator, having appreciated the aforesaid report, opined that the contention of clogging in the dripper as alleged by the claimant is factually not established by adducing any evidence. It was further noted that the claimant could have gone for testing of the samples and could have found out the truth with regard to a particular dripper instead of entering into academic exercise of giving-out causes of clogging. Despite sufficient opportunities being given, even in absence of a report of CIPET being not taken into consideration, the burden was on the claimant to justify the cause set-out for the dripper having developed defects. Thus, the learned Arbitrator had dismissed the claim petition vide

order dated 31st December, 2010.

9. Being aggrieved and dissatisfied with the aforesaid order passed by the learned Arbitrator, the original claimant had approached in appeal under Section 34 of the Arbitration and Conciliation Act by filing appeal before the learned District Judge which was registered as Civil Misc. Application no.74 of 2011 and an allied matter.

9.1 The core contention which was raised in the appeal by the original claimant was that the maintenance of drip line was the responsibility of the farmers, in absence of which it had resulted in clogging of the drip lines. Thus, the original claimant could not be held liable to replace the drippers free of cost. In this regard, it was submitted that the drippers have worked successfully for more than 15 months after installation and the farmers have also successfully harvested crops during the aforesaid period by using said system which clearly establishes that there was no manufacturing defect in the product. It was also argued that the award was passed on assumption and presumption.

9.2 It was pointed-out that the CIPET report was based on the test actually conducted by the laboratory of rival agency viz. NETAFIM Irrigation India Pvt. Ltd., which does not even appear to be a laboratory recognized by Bureau of Indian Standards. It was also pointed-out to the learned Judge that before the installation of the system, the product was verified and tested by SGS India Pvt. Ltd., and the said third-party

inspection agency appointed by the respondent no.1 company had clearly opined that "system is okay".

9.3 It was therefore submitted that the learned Arbitrator failed to appreciate that the salt/minerals which had mixed with underground water while passing through the drip irrigation line had got deposited over the openings of the dripper and having not maintained in proper condition by the farmers by regularly cleaning it with acid, it had resulted into clogging of the emitters of the drip line. Thus, it was submitted before the learned Judge that such clogging cannot be held as a manufacturing defect. The attention of the learned Judge was invited to the terms and conditions of the tripartite agreement. It was submitted that the liability to replace the product would only arise in case of manufacturing defect during the guarantee period and not because of clogging. It was argued that the report of CIPET is confined to "process problems". In absence of any further material clarifying the aforesaid conclusion drawn by CIPET, the learned Arbitrator ought not to have drawn the conclusion that it was a case of the manufacturing defect.

9.4 The respondents were heard in the appeal, who have relied upon the settled legal position with regard to scope of Section 34 of the Arbitration Act. It was submitted that the impugned order passed by the Arbitrator can only be interfered with when the same travel beyond the contract or whether the interpretation of the contract is erroneous. If the conclusion of the Arbitrator is based on a possible view, the

Court should not interfere with the award. Objecting to the submissions made by the original claimant, it was argued that the same even if taken into consideration it cannot be said that the findings and reasons recorded by the Arbitrator are highly perverse which calls for interference in proceedings under Section 34 of the Act. It was further submitted that the findings of facts arrived upon by the Arbitrator is based on evaluation of evidence adduced on record which is final and binding to the Court and the Court cannot interfere as if sitting in the appeal over the award of the Arbitrator. It was submitted that the award has been passed after giving due opportunities to the respective parties and in absence of any challenge being made on the ground that the award is passed arbitrarily, capriciously, against the public policy or independent of the contract, the Court should not interfere with the same.

10. The learned District Judge upon hearing the respective parties proceeded to examine the point for determination as to whether the order passed by the learned Arbitrator is perverse, bad in law and requires any interference?

