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Date : 16/02/2026

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Stamp Duty Paid : ₹ 500 (Rs. Only)

Penalty : ₹ 0 (Rs. Zero Only)

Seller / First Party Detail

Name: Esspee construction

H.No/Floor : 0 Sector/Ward : 0 LandMark : 0

City/Village : Luvas District : Hisar State : Haryana

Phone: 89******52

Buyer / Second Party Detail

Name : Lala lajpat rai university Of veterinary and animal Science

H.No/Floor : 0 Sector/Ward : 0 LandMark : 0

City/Village: Luvas District : Hisar State : Haryana

Phone : 99******99

Purpose : AFFIDAVIT

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ARBITRAL AWARD

By The Sole Arbitrator:

Subhash Bhambhu, Chief Engineer (Retired), 1456, Sector: 16-17, Hisar Haryana.

In the matter of Arbitration between

M/s Esspee Construction, Plot No. 30, Shiv Park, Ambabari, Jaipur-302039, through Partner.... Claimant

VERSUS

1. **Director Student's Welfare-cum-Estate Officer, LUVAS, Hisar.(Employer).**
2. **Lala Lajpat Rai University of Veterinary and Animal Science, Hisar, through the Vice Chancellor. … Respondents**

For the work: "CONSTRUCTION OF COLLEGE OF DAIRY SCIENCE AND TECHNOLOGY (CODST) & BOUNDARY WALL WITH 03 GATES OF NEW CAMPUS (1125 ACRE) LUVAS HISAR".

Contract Agreement Dated 01.02.2018. Amount of agreement: Rs. 78,15,81,108.00, with a time limit of 24 months.

The case on behalf of M/s Ess Pee Construction was represented by:

(i) **Sh**. Sanjeev Pareek

(ii) Sh. Devi Dutt Sharma, Advocate

The case on behalf of Director Student's Welfare-cum-Estate Officer, LUVAS, Hisar and Lala Lajpat Rai University of Veterinary and Animal Science, Hisar was represented by:

(i) Sh. Ashok Malik SE

(ii) Sh. Ravinder Singh Virdi, Advocate

Award announced on 17.02.2026 at Hisar.

Subhash Bhambhu
Sole Arbitrator

PREAMBLE

The work of **Construction of college of Dairy Science and Technology (CODST) & boundary wall with 03 gates of new campus (1125 Acre) LUVAS Hisar"** vide allotment Memo No. DSW/17/2362 dated 19.12.2017 with a time limit of 24 months for an amount ofRs.67.52 Crore

Agreement was signed on Dated 01.02.2018.

The work was started as per condition of contract agreement.

Since under the condition No.28 extension of intended completion date is included in agreement, therefore time was not essence of the contract. It is subject to extension of time period under the conditions of contract.

As per agreement, the Engineer of work was M/S KNY Projects Pvt. Ltd.

Dispute arose between both parties regarding payment of some items.

By office order dated 6.12.2019 Shri Ashok Kumar Modi, Consultant Engineer (Retired Chief Engineer) was appointed as Dispute Review Expert. It is submitted by Respondent that, Shri A.K. Modi subsequently resigned from the post of consultant Engineer and his resignation was accepted on 04.09.2020, and no longer held that position thereafter. The resignation was duly accepted and was in the knowledge of the Claimant. That Clause 24.1 of the contract is a matter of record and it is admitted that Shri Ashok Kumar Modi, Consultant Engineer (Retired Chief Engineer), was appointed as the Dispute Review Expert (DRE) by office order dated 06.12.2019, as referred to by the Claimant in Annexure C-4. However, it is submitted that Shri A.K. Modi subsequently resigned from the post of consultant Engineer and his resignation was accepted on 04.09.2020, and no longer held that position thereafter. The resignation was duly accepted and was in the knowledge of the Claimant. Copies of the order relieving Sh. A K Modi as Consultant Engineer is annexed as Annexure R-23

Despite this, the Claimant illegally approached Shri Modi to refer disputes at a time when he was no longer authorized under the contract. Any such reference made after his resignation is void, without jurisdiction, and cannot be considered valid under the dispute resolution clause. It is further submitted that Clause 24.1 provides for a strict 14-day timeline to refer the Engineer's decision to the DRE. The Claimant failed to adhere to this and instead improperly sought to revive the process through an individual who was no longer designated under the contract.

Therefore, the Respondents submitted that, the Claimant's reference to the Sole arbitrator without exploring the DRE option is procedurally defective and contractually barred, and no reliance can be placed on any communication or intervention made by Sh. A K Modi after his resignation as Consultant Engineer.

That claimant raised his disputes from time to time and matter was referred to the Project Engineer as per agreement conditions. Initially the claims were raised by the claimant vide its letter dated 12.7.2021 for different items but the claims were not entertained and rejected by the Project Engineer instantly.

Again, Subhash Bhambhu, was appointed as DRE vide letter dated 5.2.2024 to resolve the dispute. Before issuing this letter claimant filed Petition before Hon'ble Punjab and Haryana High

Court for appointment of arbitrator. Therefore, no claims were submitted to the DRE appointed by the respondent and the claims remained unsettled.

Hon'ble Punjab & Haryana High Court appointed me (Subhash Bhambhu) as Sole Arbitrator vide order dated 12.08.2024 in Arbitration Case No.ARB-519-2021 (O&M) to resolve the matter.

After receipt of order, notice was issued by me to start proceeding of arbitration to both parties on Dated 06.09.2024. First hearing was held on Dated 28.09.2024.

Hearing closed on dated 10.12.2025, both parties declared that, they have been heard fully and all opportunities were given to them for this. Both parties were given time to submit written arguments up to 28.01.2026, if they want to submit. Claimant as well as Respondent submitted written arguments on dated 28.01.2026.

All the issues were thoroughly examined and analyzed, keeping in view the supporting documents & arguments given during hearings to arrive at reasonably logical conclusion.

A. Claimant submitted following documents:-

1. Statement of Claims (SOC) submitted containing memo and claim petition from page 1 to 20, Affidavit in support of claim petition from page 21 to 22 and Annexure from page 23 to 91 on dated 13.02.2025.
2. Rejoinder to the Statement of Defense along with reply to the counter claims filed by Respondent containing pages from 1 to 82 submitted on dated 28.07.2025.
3. Written arguments containing pages from 1 to 6 submitted on dated 28.01.2026.

B. Respondent submitted following documents:-

1. Contract agreement pages 2+358 on dated 19.10.2024.
2. Statement of Defense (SOD) submitted by Respondent along with Statement of Counter Claims pages 1 to 98, on dated 30.06.2025.
3. Rejoinder by Respondent on reply on Counter Claims Submitted Total Pages 1 to 24 on dated 18.08.2025.
4. Written Arguments Submitted by Respondent Containing Pages from 1 to 25 on dated 28.01.20226.

Claims submitted by the claimant are given below briefly: However, detail of claims is given in Statement of Claims (SOC).

Claim No.1:-Claim for Treads in stairs using single length (non-schedule). Extra item 1200 Sq. mtr. @ Rs.483.68 per Sq. Mtr. Total claimed amounting Rs. 5,80,416/-

Claim No.2:-Claim for execution of work V-Groove in Dholpur Stone cladding in boundary wall. This item is already included in Item No.26. No payment of this item was made to the claimant. Item rate paid to claimant was for HSR item @ 14.60 which does not include grooving. Whereas V-groove work was done, therefore the payment is claimed for V-groove in stone. V-Grooving work payment is not made although work was done as required and directed. Thus difference is claimed as per rate detailed in Item No.26 amounting Rs.7,05,669/-

Claim No.3:- Extra for providing opening required size and shape for wash basin etc. This was an extra work for providing opening required size and shape for wash basin/kitchen plate form, vanity counter and similar location in marble/ granite/stone work including necessary holes for pillar tape etc. No payment of this item was released. Claim of this item is raised for. This work is included for molding, rubbing and polishing of cut edges etc. complete (DSR-8.5). Whole stone has to be paid as cut-piece stone removed will be a wastage and claimant has claimed for extra labour required to be carried out the DSR item No.8.5, Thus this is applicable and claim is acceptable amounting Rs. 1,93,163/-

Claim No.4:- Claim for difference between double charged vitrified and single charge tiles. Under this item No.32, page 102 of CA. There is no specification for vitrified tiles and single charge tiles. As per description of item double charge was directed to use for a long lasting finish. Claimant was directed to use vitrified double charge tiles which was not specified in item No.14.89. This claim is raised for using difference in double charge vitrified tiles which is applicable amounting Rs.13,63,670/-

Claim No.5:-Cost of smooth concrete surface work is claimed. Work executed by special shattering material amounting Rs. 95,00,000/-

Claim No.6:- Claiming charges of litigation and fees to DRE and Hon'ble Arbitrator as provided under Arbitration and Conciliation Act, 1996 amounting Rs. 30,00,000/-

Claim No-7:-L&F ceramic & glazed tiles/vitrified tiles of any size of approved make in floor/dodos, laid in any pattern as specified over base of 3mm thick adhesive of reputed brands as per IS specifications 15477-2004 using 5 kg. Adhesive per sqm. area of tiles and jointed with while cement slurry mixed with pigment to match the shade of tiles excluding cost of tiles amounting Rs. 37,13,911/-

Claim No-8:- Extra Item laying and fixing of granite stone groove, groove and head polishing in stare case trade amounting Rs. 6,95,994/-

Claim No-9:- Extra Item for chamfering on granite skirting and DADO top Patti amounting Rs. 6,80,050/-

Claim No-10:- Exposed Brick work brick work with non-modular fly ash bricks conforming to IS:12894 class designation 10 average compressive strength in super structure above plinth level up to floor V level in cement mortar 1:6 amounting Rs. 73,53,525/-

Claim No-11:- Providing and fixing M.S. clamps of approved design to PVC rain water pipes hanging on wall expose surface with fixing with big nails etc. with complete scaffolding etc. of any lead lift, material, Tools and plants etc. 100 mm amounting Rs. 37,935/-

Claim No-11(A):- Providing and fixing M.S. clamps of approved design to PVC rain water pipes hanging on wall expose surface with fixing with big nails etc. with complete scaffolding etc. of any lead lift, material, Tools and plants etc. 150 mm amounting Rs. 75,435/-

Claim No-12:- Supply of Erection of GRC screens(Jali) in approved designs & sizes & 50mm thick manufactured containing alkali resistant glass fibre make NEG, Japan and fixing by dry cladding using SS cleats, SS threading rods, self trapping screws etc. Item 10% profit on non executed work is claimed amounting Rs. 97,10,517/-

Claimant relied upon the Statement of Claims (SOC), Rejoinder submitted by him, oral & written arguments submitted.

