



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2+27

FAO-CARB No.23 of 2025 (O&M)
DATE OF DECISION : 11th MAY, 2026

State of Haryana

.... Appellant

Versus

The Indian Hume Pipe Co. Ltd., Mumbai

.... Respondent

CORAM : HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR

* * * *

Present : Mr. Pankaj Middha, Additional Advocate General, Haryana.

Mr. Alok Mittal, Advocate for the respondent.

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ASHWANI KUMAR MISHRA, J. (Oral)

CM-96-FCARB-2025

This is an application filed by the applicant under Section 5 of Limitation Act, 1963 seeking condonation of delay of 158 days in filing the present appeal.

For reasons mentioned in the application, which is accompanied with an affidavit, the same is allowed, and the delay of 158 days in filing the present appeal is condoned.

FAO-CARB No.23 of 2025

1. This appeal is filed by the State of Haryana assailing the judgment of the Commercial Court rejecting its objection under Section 34 of the Arbitration and Conciliation Act, 1996, (in short, the Act) arising out of an award of the Arbitrator dated 14.10.2022 (Annx. P- 1).

2. Perusal of the records would indicate that the State of Haryana had invited tenders vide bid dated 13.06.2013 for execution of the work named and styled as Design Construction and Operation and



maintenance of 32 MLD Water Treatment Plant, Pumping Stations, Rising main, Boosting Stations, Distribution System, Reservoirs etc. for Nuh, Mewat providing water supply facilities to Nalhar Medical College, Nuh Town, and the surrounding 17 villages of District Mewat supply & installation of mechanical and electrical equipments as well as other ancillary works. The total cost of the project was about ₹1.28 crores. The contract admittedly has been implemented by the respondent claimant and a substantial chunk of the amount claimed by it stands paid.

3. The dispute between the parties apparently relates to the claim for a second lot of the Clariflocculator machine and electrical items installed at water treatment plant Badli, under variation in quantities BOQ items No.2.4 and 2.43. The Arbitral Award by a 2:1 ratio has allowed the claim, and directed the release of a sum of ₹34,99,087/- along with 9% interest for the period from the 45 days of submission of bill, till actual date of payment. The question before the Arbitrator was as to whether the bid document referred to the establishment of a single Clariflocculator, or the second such machine installed was required to be paid for by the State of Haryana. The establishment of the second Clariflocculator machine is not in dispute.

4. It is contended by the State of Haryana that the tender referred to the establishment of one such Clariflocculator machine and therefore, the establishment of second such machine has to be at the cost and risk of the contractor for which no separate amount was paid. It was also the case of the State of Haryana that this was a turn key project and therefore, the contractor was aware of its obligation under the contract.



The State also submits that some of the claims were initially instituted but later withdrawn, yet interest for delayed payments have been made payable. The Arbitrator by a margin of 2:1, has examined the contract and has come to the conclusion that two Clariflocculator machines had actually been installed in the project. The Tribunal has allowed the claim after observing as under:

“However, Mr. S. Prakash and Prof. K.N.Jha were of the view that the claimants are eligible for payment for this claim. According to precedence of documents in the contract agreement, the price schedules have higher precedence than GCC of the contract. On verification of BOQ description, the civil work 4.1.7e described civil work including mechanical sludge scraper conforming to IS: 10313 - 1982 for two number clarifiers and stated quantity as 1 job, while the description of 2.4, 2.43 described only the mechanical and electrical work without any number and 1 lot as quantity. The procurement of electrical, mechanical items and installation of 2nd Clariflocculator has been done by the claimants in the project which has been completed to the satisfaction of the clients and successfully commissioned.

In the hearing held on 26.02.2022, the claimants were asked to justify their claimed amount with supporting vouchers. The claimants submitted the same on 05.04.2022 with copy to all the members of the Tribunal and also to the respondents. The cost of electrical and mechanical items as per justification based on actual quote is Rs. 36,86,755 supported with invoices for one clariflocculator alone. This justifies fully the claim. No comments were received from the respondents on justification sent by the claimants.

However, the Tribunal member Mr. Rajender Singh found no relevance of this document to the claim since according to him, the claimants have quoted imbalance rates in this



tender being item/lumpsum rate depending upon the situation at the time of tendering. He further pointed out that the claimants have quoted even Rs. NIL for one of the items whereas the same is not available in market for free and is payable.

Award:

Prof. K N Jha and Mr. S. Prakash being clearly of the view that the claim has merit and is completely as per the agreement.

The Tribunal awards the payment of Rs. 34,99,087.00 under this claim to the claimants, on the basis of decision of majority of the Tribunal with ratio 2:1.

The Interest @ 9% from 45 days of bill submission to actual date of payment is payable as per contract conditions.”

5. So far as the other claim is concerned, the Arbitral Tribunal has found that the amount of interest was payable on the period of delay in release of the amount. The total amount awarded under the award works out to nearly ₹1.38 crores.

6. The Commercial Court has assessed the claim and has come to the conclusion that the view expressed by the Arbitral Tribunal is a permissible view on the facts of the case and that the majority opinion of the Arbitral Tribunal does not suffer from any patent illegality, perversity nor is the claim contrary to public policy. Considering the limited scope available to the Commercial Court in proceedings under Section 34 of the Act, the objection of the State has been rejected.

7. We have been taken through the material on record on behalf of the appellant to show perversity and patent illegality in the award of the Arbitrator. We have noticed the facts and we find that the



establishment of the second Clariflocculator machine is undisputed. The Arbitrator has found that the procurement of electrical and mechanical items, and installation of the second Clariflocculator is undisputed. The claim has been allowed on the basis of the actual cost incurred by the contractor for the establishment of the machine. Whether the contract contemplated establishment of a second Clariflocculator machine, is essentially based upon interpretation of the terms of the contract which ordinarily would not fall for reconsideration before us under Section 37 of the Act, when no patent perversity or illegality is otherwise shown. In the facts of the case, we find that the view taken by the Arbitral Tribunal is clearly a permissible view.

8. In such circumstances, this court does not find any merit in the claim put forth by the State of Haryana, therefore, the appeal stands dismissed.

9. All pending misc. application(s), if any, also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

11th May, 2026
'raj'

(ROHIT KAPOOR)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>