11. The learned District Judge in detail has examined the aforesaid submissions made by the respective parties in light of the record of the original proceedings. The learned Judge has observed that the learned Arbitrator has considered all these aspects in right perspective and has concluded that there was a manufacturing defect in the MIS supplied by the claimant to the farmers. The learned Judge has taken into

consideration the scope of the powers conferred upon Courts under Section 34 of the Arbitration Act. Having noted the landmark decisions of the Hon'ble Supreme Court as well as of the High Courts, has held that in absence of any illegality, perversity or the award being passed in violation of principles of natural justice and against the public policy, considering the limited role of the Court, it cannot correct the errors of the Arbitrator. The learned Judge thus held that the award passed by the learned Arbitrator was within his jurisdiction and in absence of any allegation with regard to any misconduct, there was no reason to interfere with the aforesaid award. The learned District Judge vide impugned judgment and order dated 1st March 2014 has been pleased to dismiss the application under Section 34 of the Arbitration Act. Hence, the present appeal at the instance of original claimant under Section 37 of the Act.

12. Mr. Rashesh H. Parikh, learned advocate, had appeared for the appellant. Mr. Maulik Nanavati had entered appearance through Nanavati and Company for the defendant no.1. The record suggests that rule was duly served upon defendant nos.2 and 3. However, they have chosen not to enter and contest the present appeals. With the able assistance of learned advocates on record, the appeal was finally heard.

13. Mr. Parikh, learned advocate for the appellant had vehemently assailed the impugned judgment and order passed by the learned District Judge as well as by the learned

Arbitrator, mainly disputing the liability of the appellant to pay any amount of cost towards replacement of MIS to respondent no.3. At the outset, inviting our attention to the facts of the case, it was submitted that the respondent no.1 is the nodal agency of the Government of Gujarat and the appellant is an empanelled supplier of the said nodal agency who was entrusted with the work to supply the micro irrigation system. It was stated that a tripartite agreement in this regard was entered between the parties, viz. the appellant, respondent no.1 and respondent no.3 farmers.

13.1 It was further submitted that a separate agreement was entered between the appellant and respondent no.1, whereby the respondent no.1 nodal agency had allotted districts where the appellant company was expected to supply a system for drip irrigation which included the farmers of village Santipura Kampa. The MIS was installed across the said village and various farmers have derived benefit of the said scheme. However, the complaint was received from only 12 farmers thereby raising issues with regard to manufacturing defects in the product. The said systems were installed in the year 2006 and for almost a period of 15 to 19 months the systems have operated without any hurdle. And before the said product was installed, it was subjected to a quality test by a third-party testing agency, SGS India Private Limited who had found the system to be okay. Even the farmers were trained to operate the system, whereby specific instructions were given to the farmers to periodically maintain the drippers by cleaning them with acid. Thus, it was the responsibility of the

farmers to maintain and operate the drippers.

13.2 It was further submitted that as the Nodal Agency directed them to replace the product with further word of caution that in case of failure to comply with said condition they shall be constrained to invoke bank guarantee. The cause of action, therefore, arose for the appellant to initiate proceedings for arbitration in view of the arbitration clause incorporated in the agreement. Despite the attention of the Nodal Agency being invited to the fact that it was a case of usage defect and not manufacture defect, the Nodal Agency had proceeded to invoke bank guarantee. The attention of this Court was invited to the grounds raised in the appeal memo more particularly at page-E, ground-AA onwards to point-out that the testing of the product defaced product was carried-out after the bank guarantee was invoked by the Nodal Agency.

13.3 From the record, it was pointed-out that the bank guarantee was invoked on 10/11th January 2008, whereas the report from CIPET was received on 30th January, 2008. It was therefore submitted that before ascertaining the cause of product defect, the Nodal Agency has acted arbitrarily by invoking the bank guarantee. The aforesaid aspect has been completely ignored by the learned Arbitrator.

13.4 On the contrary, the learned Arbitrator could not have taken into consideration the test laboratory report. It was submitted that even on bare appreciation of the CIPET report,

it only opines that there was “process defect”. Thus, the said report nowhere concludes that there was a manufacturing defect. It was further submitted that except for the aforesaid report, no other evidence has been led by the respondents to establish that “process defect” means the manufacturing defect. Challenging the veracity and authenticity of the CIPET report, learned advocate had submitted that the testing of the product was done in a rival competitor's laboratory and the report was printed out on the letterhead of the CIPET.