Counter Claims submitted by the Respondent are given below briefly:

Counter Claim No. 1: Cost of Arbitration, (For Recovery of Arbitration Costs, DRE Fees, and Legal Expenditures) subjected to actual expenditure.

Respondent relied upon the Statement of Defense (SOD), Rejoinder submitted by him, oral & written arguments submitted.

Analysis of claims & counter claims of both the parties on the basis of written submission & arguments.

Claim no.1.

Claim for Treads in stairs using single length (non-schedule). Extra item 1200 Sq. mts. @ Rs.483.68 per Sq. Mt. Total claimed. (calculation statement is filed and marked Annexure C-9) amounting Rs. 5,80,416/-

Following Submissions have been made on behalf of the Claimant in their Statement of claims regarding claim 1:

Under claim No.(I) clamant has claimed Rs.5,80,416/- for Treads in stairs using single length under the extra item for 1200 Sq. Mts. There is provision in DSR code 11.25 for extra marble stone flooring in treads of steps and risers using single length upto 2.00 meter. In this item rate is mentioned Rs.622.75 per Sqm after applying deduction factor @ 30% on DSR as per notification of PWD, the rate will be Rs. 483.68. Whereas claimant has been paid stone rate only @ Rs.1742/- per sqm. But the work has been executed extra under itemNo.11.25 which has to be paid for the extra work under extra item. Calculation & details are given in documents collectively Annexure C-9 submitted along with claim petition.

Following Submissions in respect of claim No. 1 have been made on behalf of the Respondent in their Statement of Defense:

1. Preliminary Objections: Lack of Legal and Evidentiary Merit**:** The Respondents categorically oppose Claim No. I, asserting that the claim lacks both factual substantiation and legal foundation. The claim is premised upon conjecture, speculative assumptions, and an erroneous interpretation of contract terms. The Statement of Claim (SOC) submitted by the Claimant fails to provide any cogent documentary evidence or site records in support of the alleged entitlement, rendering the claim legally untenable from the outset.

2. Applicability and Interpretation of Contractual Provisions**:** The Claimant's attempt to rely upon DSR Code 11.25, which pertains to the laying of extra marble stone flooring using single lengths up to 2.0 meters, is both misleading and factually inapposite. The BOQ item in question is a composite, all-inclusive item governed by the terms of the Contract. Specifically:

- Item No. C-24 (Annexure R-1, Page 116) states that the rates are inclusive and based on "sample approved by the Engineer-in-Charge." This clause implies that once the sample is approved, the method, material size, or dimension becomes irrelevant from a payment perspective.

3. Technical Specifications & Standard Clauses: The applicable PWD Specifications (1990)—as cited at:

- Page 475, para 11, cross-referenced with para 7 of Specification 14.21 (Annexures R-2 & R-3)—clearly state:

"The rate is applicable to all sizes of slabs and nothing extra is payable on this account."

- Page 472, Clauses 8 and 9 (Annexure R-4) further clarify:
  - There is no mention of any additional payment or provision for the use of "single length" slabs.
  - Clause 8 allows for extra only in cases where slab width does not exceed 30 cm, whereas in the present matter the slab width is 32 cm—rendering even that exception inapplicable.
  - Clause 9 expressly incorporates costs for cutting, dressing, and aligning slabs, indicating the inclusion of such labor and processing under the unit rate.

4. Market Availability and Commercial Practice**:** It is a known commercial fact that granite slabs of over 2.0 meters in length are readily available in the open market. As such:

- There is no added financial burden or procurement difficulty for sourcing "single-length" slabs.
- No premium or additional expenditure has been incurred by the Claimant, thereby negating any alleged justification for claiming extra costs.

If granite slabs of such dimensions were rare or more costly, the burden of proof would rest on the Claimant to establish those facts. No such evidence has been tendered.

5. Procedural Deficiencies and Contractual Deadlines: Letter dated 12.07.2021 (Annexure C-5) and the Engineer-in-Charge's response (Annexure C-6) unambiguously confirm that the item was resubmitted by the Claimant as a Non-Schedule (NS) Item but was clearly rejected as not provided for in the original BOQ or the Contract.

- Furthermore, Letter No. KNY/CODST/LUVAS/225 dated 29.01.2021 (Annexure R-5) explicitly communicates the Engineer's final decision.
- Under Clause 24.1 of the Contract (Annexure R-5, Page 51), any party aggrieved by the Engineer's decision must refer the matter to the Dispute Review Expert (DRE) within 14 days. The Claimant failed to do so, and no explanation has been offered for this failure. As such, the claim is barred by limitation under the terms of the contract.

6. Item Specific Analysis: HSR Item No. 37 / HSR 14.96 (Annexure R-7, Page 105): The contractual item allows for "laying in any pattern," and places no limitation on the size or configuration of the stone. Therefore:

- The scope of work permitted a flexible installation.
- No additional compensation can be claimed based on variation in length or shape, as long as the material matched the sample approved by the Engineer.

7. Misstatement and Fabrication of Quantities and no cogent evidence in SOC.: The alleged quantum of 1200 sqm claimed by the Claimant is entirely unsubstantiated and lacks any corroborating documents such as measurement books, site orders, or Engineer approvals. It appears to be a fabricated or at best speculative estimate, which cannot be relied upon to adjudicate monetary entitlement.

8. Concluding Submissions: In light of above facts and submissions made in forgoing paras, it can be adduced that:

- The explicit contractual terms that render the claim no.1 ineligible, untenable,
- The clear and binding technical specifications incorporated by reference,
- The procedural lapse by the Claimant in not escalating the matter to the DRE in a timely manner,

- The absence of any financial burden substantiated for using single-length slabs,
- And the absence of credible documentation supporting the quantum of the claim,

PRAYER**:** In addition to the detailed legal, factual, and contractual analysis and nomenclature of item itself already submitted, the Respondents respectfully draw the Hon'ble Sole Arbitrator's attention to Section 28(3) of the Arbitration and Conciliation Act, 1996, which mandates that: "In all cases, the Arbitral Tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction."In accordance with this statutory directive, it is evident that Claim No. I must be adjudicated strictly in accordance with the contractual stipulations and industry norms. As demonstrated, the contract terms unequivocally exclude any extra payment for slab dimensions, and trade usage confirms the availability of such materials without added cost. Thus, no deviation from the contract or expansion of liability can be entertained under the law.

Accordingly, it is submitted that Claim No. I is devoid of merit, legally non-justifiable, procedurally barred under Clause 24.1 of the Contract, and factually unsustainable.

In their Rejoinder to Statement of Defense, the Claimant has contested Respondent's denial of claim No. 1:

Claim Number 1, Annexure C-9.- Item extra for Marble/Granite stone flooring in treads in steps and riser using single length up to 2.0 meter length.

Where the rates of few items are not mentioned in HSR then the DSR is always referred for those items all over India. In DSR for marble/granite stone used in stairs is payable extra as per the item number 11.25 of DSR copy enclosed at Annexure C-9. However a copy of rate analysis of DSR for item no 11.23 to 11.25 is enclosed to strength our claim. As such this is payable to the claimant.

Following Submissions have been made on behalf of the Claimant during written arguments regarding claim No. 1:

He relied upon his statement of claim and rejoinder.

Following Submissions have been made on behalf of the Respondent during written arguments regarding claim No. 1:

Applicability and Interpretation of Contractual Provisions**:** The Claimant's attempt to rely upon DSR Code 11.25, which pertains to the laying of extra marble stone flooring using single lengths up to 2.0 meters, is both misleading and factually inapposite. The BOQ item in question is a composite, all-inclusive item governed by the terms of the Contract. Specifically:

Item No. C-24 (Annexure R-1, Page 116) states that the rates are inclusive and based on "sample approved by the Engineer-in-Charge." This clause implies that once the sample is approved, the method, material size, or dimension becomes irrelevant from a payment perspective.

Technical Specifications & Standard Clauses: The applicable PWD Specifications (1990)—as cited at:

- Page 475, para 11, cross-referenced with para 7 of Specification 14.21 (Annexures R-2 & R-3)—clearly state:

"The rate is applicable to all sizes of slabs and nothing extra is payable on this account."

- Page 472, Clauses 8 and 9 (Annexure R-4) further clarify:
    - There is no mention of any additional payment or provision for the use of "single length" slabs.
    - Clause 8 allows for extra only in cases where slab width does not exceed 30 cm, whereas in the present matter the slab width is 32 cm—rendering even that exception inapplicable.
    - Clause 9 expressly incorporates costs for cutting, dressing, and aligning slabs, indicating the inclusion of such labor and processing under the unit rate.

Market Availability and Commercial Practice: It is a known commercial fact that granite slabs of over 2.0 meters in length are readily available in the open market. As such:

- There is no added financial burden or procurement difficulty for sourcing "single-length" slabs.
- No premium or additional expenditure has been incurred by the Claimant, thereby negating any alleged justification for claiming extra costs.

If granite slabs of such dimensions were rare or more costly, the burden of proof would rest on the Claimant to establish those facts. No such evidence has been tendered.

Procedural Deficiencies and Contractual Deadlines: Letter dated 12.07.2021 (Annexure C-5) and the Engineer-in-Charge's response (Annexure C-6) unambiguously confirm that the item was resubmitted by the Claimant as a Non-Schedule (NS) Item but was clearly rejected as not provided for in the original BOQ or the Contract.

- Furthermore, Letter No. KNY/CODST/LUVAS/225 dated 29.01.2021 (Annexure R-5) explicitly communicates the Engineer's final decision.
- Under Clause 24.1 of the Contract (Annexure R-5, Page 51), any party aggrieved by the Engineer's decision must refer the matter to the Dispute Review Expert (DRE) within 14 days. The Claimant failed to do so, and no explanation has been offered for this failure. As such, the claim is barred by limitation under the terms of the contract.

Item Specific Analysis: HSR Item No. 37 / HSR 14.96 (Annexure R-7, Page 105): The contractual item allows for "laying in any pattern," and places no limitation on the size or configuration of the stone. Therefore:

- The scope of work permitted a flexible installation.
- No additional compensation can be claimed based on variation in length or shape, as long as the material matched the sample approved by the Engineer.

Misstatement and Fabrication of Quantities and no cogent evidence in SOC.: The alleged quantum of 1200 sqm claimed by the Claimant is entirely unsubstantiated and lacks any corroborating documents such as measurement books, site orders, or Engineer approvals. It appears to be a fabricated or at best speculative estimate, which cannot be relied upon to adjudicate monetary entitlement.

8. Concluding Submissions: In light of above facts and submissions made in forgoing paras, it can be adduced that:

- The explicit contractual terms that render the claim no.1 ineligible, untenable,
  - The clear and binding technical specifications incorporated by reference,

- The procedural lapse by the Claimant in not escalating the matter to the DRE in a timely manner,
- The absence of any financial burden substantiated for using single-length slabs,
- And the absence of credible documentation supporting the quantum of the claim,

Accordingly, it is submitted that Claim No. I is devoid of merit, legally non-justifiable, procedurally barred under Clause 24.1 of the Contract, and factually unsustainable.

Therefore, Respondents respectfully pray that Claim No. I be summarily dismissed.

Arbitrator's Findings and determination of claim No. 1

- Under claim No.(I) clamant has claimed Rs.5,80,416/- for Treads in stairs using single length under the extra item for 1200 Sq. Mts. Saying that, there is provision in DSR code 11.25 for extra marble stone flooring in treads of steps and risers using single length up to 2.00 meter. Whereas, Respondent rebuts that, the BOQ item No. C-24 in question is a composite, all-inclusive item governed by the terms of the Contract Agreement. Item No. C-24 of BOQ states that, the rates are inclusive and based on "sample approved by the Engineer-in-Charge." This clause implies that once the sample is approved, the method, material size, or dimension becomes irrelevant from a payment perspective.
- Respondent repeated the same points in written argument as were taken in SOD.
- In my opinion, nothing extra is payable as per item number C-24 of BOQ. Moreover, Claimant has not given proof of quantities demanded also. Therefore, it cannot be considered.
- **Therefore, I award NIL against this claim.**

<u>Claim No. 2</u>

Claim No.2:- Claim for execution of work V-Groove in Dholpur Stone cladding in boundary wall. This item is already included in Item No.26. No payment of this item was made to the claimant. Item rate paid to claimant was for HSR item @ 14.60 which does not include grooving. Whereas V-groove work was done, therefore the payment is claimed for V-groove in stone. V-Grooving work payment is not made although work was done as required and directed. Thus difference is claimed as per rate detailed in Item No.26. (Copy enclosed as Annexure C-10) amounting Rs.7,05,669/-

Following Submissions have been made on behalf of the Claimant in their Statement of claims regarding claim No. 2:

Under claim Sl. No.(II) claimant has claimed for execution of work V-Groove in Dholpur Stone cladding in boundary wall. This schedule item is included in itemNo.26. There was need of extra cladding in Groove, apart from the groove which was not paid. There is provision in HSR Item No.14.60 in which rate is mentioned Rs.518.40. But payment of V-Groove in stone was required to be made extra which is not included in item No.14.60. Claimant has based his rate on the market quotations obtained from the market. Documents, detailed calculations and analysis report are enclosed with this as Annexure C-10**.** Amount is calculated @ Rs. 99.39per running meter for 7100 running meters. Details are submitted. Total claim comes to Rs.7,05,703/-.

Following Submissions in respect of claim No. 2 have been made on behalf of the Respondent in their Statement of Defense:

1. Preliminary Statement: The Respondents categorically reject Claim No. II submitted by the Claimant, concerning alleged non-payment for V-Groove work in Dholpur stone cladding. This claim is fundamentally flawed, both factually and contractually, and lacks any merit under the governing terms of the agreement.

2. Contractual Inclusion of V-Groove: The contract item in question—Item No. 26 at page 266 (Annexure R-8)—explicitly includes the execution of V-Groove as part of the described work. The item reads:“Dholpur stone 25 mm thick in wall facing laid in any pattern as specified on 12 mm thick cement course sand mortar 1:3 with V groove and joining with neat cement slurry mixed with pigment to match the shade of stone including rubbing & polishing including labour for fixing cramps, pins & dowels etc.”

This nomenclature of the item clearly incorporates the V-Groove requirement as part of the original contractual scope. As such, no additional payment is contractually permissible, and any claim for extra compensation is patently unfounded.

3 Repeated Clarifications and Finality of Engineer’s Decision

- The Claimant's request was previously addressed and rejected by the Engineer-in-Charge via letter dated 12.07.2021 (Annexure C-6) in response to the Claimant's letter of the same date (Annexure C-5).

- This matter had already been definitively clarified by the Engineer in Letter No. KNY/CODST/LUVAS/225 dated 29.01.2021, with no provision for extra payment for V-Groove work.

4. Procedural Bar – Failure to Invoke Dispute Review Expert (DRE): Clause 24.1 of the Contract (Page 51) (annexure R-6) provides a strict limitation period, requiring that disputes with the Engineer's decision be referred to the DRE within 14 days of the notice:"If the contractor believes that a decision taken by the Engineer was either outside the authority given to the Engineer by the contract or that the decision was wrongly taken, the decision shall be referred to the Dispute Review Expert as mentioned in the contract data within 14 days of the notice of the Engineer's decision."

The Claimant failed to invoke this mechanism within the mandated timeframe, rendering the claim procedurally barred and not maintainable before this Tribunal.

5. Invalid and Retrospective NS Rate Justification by Claimant.

- The quotations used by the Claimant to calculate the alleged NS item rate were dated 30.08.2024 and 02.09.2024, which are evidently post-facto and do not reflect the prevailing market rates at the time of actual execution.

- This retrospective attempt to validate an NS item undermines the credibility of the rate analysis. Moreover, NS rates cannot be applied where the scope is already covered under a BOQ item.

6. Absence of Proper Quantification data and no cogent evidence presented in SOC: The Claimant has alleged a total of 7100 running meters of V-Groove work without submitting verifiable site records, Engineer-certified measurements, or any form of official documentation to support this quantity. As such, the claim is speculative and unsubstantiated.

7. Bidder's Duty to Review and Seek Clarification: Clauses 8.2 and 9.1 (Page 19 of Contract – Annexure R-9) emphasize the bidder's obligation to:

Thoroughly review all contract documentation prior to submission.

Seek clarifications before bid submission if any ambiguity exists.

The Claimant raised no such query, and therefore, cannot now allege ambiguity or omission, especially regarding a scope expressly described in the BOQ item.

8. Legal Position under Section 28(3) of the Arbitration and Conciliation Act, 1996: The Hon’ble Sole Arbitrator is statutorily bound by Section 28(3) of the Arbitration and Conciliation Act, 1996, which mandates:“In all cases, the Arbitral Tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.”Pursuant to this provision, the Arbitral Tribunal must strictly interpret and enforce the terms of Item No. 26, which clearly includes the V-Groove as part of the agreed scope.

PRAYER FOR RELIEF:

In light of the above mentioned facts, unequivocal contract language and nomenclature of item itself, absence of procedural compliance, lack of credible evidence, and the legal mandate under Section 28(3), Claim No. II is devoid of merit, contractually excluded, procedurally time-barred, and factually speculative**.**

The Respondents respectfully pray that Claim No. II be dismissed**.**

In their Rejoinder to Statement of Defense, the Claimant has contested Respondent’s denial of claim No. 2:

Claim number 2, Annexure C-10 – Extra item for provision of V groove in stone cladding of boundary wall.

The BOQ is always based on HSR rates and nomenclature. The rates of item no 26 of boundary wall page no 266 of BOQ is Rs.518.40 per sqm which is a HSR item 14.60 page 118. In HSR rates and nomenclature nothing has been mentioned for V groove in Dholpur stone.

Hence the rates of HSR Rs. 518.40 cannot be taken as it is with additional work of v groove in Dholpur stone. Since there is difference in nomenclature of HSR and BOQ and rates are not changed/increased for v groove work. This V groove work as extra is payable to the claimant.

If there is difference in nomenclature of HSR and BOQ with the same rate of HSR, the nomenclature of item of HSR is to be followed strictly. As such the actual work of v groove is payable to the claimant.

Following Submissions have been made on behalf of the Claimant written arguments:

Claim no 2- The BOQ is based on HSR rates and nomenclature and the description of the items mentioned in BOQ are different from the items mentioned in HSR. There is difference in nomenclature, therefore if there is difference in nomenclature of HSR and BOQ with the same rate of HSR the nomenclature of item of HSR is to be followed strictly. Therefore difference in HSR nomenclature to be paid extra.