13.5 At no stage, the learned Arbitrator has given any opportunity to the claimant to raise any objection to such a report. It was therefore submitted that the valuable rights of the appellant had been violated in breach of principles of natural justice. The quality of the product was tested before its installation in as much as the product was tested by the third-party testing agency - SGS India Private Limited which has verified the quality of the product and had opined it to be "system is okay". Thus, in absence of any evidence further explaining the process defect of the product, the conclusion drawn by the Arbitrator that the product was defective in manufacture is perverse and therefore the award passed by the Arbitrator is required to be quashed and *set aside*.

13.6 Learned advocate has also submitted that the award passed by the Arbitrator smacks of non application of mind inasmuch as no reasons has been assigned by the Arbitrator with regard to the arbitrary action of the respondent no.1 – Nodal Agency in invoking bank guarantee. More particularly,

no material has been brought on record to indicate in what way the respondent no.1 has replaced the MIS of the farmers and have incurred the expenses equal to the amount of bank guarantee. The learned Arbitrator has failed to appreciate the evidence of the appellant, more particularly of witness Abhijit Joshi, who have clearly explained the cause of clogging of drippers and failure of farmers to maintain the system periodically. Learned advocate has, therefore, urged this Court to quash and *set aside* the impugned judgment and orders by allowing the present appeals.

14. Mr. Maulik G. Nanavati, learned advocate for the respondent no.1, has mainly relied upon the findings and reasons assigned by the learned Arbitrator as well as by the learned District Judge. The attention of this Court was invited to the settled legal principles with regard to the scope of the proceedings under Section 37 of the Arbitration Act. It was further submitted that in absence of any perversity, any other allegation of misconduct being attributed to the learned Arbitrator or the award being passed in violation of provisions of law, principles of natural justice or against the policy, this Court may not interfere with the impugned judgment and award. Learned advocate had, therefore, urged to dismiss the appeals.

15. We have considered the arguments of the learned advocates on record and have carefully considered the same in light of findings and reasons assigned by the learned Arbitrator as well as the learned District Judge. In view of the

arguments raised in present proceedings, the challenge to the impugned judgment of the Court under section 34 is mainly on the ground that the Court has failed to exercise jurisdiction vested in it by virtue of section 34 of the Act. If we summarize the gist of the arguments raised by the learned advocate for appellant, it focuses on three grounds: (i) perversity in appreciating the expert report (ii) misreading or ignoring claimant witness testimony and (iii) breach of natural justice by denying a fair opportunity to contest findings of the expert.

16. Before considering the merits of the appeals, it would be appropriate to consider the scope of powers of the Appellate Court to decide appeals under section 37 of the Act. Recently, the Hon'ble Supreme Court in the case of JAN DE NUL DREDGING INDIA PVT. LTD. VS. TUTICORIN PORT TRUST, Neutral citation : 2026 INSC 32 has deliberated on the scope of interference under Section 37 of the Act' 1996. The Apex Court deliberating on the object and purpose of the Act' 1996, noticing the provisions of Section 5 of the Act, observed as under :-

“24. The primary object of the Act is to provide speedy and inexpensive mode of resolution of disputes through the process of arbitration with the minimum intervention of the law courts. In this context, it would be beneficial to refer and quote Section 5 of the Act which reads as under:-

“5. Extent of judicial intervention-

Notwithstanding anything contained in any other law for the time being in force, in matters governed by this Part, no judicial authority shall intervene except where so provided in this Part."

25. The above Section 5 of the Act contemplates that in matters of arbitration governed by Part-I i.e. in relation to domestic arbitration, minimum intervention of the judicial authority is acceptable unless it is otherwise provided under Part-I of the Act. In other words, in order to speed up the remedial measures under the Act in relation to domestic arbitration, there has to be minimum intervention of the court and, if necessary, it has to be only in strict compliance with the provisions of the Act.