Following Submissions have been made on behalf of the Respondent during written arguments regarding claim No. 2:

Contractual Inclusion of V-Groove: The contract item in question—Item No. 26 at page 266 (Annexure R-8)—explicitly includes the execution of V-Groove as part of the described work. The item reads:"Dholpur stone 25 mm thick in wall facing laid in any pattern as specified on 12 mm thick cement course sand mortar 1:3 with V groove and joining with neat cement slurry mixed with pigment to match the shade of stone including rubbing & polishing including labour for fixing cramps, pins & dowels etc."

This nomenclature of the item clearly incorporates the V-Groove requirement as part of the original contractual scope. As such, no additional payment is contractually permissible, and any claim for extra compensation is patently unfounded.

Repeated Clarifications and Finality of Engineer's Decision

- The Claimant's request was previously addressed and rejected by the Engineer-in-Charge via letter dated 12.07.2021 (Annexure C-6) in response to the Claimant's letter of the same date (Annexure C-5).
- This matter had already been definitively clarified by the Engineer in Letter No. KNY/CODST/LUVAS/225 dated 29.01.2021, with no provision for extra payment for V-Groove work.

Invalid and Retrospective NS Rate Justification by Claimant.

- The quotations used by the Claimant to calculate the alleged NS item rate were dated 30.08.2024 and 02.09.2024, which are evidently post-facto and do not reflect the prevailing market rates at the time of actual execution.
- This retrospective attempt to validate an NS item undermines the credibility of the rate analysis. Moreover, NS rates cannot be applied where the scope is already covered under a BOQ item.

Absence of Proper Quantification data and no cogent evidence presented in SOC: The Claimant has alleged a total of 7100 running meters of V-Groove work without submitting verifiable site records, Engineer-certified measurements, or any form of official documentation to support this quantity. As such, the claim is speculative and unsubstantiated.

PRAYER FOR RELIEF:

In light of the above mentioned facts, unequivocal contract language and nomenclature of item itself, absence of procedural compliance, lack of credible evidence, and the legal mandate under Section 28(3), Claim No. II is devoid of merit, contractually excluded, procedurally time-barred, and factually speculative.

The Respondents respectfully pray that Claim No. II be dismissed.

Arbitrator's Findings and determination of claim No. 2

Under claim 2, claimant has claimed for execution of work V-Groove in Dholpur Stone cladding in boundary wall. This schedule item is included in item No.26. There was need of extra cladding in Groove, apart from the groove which was not paid. There is provision in HSR Item No.14.60 in which rate is mentioned Rs.518.40. But payment of V-Groove in stone was required to be made extra which is not included in item No.14.60.

Whereas, Respondent has submitted that, Item No. 26 at page 266 (Annexure R-8)—explicitly includes the execution of V-Groove as part of the described work. The item reads:“Dholpur

stone 25 mm thick in wall facing laid in any pattern as specified on 12 mm thick cement course sand mortar 1:3 with V groove and joining with neat cement slurry mixed with pigment to match the shade of stone including rubbing & polishing including labour for fixing cramps, pins & dowels etc.”

This nomenclature of the item clearly incorporates the V-Groove requirement as part of the original contractual scope. As such, no additional payment is contractually permissible, and any claim for extra compensation is patently unfounded.

After hearing both parties and going through the submitted documents, I am of clear opinion that, it is clearly mentioned in the BOQ item that, V groove has to be provided. So, nothing extra can be paid against this item. **Therefore, I award NIL against this Claim.**

Claim No. 3

Extra for providing opening required size and shape for wash basin etc. This was an extra work for providing opening required size and shape for wash basin/kitchen plate form, vanity counter and similar location in marble/ granite/stone work including necessary holes for pillar tape etc. No payment of this item was released. Claim of this item is raised for. This work is included for molding; rubbing and polishing of cut edges etc. complete (DSR-8.5). Whole stone has to be paid as cut-piece stone removed will be a wastage and claimant has claimed for extra labour required to be carried out the DSR item No.8.5, Thus this is applicable and claim is acceptable. (Copy of DSR Item No.8.5 enclosed and marked Annexure C-11) amounting Rs. 1,93,163/-

Following Submissions have been made on behalf of the Claimant in their Statement of claims regarding claim No. 3:

Under claim No.(III) claimant has claimed extra payment for providing required size and shape granite/marble for wash basin etc. This was extra work for wash basin/ kitchen platform, vanity counter and similar location in marble/granite stone. This item is already provided in DSR under head 8.0 Cladding Work which item No. is 8.5. Claimant executed work and quantity measured in unit i.e. 395 units and rate is 734.55 per unit. This claim amount comes to Rs.193163/- . This is genuine claim as per provisions under DSR items. Details are given in Annexure C-11**.**

Following Submissions in respect of claim No. 3 have been made on behalf of the Respondent in their Statement of Defense:

1. Preliminary Statement: The Respondents categorically reject and deny the Claim No. III advanced by the Claimant regarding alleged extra payment for the provision and installation of granite/marble stone for wash basins, kitchen platforms, and vanity counters. This claim lacks contractual basis, is procedurally barred, and fails both in law and fact.

2. Scope of Work Fully Covered Under Existing nomenclature of Contract Item**:** The Claimant's assertion that this work constitutes extra and is covered under DSR Item No. 8.5 is entirely misplaced and contrary to the express provisions of the governing contract. The applicable contractual provision is Item No. C-24 at page 116 (Annexure R-1), which explicitly provides:"Supply of 15 mm to 18 mm thick slab of pre-polished granite stone as specified as per sample approved by the Engineer-in-Charge. Note 1: Laying of granite will be paid under item no. HSR (14.95) & (14.96). (2) Payment/Measurement will be made as per finished floor/wall etc. on actual basis."

This nomenclature itself categorically covers the supply and laying of granite stone, including for areas such as vanity counters and wash basin surrounds, subject only to actual measurement. Thus, no additional or non-schedule item arises as claimed.

3. Payment Basis and Actual Measurement Clause: It is significant that Item C-24 explicitly states that payment will be made **"**on actual basis" for finished surfaces, which includes:

- All cutting, shaping, and fitting work for granite around wash basins or similar fixtures.
- Openings or voids are already inherently accounted for in the methodology of actual surface measurement.

It is important to mention that as such, no deduction for openings was applied by the Respondents nor is any additional payment warranted.

4. Failure to Raise Clarification at Pre-Bid Stage(Annexure R-9**,** Page 19)

Clauses 8.2 and 9.1 of the Contract) impose a duty on the bidder to examine all specifications and seek clarification if required:

8.2 page 19 **"**The bidder is expected to examine carefully all instructions, conditions of contract, contract data, forms, items, technical specifications, bill of quantities, forms, Annexes and drawings in the Bid Document. Failure to comply with the requirements of Bid Documents shall be at the bidder's own risk. Pursuant to clause 26 hereof, bids which are not substantially to the requirements of the Bid documents shall be rejected".

9.1 page 19 "prospective bidder requiring any clarification of the bidding documents may notify the Employer in writing or by the cable (hereinafter "cable" includes telex and facsimile) at the Employer's address indicated in the invitation to bid. The Employer will respond to any request for clarification which he received earlier than 15 days prior to the deadline for submission of bids. Copies of the Employer's response will be forwarded to all purchases of the bidding documents, including a description of the enquiry but without identifying its source".

The Claimant did not raise any pre-bid query regarding potential extra items. Having accepted the contract terms in totality, the Claimant is now stopped from asserting post-facto that any additional payment is due against the item executed in accordance with the contract.

5. Engineer's Final Decision and Time-Barred Repetition**:** The Engineer-in-Charge conclusively addressed and rejected this claim in:

- Letter dated 12.07.2021 (Annexure C-6), in response to the Claimant's letter of the same date (Annexure C-5).
- Letter No. KNY/CODST/LUVAS/225 dated 29.01.2021, which provided a final clarification regarding the scope of contract and denial of such NS items.

Pursuant to Clause 24.1 (Annexure R-6, Page 51) of the Contract, any dispute with the Engineer's decision must be referred to the Dispute Review Expert (DRE) within 14 days. The Claimant failed to do so, and the attempt to re-raise the issue on 12.07.2021 is a clear afterthought and procedurally time-barred.

5. Misuse and Misinterpretation of DSR Provisions: The reliance on DSR Item 8.5 is legally untenable. The DSR provides standardized government rates for reference, but does not create automatic contractual entitlement unless such DSR items are expressly included in the BOQ or contract. Moreover:

- The PWD Notification and deduction factor cited by the Claimant have no binding effect on this Contract unless adopted formally.
- The Respondents are under no obligation to treat a DSR item as a payable NS item in the absence of BOQ inclusion in the contract itself.

7. Legal Mandate Under Section 28(3) of the Arbitration and Conciliation Act, 1996: As required under Section 28(3) of the Arbitration and Conciliation Act, 1996:

"In all cases, the Arbitral Tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction."

This Tribunal must be guided by the express terms of Item C-24, which governs the scope and pricing methodology for granite/marble works. Deviating from the contract to award additional payment based on unapproved DSR items would constitute a violation of this statutory duty.

PRAYER FOR RELIEF

In view of the unambiguous contract provisions, factual record, procedural lapses, and the statutory mandate under Section 28(3), Claim No. III is without merit, legally non-justifiable, and procedurally barred.

The Respondents respectfully pray that Claim No. III be dismissed.

In their Rejoinder to Statement of Defense, the Claimant has contested Respondent's denial of claim No. 3:

Claim no.3, Annexure C-11 –Extra item for providing opening of required size and shape for washbasin/kitchen sink.

When there is no item in the HSR for- Extra for providing opening of required size and shape for wash basin/Kitchen sink in kitchen platform, Vanity counter and similar location in Marble/Granite stone work, including necessary holes for pillar cock taps etc. including molding, rubbing & polishing of cut edges etc. complete, Then the rates of such item are to be taken from DSR which is applicable throughout India. In this item extra work for providing opening of required size and shape for washbasin/kitchen sink in kitchen platform etc.

including necessary points for pillar cock etc. are additional work/extra work on the item of BOQ no-36 page no 104. No such item is available in HSR applicable to this work. Since the extra work as per standard applicable as per DSR in India. This item is payable to the claimant.

Following Submissions have been made on behalf of the Claimant during written arguments:

He relied upon his statement of claim and rejoinder.

Following Submissions have been made on behalf of the Respondent during written arguments regarding claim No. 3:

Preliminary Statement: The Respondents categorically reject and deny the Claim No. III as the item no. 8 of PH public head schedule at page no. 123 of agreement indicate the item itself is counter sunk wash basin, hence not tenable to be paid.

Scope of Work Fully Covered under Existing nomenclature of Contract Item: The Claimant's assertion that this work constitutes extra and is covered under DSR Item No. 8.5 is entirely misplaced and contrary to the express provisions of the governing contract. The applicable contractual provision is Item No. C-24 at page 116 (Annexure R-1), which explicitly provides: "Supply of 15 mm to 18 mm thick slab of pre-polished granite stone as specified as per sample approved by the Engineer-in-Charge. Note 1: Laying of granite will be paid under item no. HSR (14.95) & (14.96). (2) Payment/Measurement will be made as per finished floor/wall etc. on actual basis."

This nomenclature itself categorically covers the supply and laying of granite stone, including for areas such as vanity counters and wash basin surrounds, subject only to actual measurement. Thus, no additional or non-schedule item arises as claimed.

Payment Basis and Actual Measurement Clause: It is significant that Item C-24 explicitly states that payment will be made "on actual basis" for finished surfaces, which includes:

- All cutting, shaping, and fitting work for granite around wash basins or similar fixtures.
- Openings or voids are already inherently accounted for in the methodology of actual surface measurement.

It is important to mention that as such, no deduction for openings was applied by the Respondents nor is any additional payment warranted.

Failure to Raise Clarification at Pre-Bid Stage (Annexure R-9, Page 19)

Engineer's Final Decision and Time-Barred Repetition :The Engineer-in-Charge conclusively addressed and rejected this claim in:

- Letter dated 12.07.2021 (Annexure C-6), in response to the Claimant's letter of the same date (Annexure C-5).
- Letter No. KNY/CODST/LUVAS/225 dated 29.01.2021, which provided a final clarification regarding the scope of contract and denial of such NS items.

Misuse and Misinterpretation of DSR Provisions: The reliance on DSR Item 8.5 is legally untenable. The DSR provides standardized government rates for reference, but does not create automatic contractual entitlement unless such DSR items are expressly included in the BOQ or contract. Moreover:

- The PWD Notification and deduction factor cited by the Claimant have no binding effect on this Contract unless adopted formally.
- The Respondents are under no obligation to treat a DSR item as a payable NS item in the absence of BOQ inclusion in the contract itself.

PRAYER FOR RELIEF: In view of the unambiguous contract provisions, factual record, procedural lapses, and the statutory mandate under Section 28(3), Claim No. III is without merit, legally non-justifiable, and procedurally barred.

The Respondents respectfully pray that Claim No. III be dismissed.

Arbitrator's Findings and determination of claim No. 3

Under claim No.(III) claimant has claimed extra payment for providing required size and shape granite/marble for wash basin etc. This was extra work for wash basin/ kitchen platform, vanity counter and similar location in marble/granite stone. This item is already provided in DSR under head 8.0 Cladding Work which item No. is 8.5. Claimant executed work and quantity measured in unit i.e. 395 units and rate is 734.55 per unit. This claim amount comes to Rs.193163/- This is genuine claim as per provisions under DSR items. Details are given in Annexure C-11**.**

Whereas, Respondent submitted that, this included in item No. C-24 of BOQ. In my opinion, plea taken by Respondent is not correct. After hearing both parties and going through the documents submitted, I am of the opinion that, this item has no relation with item C-24 of BOQ. So, this Claim seems genuine, hence accepted. Therefore, **I award Rs. 1,93,163/- against this claim.**

Claim No. 4

Claim for difference between double charge vitrified and single charge tiles. Under this item No.32, page 102 of CA. There is no specification for vitrified tiles and single charge tiles. As per description of item double charge was directed to use for a long lasting finish. Claimant was directed to use vitrified double charge tiles which was not specified in item No.14.89. This claim is raised for using difference in double charge vitrified tiles which is applicable amounting Rs.13,63,670/-

Following Submissions have been made on behalf of the Claimant in their Statement of claims regarding claim No. 4:

Claim Item No.(IV) Claimant has difference between double charge vitrified and single charge tiles. There are different types of tiles available in the market. There is no provision for double charge vitrified tiles to be provided in the contract. Whereas claimant was directed to use double charge vitrified tiles in flooring. Under HSR item there is provision of use of single tiles whereas claimant was directed to use double vitrified tiles for more durability. Thus difference is charged @ Rs.8/- per sq. fit. The claim is made in Sq. mtr. Total quantity comes to 11500 Sq. Mts. and difference in rates comes to Rs.118.58 per Sqm. amount of which comes to Rs.13,63,670/- .Claimant submitted rates and analysis of the items along with his letters which are placed on record. Documents in support of this claim are filed and marked as Annexure C-12. Claim was not entertained hence dispute cropped up.

Following Submissions in respect of claim No. 4 have been made on behalf of the Respondent in their Statement of Defense:

1. Preliminary Rebuttal: The Respondents strongly refute Claim No. IV as raised by the Claimant concerning an alleged differential payment claim for use of "double charge vitrified tiles" in lieu of "single charge tiles." This claim is not only contractually baseless but also factually incorrect, procedurally barred, and legally untenable in light of explicit contract provisions and binding stipulations.

2. Explicit Inclusion of Double Charge Vitrified Tiles in BOQ: The Claimant's assertion that the contract lacks provision for double charge vitrified tiles is demonstrably false. The relevant contractual item is Item No. 32 at page 102 (Annexure R-11), which clearly and unequivocally states:

"Providing and fixing Double charged vitrified tiles of size 600 x 600 mm of approved make in flooring laid in any pattern as specified over base of 20 mm thick cement coarse sand mortar 1:3 and joined with white cement slurry mixed with pigment to match the shade to tiles.

Note 1:- Tile shall be of first quality of reputed manufacturer. Spacer of 3 mm thick adhesive of reputed brands such as pidilite, laticreto, ferrouscrete&valendure as per IS specifications 15477-2004 using 5 Kg. adhesive per sqm area of tiles.

Note 2:- Tile shall be of premium quality (first quality) of reputed manufacturer like NITCO, KAJARIA, RAK OR JOHNSONS. Note:- The contractor should quote the rate as per nomenclature above. Nothing extra will be payable on any account. (HSR 14.89 amended)"

This clearly settles that double charge vitrified tiles were part of the original agreed scope, and the Claimant was bound to quote inclusive rates for the same at bid stage. Therefore, no additional claim lies for any supposed rate difference between tile varieties.

3. Binding Nature of Contractual Notes – No Extra Payable: The BOQ note mandates:"The contractor should quote the rate as per nomenclature above. Nothing extra will be payable on any account."This language is conclusive. It eliminates any scope for post-facto claims, subjective interpretation, or supplemental pricing. The Claimant cannot now assert "unforeseen" costs when the requirement was explicitly listed and publicly available during the bidding process.

4. Pre-Bid Obligation to Seek Clarification: Clauses 8.2 and 9.1 of the Contract (Annexure R-9) place a strict duty on the bidder to review the bid documentation thoroughly and to raise clarifications if any term appears ambiguous. They read:

8.2 (Page 19):“The bidder is expected to examine carefully all instructions, conditions of contract, contract data, forms, items, technical specifications, bill of quantities, forms, Annexes and drawings in the Bid Document. Failure to comply with the requirements of Bid Documents shall be at the bidder’s own risk. Pursuant to clause 26 hereof, bids which are not substantially to the requirements of the Bid documents shall be rejected.”

9.1 (Page 19):“Prospective bidder requiring any clarification of the bidding documents may notify the Employer in writing or by the cable (hereinafter “cable” includes telex and facsimile) at the Employer’s address indicated in the invitation to bid. The Employer will respond to any request for clarification which he received earlier than 15 days prior to the deadline for submission of bids. Copies of the Employer’s response will be forwarded to all purchasers of the bidding documents, including a description of the enquiry but without identifying its source.”

The Claimant raised no such query, and cannot now assert misunderstanding or contract ambiguity. The attempt to do so now is a clear afterthought, and lacks legal credibility.

5. Engineer’s Final Decision – No Provision for NS Item: The Engineer-in-Charge, through:

- Letter dated 12.07.2021 (Annexure C-6) and,
- Letter No. KNY/CODST/LUVAS/225 dated 29.01.2021 (Annexure R-5)

Clearly rejected the Claimant’s request for additional payment. The claim was correctly deemed non-schedulable since the tile type and brand were already mandated within the BOQ. The attempt to reintroduce the same matter on 12.07.2021 constitutes a repetitive claim barred by finality and contract terms.

4. Procedural Default – Time-Barred Under Clause 24.1: Under Clause 24.1 (Annexure R-6) of the contract:“If the contractor believes that a decision taken by the Engineer was either outside the authority given to the Engineer by the contract or that the decision was wrongly

5. Taken, the decision shall refer to the Dispute Review Expert as mentioned in the contract data within 14 days of the notice of the Engineer's decision."

The Claimant failed to refer the issue to the Dispute Review Expert (DRE) within the prescribed period. This failure renders the claim procedurally barred, and not maintainable before the Tribunal.

7. Statutory Mandate – Section 28(3) of the Arbitration and Conciliation Act, 1996: The Sole Arbitrator is bound by Section 28(3) of the Arbitration and Conciliation Act, 1996, which mandates:"In all cases, the Arbitral Tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction."The Tribunal must strictly adhere to the express terms of the BOQ and related contract clauses. Entertaining this baseless claim would amount to rewriting the contract, which is impermissible under Indian arbitration law.