26. The Act provides for the challenge of the arbitral award before the court on limited grounds as contemplated by Section 34 of the Act i.e. where one of the party was under some incapacity; or where the arbitration agreement itself was not valid; or the parties were not given proper notice of the appointment of an arbitrator or the arbitral proceedings; or was unable, for some reason, to present his case before the Arbitrator or Arbitral Tribunal; or if the arbitral award deals with the dispute not contemplated or falling within the terms of the arbitration or deals with the matters beyond the scope of the arbitration; or where the constitution of the Arbitral Tribunal was not in accordance with

arbitration agreement; and, or where the court finds the subject matter of the arbitral dispute was incapable of settlement by arbitration or the arbitral award is in conflict with the public policy of India.

27. In short, apart from the above grounds, the arbitral award is not open for challenge under Section 34 of the Act on any other ground. So, the intervention of the Court is limited. Therefore, technicalities apart, the main ground for challenge of the arbitral award in the instant case, which survives is that of the award being in conflict with the public policy of India i.e. whether it is in contravention with the fundamental policy of India or is in conflict with the most basic notions of morality or justice.”

17. On the scope of section 34 and section 37 of the Act, it was observed as under :

“30. That being the position, the award of the Arbitral Tribunal was not liable to be disturbed under Section 34 of the Act and was rightly not disturbed. It is settled in law that the appellate powers under Section 37 are limited to the scope of Section 34 and cannot exceed beyond it. Certainly, therefore, if an award is not liable to be disturbed under Section 34 of the Act, the same could not have been interfered with in exercise of powers under Section 37 of the Act.

31. In MMTC Limited vs. Vedanta Limited (2019) 4 SCC 163, this Court has very succinctly laid down the powers of Appellate Court under the Act. It held as under :-

“14. As far as interference with an order made under Section 34, as per Section 37, is concerned, it cannot be disputed that such interference under Section 37 cannot travel beyond the restrictions laid down under Section 34. In other words, the court cannot undertake an independent assessment of the merits of the award, and must only ascertain that the exercise of power by the court under Section 34 has not exceeded the scope of the provision. Thus, it is evident that in case an arbitral award has been confirmed by the court under Section 34 and by the court in an appeal under Section 37, this Court must be extremely cautious and slow to disturb such concurrent findings.”

32. In Konkan Railway Corpn. Ltd. v. Chenab Bridge Project (2023) 9 SCC 85, a three-judge bench of this Hon’ble Court has extensively dealt with the jurisprudence around Sections 34 and 37 of the Arbitration Act. This Court has held that:

“18. At the outset, we may state that the jurisdiction of the court under Section 37 of the Act, as clarified by this Court in MMTC Ltd. v. Vedanta Ltd., (2019) 4 SCC 163 is akin to the jurisdiction of the court under Section 34 of the Act. Scope of interference

by a court in an appeal under Section 37 of the Act, in examining an order, setting aside or refusing to set aside an award, is restricted and subject to the same grounds as the challenge under Section 34 of the Act.

19. Therefore, the scope of jurisdiction under Section 34 and Section 37 of the Act is not akin to normal appellate jurisdiction. It is well-settled that courts ought not to interfere with the arbitral award in a casual and cavalier manner. The mere possibility of an alternative view on facts or interpretation of the contract does not entitle Courts to reverse the findings of the Arbitral Tribunal.”

33. In Punjab State Civil Supplies Corpn. Ltd. v. Sanman Rice Mills , 2024 SCC OnLine SC 2632, this Hon’ble Court, while examining the scope of Section 34 and Section 37 of the Arbitration Act, has held that:

“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 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.

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.”