PRAYER FOR RELIEF: In view of the above:

- The contractual item of BOQ nomenclature explicitly includes double charge vitrified tiles.
- No post-bid claim for price differential is tenable.
- The claim is factually misleading, legally unsustainable, and procedurally barred under Clause 24.1.
- The Respondents are protected under the statutory framework of Section 28(3) of the Arbitration and Conciliation Act, 1996.

The Respondents respectfully pray that Claim No. IV be dismissed.

In their Rejoinder to Statement of Defense, the Claimant has contested Respondent's denial of claim No. 4:

Claim no 4, Annexure C-12 – Extra item for rate difference between double charged vitrified and plain vitrified tiles.

The BOQ is based on HSR rates and nomenclature. The rates for the item no 32 (HSR-14.89) of BOQ page no 102, is Rs. 785.655 per sqm which is HSR item no 14.89 on page number 124. In HSR rates nothing has been mentioned for double charged vitrified tiles, hence there is change in nomenclature in the item no 32 from HSR nomenclature. The rate of HSR Rs. 785.655 cannot be taken as it is with additional quality of double charged vitrified tiles. Since there is a difference in nomenclature of HSR and BOQ and rates are not changed/increased.

This difference in double charged vitrified tile and plain vitrified tiles rates is payable to the claimant. If there is any difference in nomenclature of HSR and BOQ with the same rates of HSR the nomenclature of item of HSR is to be followed strictly. As such the actual quality (Double charged) of tile used is payable to the claimant.

There is a lot of difference in the rates of double charged vitrified tiles and ordinary charged verified tiles; the extra difference of rate is claimed by the claimant. As the change of nomenclature in BOQ from HSR, the proof of difference of rates of double charged is enclosed as annexure C-12. This claim is payable to the claimant.

Following Submissions have been made on behalf of the Claimant during written arguments:

Claim no 2,4 - The BOQ is based on HSR rates and nomenclature and the description of the items mentioned in BOQ are different from the items mentioned in HSR. There is difference in nomenclature, therefore if there is difference in nomenclature of HSR and BOQ with the same rate of HSR the nomenclature of item of HSR is to be followed strictly. Therefore difference in HSR nomenclature to be paid extra.

Following Submissions have been made on behalf of the Respondent during written arguments:

Preliminary Rebuttal: The nomenclature of the item consist double charge tiles hence not tenable.

Explicit Inclusion of Double Charge Vitrified Tiles in BOQ: The Claimant's assertion that the contract lacks provision for double charge vitrified tiles is demonstrably false. The relevant contractual item is Item No. 32 at page 102 (Annexure R-11), which clearly and unequivocally states:

"Providing and fixing Double charged vitrified tiles of size 600 x 600 mm of approved make in flooring laid in any pattern as specified over base of 20 mm thick cement coarse sand mortar 1:3 and joined with white cement slurry mixed with pigment to match the shade to tiles.

Note 1:- Tile shall be of first quality of reputed manufacturer. Spacer of 3 mm thick adhesive of reputed brands such as pidilite, laticreto, ferrouscrete & valendure as per IS specifications 15477-2004 using 5 Kg. adhesive per sqm area of tiles.

Note 2:- Tile shall be of premium quality (first quality) of reputed manufacturer like NITCO, KAJARIA, RAK OR JOHNSONS. Note:- The contractor should quote the rate as per nomenclature above. Nothing extra will be payable on any account. (HSR 14.89 amended)"

This clearly settles that double charge vitrified tiles were part of the original agreed scope, and the Claimant was bound to quote inclusive rates for the same at bid stage. Therefore, no additional claim lies for any supposed rate difference between tile varieties.

Binding Nature of Contractual Notes – No Extra Payable: The BOQ note mandates: "The contractor should quote the rate as per nomenclature above. Nothing extra will be payable on any account." This language is conclusive. It eliminates any scope for post-facto claims, subjective interpretation, or supplemental pricing. The Claimant cannot now assert "unforeseen" costs when the requirement was explicitly listed and publicly available during the bidding process.

Engineer's Final Decision – No Provision for NS Item: The Engineer-in-Charge, through:

- Letter dated 12.07.2021 (Annexure C-6) and,
- Letter No. KNY/CODST/LUVAS/225 dated 29.01.2021 (Annexure R-5)

Clearly rejected the Claimant's request for additional payment. The claim was correctly deemed non-schedulable since the tile type and brand were already mandated within the BOQ. The attempt to reintroduce the same matter on 12.07.2021 constitutes a repetitive claim barred by finality and contract terms.

PRAYER FOR RELIEF: In view of the above:

- The contractual item of BOQ nomenclature explicitly includes double charge vitrified tiles.

- No post-bid claim for price differential is tenable.
- The claim is factually misleading, legally unsustainable, and procedurally barred under Clause 24.1.
- The Respondents are protected under the statutory framework of Section 28(3) of the Arbitration and Conciliation Act, 1996.

The Respondents respectfully pray that Claim No. IV be dismissed.

Arbitrator's Findings and determination of claim No. 4

Claimant submitted in this claim that, there is difference between double charge vitrified and single charge tiles. There are different types of tiles available in the market. There is no provision for double charge vitrified tiles to be provided in the contract. Whereas claimant was directed to use double charge vitrified tiles in flooring. Under HSR item there is provision of use of single tiles whereas claimant was directed to use double vitrified tiles for more durability. Thus difference is charged @ Rs.8/- per sq. fit. The claim is made in Sq. mtr. Total quantity comes to 11500 Sq. Mts. and difference in rates comes to Rs.118.58 per Sqm. amount of which comes to Rs.13,63,670/- .Claimant submitted rates and analysis of the items along with his letters which are placed on record.

Whereas, Respondent submitted that, the relevant contractual item is Item No. 32 at page 102 (Annexure R-11), which clearly and unequivocally states:

"Providing and fixing Double charged vitrified tiles of size 600 x 600 mm of approved make in flooring laid in any pattern as specified over base of 20 mm thick cement coarse sand mortar 1:3 and joined with white cement slurry mixed with pigment to match the shade to tiles.

Note 1:- Tile shall be of first quality of reputed manufacturer. Spacer of 3 mm thick adhesive of reputed brands such as pidilite, laticreto, ferrouscrete & valendure as per IS specifications 15477-2004 using 5 Kg. adhesive per sqm area of tiles.

Note 2:- Tile shall be of premium quality (first quality) of reputed manufacturer like NITCO, KAJARIA, RAK OR JOHNSONS. Note:- The contractor should quote the rate as per nomenclature above. Nothing extra will be payable on any account. (HSR 14.89 amended)"

After hearing both parties and going through the submitted documents, I am of clear opinion that, it is clearly mentioned in the BOQ item that, Double charged vitrified tiles has to be provided. So, nothing extra can be paid against this item. **Therefore, I award NIL against this Claim.**

Claim No. 5

Cost of smooth concrete surface work is claimed. Work executed by special shattering material amounting Rs. 95,00,000/-

Following Submissions have been made on behalf of the Claimant in their Statement of claims regarding claim No. 5:

Under claim No. (V) claimant has raised claim for cost of smooth concrete surface work. for quality finish special quality of shattering material was used for smooth opening of the surface. Under general item it was not specified for smooth concrete surface, it was provided for item which could be executed for normal shattering by the steel and wood shattering material. In place of provided item, claimant used plywood and steel shattering instead of wooden item which costs extra to the claimant. At the time of execution of work general item was replaced by steel shattering work by the site engineer. Copy of direction is placed on record as Annexure C-13 , claim of which is submitted.

Following Submissions in respect of claim No. 5 have been made on behalf of the Respondent in their Statement of Defense:

1. Preliminary Rebuttal: Claim No. V, pertaining to alleged entitlement for extra payment on account of smooth concrete surface finish through the use of steel or waterproof shuttering, is wholly misconceived, lacks factual and contractual basis, and is specifically rebutted below.

2. Contractual and Technical Specifications – No Extra Payable: The Claimant refers to Serial No. 11, Chapter 10 of HSR 1988 and A&C Slip CZC-8 dated 04.11.2010 to allege entitlement to 45% over and above centering/shuttering rates. However, this claim is directly contradicted by the terms of the contract agreement, Annexure-1 (Clause 4.5(B)(a), pages 32-33) (Annexure R-12), which mandates the use of steel/waterproof shuttering as a qualification and construction requirement — not as a payable extra item.

The relevant provision is categorical:"Steel shuttering/waterproof ply newly fabricated for the work was to be used as per qualification criteria and is deemed included in the quoted rates. None of the equipment, materials, or formwork listed—including steel/waterproof shuttering—are separately payable."

3. BOQ Analysis – No Reference to Smooth Finish: The BOQ items for centering and shuttering at Serial Nos. 3 to 8 (BOQ Pages 96-98, Annexure R-13) do not call for smooth concrete finish. Moreover, the GRC Jali on all elevations and false ceilings on roof slabs eliminate any requirement or benefit of smooth surface finish. The Respondents never instructed the use of exposed architectural concrete, which is the only circumstance under HSR Note 11 where additional 45% rates are justifiable.

4. Misapplication of HSR 1988 Provisions: The Claimant misinterprets Note 11 of Chapter 10 in HSR, which reads:

"Where smooth exposed concrete finish is desired which is not to be touched or plastered but is to be left as it comes out of the shuttering, extra smooth shuttering or proper steel shuttering has to be used. As it involves more expenditure… an additional rate of 45% of labour rate shall be payable… ONLY WHERE such finish is desired."

However, no such "desire" or directive exists on record from the Respondent's side. The use of smooth shuttering is not per Respondent's architectural specifications or directions. Hence, this provision is not attracted.

5. Cost Justification and Technical Rate Analysis: Even if one were to hypothetically consider cost implications, the Respondents have conducted a detailed cost analysis (Refer to Annexure R-14), showing that steel shuttering is more cost-effective than wooden shuttering after factoring in reuse cycles:

- Cost of steel shuttering per sqm (after 30 uses):Rs. 20.63
- Cost difference in wooden shuttering (after applying HSR rates):Rs. 24.45

Thus, even if Claimant used steel shuttering, no economic loss has been demonstrated, and no extra payment can be claimed.

6. Specifications Do Not Support Claim: Refer to Specification Books: 1990 (Page 216) and 1963 (Page 158), Annexure R-15, where it is clearly mentioned:"Form work shall be made of timber, metal (usually steel), precast concrete or rough masonry separately or in combination."

There is no clause mandating extra payment for use of steel shuttering. The specifications treat steel shuttering as a standard method — not a premium or claimable process.

7. Procedural Bar – No Timely DRE Reference: The Claimant failed to refer the matter to the Dispute Review Expert (DRE) within the 14-day window under Clause 24.1, kindly refer annexure C-6 Page 48-49 of SOC, vide mail 10.07.2021 it was conveyed by the E-I Charge, i.e. M/s KNY that this item of smooth shuttering is not payable.

8. No Legal or Evidentiary Foundation

- The quantity claimed is vague, unsupported by site records.
- The rate of Rs. 126.45 cited by Claimant (Annexure C-13) is unsubstantiated and arithmetically inconsistent with HSR provisions and standard calculations.
- The fabrication cost basis is arbitrary and self-serving.

9 TECHNICAL COST ANALYSIS OF STEEL SHUTTERING VS. WOODEN SHUTTERING (EXPLANATORY TABLE): The Respondents provide the following detailed engineering rate analysis to substantiate that steel shuttering not only falls within the contractual obligations but also does not incur extra cost compared to standard wooden shuttering, especially considering reuse cycles.

Thus, steel shuttering is more economical and efficient than wooden shuttering when reuse is considered.

Legal Implication of the Analysis of cost comparison of steel and wooden stuttering :

- The Claimant's quoted rate of Rs. 126.45/sqm is imaginary fictitious, unsourced, without any cogent evidence and not validated by contract or actual economic analysis.
- The use of steel shuttering was mandated by the contract and is economically justified without invoking any additional cost.

- The claimed amount is arbitrary, inflated, and not grounded in contractual or industry-standard rate logic.

PRAYER FOR RELIEF: In view of the facts and contractual interpretations of item and specifications is can be adduced that :

- Explicit contractual inclusion of steel shuttering,
- Absence of Respondent's directive for smooth finish,
- No provision in BOQ or Specifications for extra payment,
- Factual contradictions, and
- Detailed cost analysis confirming no extra cost, and
- Procedural bar under Clause 24.1 and Section 28(3) of the Arbitration and Conciliation Act, 1996,

Therefore, Claim No. V is frivolous, contractually excluded, and legally inadmissible and not tenable. The Respondents respectfully pray that Claim No. V be dismissed.

In their Rejoinder to Statement of Defense, the Claimant has contested Respondent's denial of claim No. 5:

Claim no 5, Annexure C-13 – HSR item number XI of chapter 10 page no 57, HSR 1988 (2nd addition) 2018 pertaining to smooth exposed concrete finished surface.

Item no 4 of BOQ is Centering and shuttering for faces of walls partitions, retaining walls, well staining and the like (vertical or battering) including attached pilasters, buttresses etc.

At site respondent instructed for smooth exposed concrete finished surface and this work is payable extra as per Haryana PWD specification chapter 10 Concrete page 57 which clearly state that item no XI In case of such items of this chapter, that include the cost of labor and materials, for centering and shuttering of steel, where smooth exposed concrete finished surface is required, additional payment shall be allowed at the rate of 45 percent of the rate of centering and shuttering as given in chapter no 9.

Since this is an extra work has been done by the claimant which is payable as per Haryana PWD specification referred above, the claim is payable to the claimant.

Following Submissions have been made on behalf of the Claimant during written arguments:

He relied upon his statement of claim and rejoinder.

Following Submissions have been made on behalf of the Respondent during written arguments regarding claim No. 5:

Preliminary Rebuttal: The Claimant's assertion is fundamentally misguided. The instruction in Annexure C-13 page 69,70 & 71, it directs only the removal of a faulty plate. Any broader interpretation construing this as grounds for the present claim is legally and factually untenable.

The university never desired exposed concrete finish. However, while going through page No. 66-70, it is submitted that the claimant has tried to mislead the arbitrator by taking all quantities of shuttering and taking through rates. It is not admitted that smooth shuttering was payable. However, if it would have been desired by the university, the payment should have been 45 percent of the labour rates, which is very much clear in A&C slip No. CZC7 dated. 04/11/2010 annexed as R-14 in SOD page No 84. The claimant contractor has taken the through rates.

Contractual and Technical Specifications – No Extra Payable: The Claimant refers to Serial No. 11, Chapter 10 of HSR 1988 and A&C Slip CZC-8 dated 04.11.2010 to allege entitlement to 45% over and above centering/shuttering rates. However, this claim is directly contradicted by the terms of the contract agreement, Annexure-1 (Clause 4.5(B)(a), pages 32-33) (Annexure R-12), which mandates the use of steel/waterproof shuttering as a qualification and construction requirement — not as a payable extra item.

The relevant provision is categorical: "Steel shuttering/waterproof ply newly fabricated for the work was to be used as per qualification criteria and is deemed included in the quoted rates. None of the equipment, materials, or formwork listed—including steel/waterproof shuttering—are separately payable."

BOQ Analysis – No Reference to Smooth Finish: The BOQ items for centering and shuttering at Serial Nos. 3 to 8 (BOQ Pages 96-98, Annexure R-13) do not call for smooth concrete finish. Moreover, the GRC Jali on all elevations and false ceilings on roof slabs eliminate any requirement or benefit of smooth surface finish. The Respondents never instructed the use of exposed architectural concrete, which is the only circumstance under HSR Note 11 where additional 45% rates are justifiable.

Misapplication of HSR 1988 Provisions: The Claimant misinterprets Note 11 of Chapter 10 in HSR, which reads:

"Where smooth exposed concrete finish is desired which is not to be touched or plastered but is to be left as it comes out of the shuttering, extra smooth shuttering or proper steel shuttering has to be used. As it involves more expenditure… an additional rate of 45% of labour rate shall be payable… ONLY WHERE such finish is desired."

However, no such "desire" or directive exists on record from the Respondent's side. The use of smooth shuttering is not per Respondent's architectural specifications or directions. Hence, this provision is not attracted.

Specifications Do Not Support Claim: Refer to Specification Books: 1990 (Page 216) and 1963 (Page 158), Annexure R-15, where it is clearly mentioned:"Form work shall be made of timber, metal (usually steel), precast concrete or rough masonry separately or in combination."

There is no clause mandating extra payment for use of steel shuttering. The specifications treat steel shuttering as a standard method — not a premium or claimable process.

No Legal or Evidentiary Foundation

- The quantity claimed is vague, unsupported by site records.
- The rate of Rs. 126.45 cited by Claimant (Annexure C-13) is unsubstantiated and arithmetically inconsistent with HSR provisions and standard calculations.
- The fabrication cost basis is arbitrary and self-serving.

PRAYER FOR RELIEF: In view of the facts and contractual interpretations of item and specifications is can be adduced that :

- Explicit contractual inclusion of steel shuttering,
- Absence of Respondent's directive for smooth finish,
- No provision in BOQ or Specifications for extra payment,
- Factual contradictions, and
- Detailed cost analysis confirming no extra cost, and
- Procedural bar under Clause 24.1 and Section 28(3) of the Arbitration and Conciliation Act, 1996,

Therefore, Claim No. V is frivolous, contractually excluded, and legally inadmissible and not tenable. The Respondents respectfully pray that Claim No. V be dismissed.

Respondent relied upon their defense reply; oral argument was just repetition of submitted reply. No written argument was submitted by the Respondent.

Arbitrator's Findings and determination of claim No. 5

Under claim No.(V) claimant has raised claim for cost of smooth concrete surface work for quality finish special quality of shattering material was used for smooth opening of the surface. Under general item it was not specified for smooth concrete surface, it was provided for item which could be executed for normal shattering by the steel and wood shattering material. In place of provided item, claimant used plywood and steel shattering instead of wooden item which costs extra to the claimant. At the time of execution of work general item was replaced by steel shattering work by the site engineer.

Whereas, Respondent submitted that, Note 11 of Chapter 10 in HSR, which reads:

"Where smooth exposed concrete finish is desired which is not to be touched or plastered but is to be left as it comes out of the shuttering, extra smooth shuttering or proper steel shuttering has to be used. As it involves more expenditure… an additional rate of 45% of labour rate shall be payable… ONLY WHERE such finish is desired."

Respondent also submitted that, false ceilings on roof slabs eliminate any requirement or benefit of smooth surface finish. The Respondents never instructed the use of exposed architectural concrete, which is the only circumstance under HSR Note 11 where additional 45% rates are justifiable.

After hearing both parties and going through the submitted documents, I am of clear opinion that, smooth exposed concrete finish was not required and ordered to be done because it was to be covered by false ceiling etc. So, in my opinion, this claim is not genuine, hence rejected. **Therefore, I award NIL against this claim.**

Claim No. 6

Claiming charges of litigation and fees to DRE and Hon'ble Arbitrator as provided under Arbitration and Conciliation Act, 1996 amounting Rs. 30,00,000/-

Following Submissions have been made on behalf of the Claimant in their Statement of claims regarding claim No. 6:

Under claim No.(VI) claimant has claimed charges of litigation and fees paid to DRE and fees payable now to the Hon'ble Arbitrator as provided under Arbitration and Conciliation Act, 1996 which claimant has to bear from his own account. Respondent has created dispute in agreement and claimant invoked arbitration under different clauses of the agreement. Claimant also paid fees to DRE on respondent part also, because respondent did not pay fees to DRE and DRE directed claimant to pay the entire fee Rs.4,30,000/- . Apart from this claimant has to pay fees to the Hon'ble Arbitrator. Claimant has also paid fees to the advocate for getting legal assistance and also to incur charges towards arbitration proceeding and fees to his advocates. All these expenses are claimed for Rs.30,00,000/- which is awardable under the law to the claimant. The dispute could have been settled by amicable settlement in between parties, but respondent failed to settle it. Thus arbitration clause was invoked and for this respondents are liable to make good the claims and fees. The litigation expenses are awardable to claimant as per law of land.