34. In UHL Power Company Limited vs.

State of Himachal Pradesh, (2022) 4 SCC 116, a three judges Bench of this Court observed as under:-

“The jurisdiction conferred on the courts under Section 34 of the Arbitration Act is fairly narrow, when it comes to the scope of an appeal under Section 37 of the Arbitration Act, the jurisdiction of the Appellate Court in examining an order, setting aside or refusing to set aside an order, is all the more circumscribed.”

35. In a recent case of Bombay Slum Redevelopment Corporation Private Limited vs. Samir Narain Bhojwani, (2024) 7 SCC 218, a Bench of this Court, of which one of us (P. Mithal, J.) was a member, had held that the jurisdiction of the Appellate Court dealing with an appeal under Section 37 of the Act against the judgment in a petition under Section 34 of the Act is more constrained than the jurisdiction of the court dealing with a petition under Section 34 of the Act.

36. The gist of the aforesaid decisions is that the jurisdiction of the Court under Section 37 of the Act is akin to the jurisdiction of the court under Section 34 of the Act, and, therefore, the scope of interference by the Court in appeal under Section 37 cannot go beyond the grounds on which challenge can be made to the award under Section 34 of the Act. Moreover, the Courts exercising powers under Sections 34 and 37, do not act as a normal court, and therefore, ought not to

interfere with the arbitral award on a mere possibility of an alternative view. In other words, the scope of interference of the court with the arbitral matters is virtually prohibited, if not absolutely barred. The powers of the Appellate Court are even more restricted than the powers conferred by Section 34 of the Act. The appellate power under Section 37 of the Act 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 exercising powers under Section 37 of the Act has no authority of law to consider the matter in dispute before the Arbitral Tribunal on merits so as to hold as to whether the award of the Arbitral Tribunal is right or wrong. The Appellate Court in exercise of such power cannot sit as an ordinary court of appeal and reappraise the evidence to record a contrary finding. The award of the Arbitral Tribunal cannot be touched by the court unless it is contrary to the substantive provision of law or any provision of the Act or the terms of the agreement.”

18. Thus, it has been held that the Court exercising powers under Section 37 of the Act has no authority of law to consider the matter in dispute before the Arbitral Tribunal on merits so as to hold as to whether the award of the Arbitral Tribunal is right or wrong. While concluding, the Apex Court observed that :

“51. Before parting, we consider it proper

to note that the Act is a special enactment which aims to resolve contractual/commercial disputes through arbitration with the minimum intervention of the court, if not without the intervention of the court. In the event, the courts are allowed to step in at every stage and the arbitral awards are subjected to challenge before the courts in hierarchy before court of first instance, through regular appeals and finally by means of SLP/Civil Appeal before the Supreme Court, it would obviate/frustrate and defeat the very purpose of the Act. It is therefore, necessary to accept the arbitral award if it is not patently illegal or does not fall within the scope of intervention under Section 34 of the Act. The appeal thereof has a much narrower scope of intervention particularly when the arbitral award has been upheld under Section 34 of the Act. The appellate jurisdiction acquires little significance only when the arbitral award has been erroneously upheld or set aside by the court in exercise of its power under Section 34 of the Act as discussed earlier, but has no authority of law to consider the matter which was before the Arbitral Tribunal on merits.”

19. Having noted the aforesaid guiding principles laid down by the Hon'ble Supreme Court, the short question which falls for our consideration is whether the learned District Judge committed any error in upholding the award passed by the Arbitral Tribunal, in the facts of the case and evidence on record , while adjudicating the application under section 34 of

the Arbitration and Conciliation Act, 1996?

20. Considering the core argument of the learned advocate for the appellant, what the appellant wants us to decide is whether the drip irrigation system installed by the appellant suffered from manufacturing defect or clogging was due to lack of maintenance. In our view, examining the aforesaid contention of the appellant would require reappraisal of evidence already considered by the learned Arbitrators which is beyond the scope and ambit of section 37 of the Act. Admittedly, the appellant has though raised this contention before the learned Arbitrator as well as has agitated before the Court, however, has failed to establish its plea of manufacturing defect by leading any cogent evidence on record. It is also not in dispute that the appellant has not applied before the learned Arbitrator to forward the product for retesting to any independent agency / laboratory to verify the above aspect. There is no challenge to the CIPET report submitted by the respondent by seeking a third opinion.

21. It was a specific case of the appellant that the clogging or choking of the dripper was due to usage and not a manufacturing defect; the burden was on the appellant to establish such a plea by leading evidence. In absence of evidence in this regard, we do not find the approach of the learned Arbitrator to be patently illegal, in contravention of fundamental policy or in conflict with the basic notions of morality or justice, so as to interfere with the same. Indisputably, the appellant has not raised any contention of

the impugned award being induced or affected by fraud or corruption or in violation of section 75 or section 81 of the Act.

22. As against that, the Court while examining the application under section 34 of the Act, looking to the reasons assigned by the learned Arbitrator, has noted that the conclusion drawn that cementing in MIS system took place not due to lack of periodical maintenance by farmers but it had taken place because of manufacturing defect in MIS system, is based on evidence. It is further recorded by the Court that at page no.'94' of the record of the arbitral proceedings suggest that some of the farmers have complained that the MIS system which has been installed just within one month were not working properly.

23. The Court has also noted from the record, more particularly, reference is made to the letter dated 16th June, 2007 addressed by farmers raising issue about system not working as against that the letter dated 15th December, 2007 (page no.73) of the applicant company and has found that after period of almost six months, the applicant has shown readiness to resolve the dispute by performing more acidification and chemical treatment.

24. The Court has affirmed the award passed by the learned arbitrator in light of the clause 7.3 of the agreement which provides warranty guarantee of 5 years from date of installation as well as clause-6 of the tripartite agreement

which also indicates 5 years warranty period, in case of manufacturing defect to be repay or replace the system.

25. The issue of non emission from the dripper has, thus, been established and the report of CIPET further corroborates the case of farmers. In absence of any further evidence contradicting the report about process defect, the conclusion drawn by the Arbitrator even if erroneous has been found to be a plausible view. Having noted that the arbitrator has acted within jurisdiction, in absence of any misconduct or In absence of any illegality or the award being passed in bias manner or breach of principles of natural justice, the Court has refused to interfere with the impugned award.

26. Having noted the aforesaid reasons assigned by the Court, it is no more res integra that ambit and scope of section 34 of the Arbitration Act is very narrow as the Court while examining award under section 34 of the Act is only required to interfere only when the award is passed in violation of “public policy of India”. The explanation clause appended to subsection (2) of clause (b) (ii) of section 34 further clarifies that the term “in conflict with public policy” has to be read in context with eventualities as explained viz. *“award induced or affected by fraud or corruption or was in violation of section 75 or section 81” or “the fundamental policy of Indian law” or “is in conflict with most basic notions of morality or justice”*.

27. The learned Judge, in our view has examined the legality

of the award on the touchstone of each of the aforesaid parameters and has given valid reasons to not to interfere with the impugned award. Again, it is equally settled position of law that the Appellate Courts while deciding application under section 37 of the Act can not go beyond the jurisdiction conferred under section 34 of the Act and are confined to jurisdiction akin to jurisdiction conferred upon the Courts under section 34 of the Act. We, therefore, find no good reason to take a different view.

28. For the foregoing reasons, the present set of appeals under Section 37 of the Arbitration Act, 1996 are hereby **dismissed**. No interference is called for in the judgment and award dated 1st March, 2014 passed by the learned 10th (Adhoc) Additional District Judge, Vadodara in Civil Misc. Application no.74 of 2011 upholding the award dated 31st December, 2020 passed by the Sole Arbitrator. **No order as to cost.**

29. Registry is hereby directed to **remit back the record and proceedings** to the concerned Court.

Sd/-
(SUNITA AGARWAL, CJ.)

Sd/-
(NISHA M. THAKORE, J.)

AMAR RATHOD.../sfs/28.07/f.o./31.07

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: AMAR KANTILAL RATHOD(HC01074), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 31/07/2026 16:35:27