Following Submissions in respect of claim No. 6 have been made on behalf of the Respondent in their Statement of Defense:

1. Preliminary Rebuttal: Claim No. VI, whereby the Claimant seeks reimbursement of litigation expenses, fees paid to the Dispute Review Expert (DRE), and projected or actual payments to the Hon'ble Arbitrator and legal counsel, is entirely devoid of legal merit, factual justification, and contractual entitlement. The claim, quantified at a staggering Rs. 30,00,000/-, is an exaggerated, speculative, and unauthorized attempt to unjustly enrich the Claimant at the Respondent's expense.

2. Claimant's Own Conduct Gave Rise to Proceedings: The invocation of arbitration was necessitated solely by the Claimant's baseless, inflated, and contractually unsound and untenable claims, which have required the Respondents to expend significant time, legal resources, and institutional effort in defense.

The Respondents deny that any such claim was created "due to Respondents' conduct." On the contrary, it is the Claimant's unilateral misinterpretation of the contract and pursuit of non-tenable monetary claims that led to arbitration.

3. These fees were paid by the claimant as a contract requirement for invoking DRE and Arbitration etc. as the claimant has invoked the DRE and Arbitration, so fees of the advocate is to be paid by him as per contract

4. Legal and Advocate Fees – No Evidence or Justification

- Merely engaging counsel does not automatically entitle one to cost recovery, especially where the underlying claims are meritless and have burdened the Respondents unduly.

5. Respondents Entitled to Costs and Legal Fees: In fact, the Respondents reserve the right to seek costs against the Claimant for:

- Defending unwarranted claims;
- Responding to exaggerated and inflated demands;
- Engaging legal representation and expert consultants to protect public interest;
- Administrative costs and personnel hours diverted for the proceedings.

The quantification of such costs will be submitted during the Respondent's evidence stage.

PRAYER FOR RELIEF: In view of facts mentioned above, it can be adduced that the:

- Absence of legal basis or contractual authority for reimbursement;
- Voluntary nature and lack of consent for alleged payments;
- Claimant’s own conduct leading to litigation;

Claim No. VI is devoid of merit, speculative in nature, and must be dismissed outright. Therefore, The Respondents respectfully pray that Claim No. VI be dismissed

In their Rejoinder to Statement of Defense, the Claimant has contested Respondent’s denial of claim No. 6:

He didn’t replied

Following Submissions have been made on behalf of the Claimant during written arguments:

He relied upon his statement of claim and rejoinder.

Following Submissions have been made on behalf of the Respondent during written arguments regarding claim No. 6:

Preliminary Rebuttal: The claim, quantified at a staggering Rs. 30,00,000/-, is an exaggerated, speculative, and unauthorized attempt to unjustly enrich the Claimant at the Respondent's expense.

Claimant’s Own Conduct Gave Rise to Proceedings: The invocation of arbitration was necessitated solely by the Claimant’s baseless, inflated, and contractually unsound and untenable claims, which have required the Respondents to expend significant time, legal resources, and institutional effort in defense.

The Respondents deny that any such claim was created “due to Respondents' conduct.” On the contrary, it is the Claimant’s unilateral misinterpretation of the contract and pursuit of non-tenable monetary claims that led to arbitration.

These fees were paid by the claimant as a contract requirement for invoking DRE and Arbitration etc. as the claimant has invoked the DRE and Arbitration, so fees of the advocate is to be paid by him as per contract

Legal and Advocate Fees – No Evidence or Justification

- Merely engaging counsel does not automatically entitle one to cost recovery, especially where the underlying claims are meritless and have burdened the Respondents unduly.

Respondents Entitled to Costs and Legal Fees: In fact, the Respondents reserve the right to seek costs against the Claimant for:

- Defending unwarranted claims;
- Responding to exaggerated and inflated demands;
- Engaging legal representation and expert consultants to protect public interest;
- Administrative costs and personnel hours diverted for the proceedings.

The quantification of such costs will be submitted during the Respondent's evidence stage.

PRAYER FOR RELIEF: In view of facts mentioned above it can be adduced that the:

- Absence of legal basis or contractual authority for reimbursement;
- Voluntary nature and lack of consent for alleged payments;
- Claimant's own conduct leading to litigation;

Claim No. VI is devoid of merit, speculative in nature, and must be dismissed outright. Therefore, The Respondents respectfully pray that Claim No. VI be dismissed

Arbitrator's Findings and determination of claim No. 6

Under claim No.(VI) claimant has claimed charges of litigation and fees paid to DRE and fees payable now to the Hon'ble Arbitrator as provided under Arbitration and Conciliation Act, 1996 which claimant has to bear from his own account. Respondent has created dispute in agreement and claimant invoked arbitration under different clauses of the agreement. Claimant also paid fees to DRE on respondent part also, because respondent did not pay fees to DRE and DRE directed claimant to pay the entire fee Rs.4,30,000/- . Apart from this claimant has to pay fees to the Hon'ble Arbitrator. Claimant has also paid fees to the advocate for getting legal assistance and also to incur charges towards arbitration proceeding and fees to his advocates. All these expenses are claimed for Rs.30,00,000/- which is awardable under the law to the claimant. The dispute could have been settled by amicable settlement in between parties, but respondent failed to settle it. Thus arbitration clause was invoked and for this respondents are liable to make good the claims and fees. The litigation expenses are awardable to claimant as per law of land.

Respondent submitted that, Shri A.K. Modi resigned from the post of consultant Engineer and his resignation was accepted on 04.09.2020, and no longer held that position thereafter. The resignation was duly accepted and was in the knowledge of the Claimant.

Despite this, the Claimant illegally approached Shri Modi to refer disputes at a time when he was no longer authorized under the contract. Any such reference made after his resignation is void, without jurisdiction, and cannot be considered valid under the dispute resolution clause.

Respondent also submitted that, The claim, quantified at a staggering Rs. 30,00,000/-, is an exaggerated, speculative, and unauthorized attempt to unjustly enrich the Claimant at the Respondent's expense.

After hearing both parties and going through the documents submitted, I reached at the result that, Sh. A K Modi was not valid DRE and verdict given by him was without hearing both parties. So, there is no meaning to consider the fee paid to him. Claim is also without proper supporting details. Hence, not considered genuine and rejected.

Therefore, I award NIL in this claim.

Claim No. 7

L&F ceramic & glazed tiles/vitrified tiles of any size of approved make in floor/dodos, laid in any pattern as specified over base of 3mm thick adhesive of reputed brands as per IS specifications 15477-2004 using 5 kg. Adhesive per sqm. area of tiles and jointed with while cement slurry mixed with pigment to match the shade of tiles excluding cost of tiles amounting Rs. 37,13,911/-

Following Submissions have been made on behalf of the Claimant in their Statement of claims regarding claim No. 7:

Claim at Sl.No.VII-|Extra Item for 3 mm spacer with Adhesive Grout-The Item 32 of BOQ on page No.102 is a HSR item and it is without spacer. Therefore 3mm spacer and Epoxy grout to be paid extra as per HSR item No.14.97. The total area is 9646 Sqmt amounting Rs.37,13,911/- . Hence this claim is acceptable and applicable.

Following Submissions in respect of claim No. 7 have been made on behalf of the Respondent in their Statement of Defense:

1. Preliminary Submission: The Respondents categorically reject the Claimant's Claim No. VII, which seeks extra payment for "3 mm spacer and adhesive grout" on the ground that this is a non-schedule (NS) item. The claim is wholly without merit, legally untenable, factually inaccurate, and directly contradicted by the express terms of the Contract and the Bid documents.

2. Nomenclature of Contractual Item – Complete Inclusion of Spacer and Grout: The foundational flaw in the Claimant's submission is their incorrect reading of BOQ Item No. 32 on page 102 of the Contract Agreement. This item, which forms part of the Bill of Quantities, reads:"Providing and fixing Double charged vitrified tiles of size 600 x 600 mm of approved make in flooring laid in any pattern as specified over base of 20 mm thick cement coarse sand mortar 1:3 and joined with white cement slurry mixed with pigment to match the shade to tiles." **Note:** Tile shall be of first quality of reputed manufacturer.

   Spacer of 3 mm thick adhesive of reputed brands such as Pidilite, Laticreto, Ferrouscrete & Valendure as per IS specifications 15477-2004 using 5 Kg. adhesive per sqm area of tiles. Note: Tile shall be of premium quality (fist quality) of reputed manufacturer like NITCO, KAJARIA, RAK OR JOHNSONS.
   Note: The contractor should quote the rate as per nomenclature above. Nothing extra will be payable on any account. (HSR 14.89 amended)."
   (Reference: Annexure R-11)

   From the above, it is evident beyond doubt that the item not only includes the supply and fixing of tiles but also categorically incorporates the use of 3 mm spacers and adhesive grout of specified brands, as part of the quoted rate. The Claimant's assertion that the use of 3 mm spacer and adhesive grout is a separate NS item is completely untenable and contrary to the plain meaning of the contractual provision.

3. Misplaced Reliance on HSR Item 14.97 – Not Applicable to Executed Work: The Claimant seeks to rely on HSR Item 14.97 to support its claim. However, HSR 14.97 pertains to tile laying over a 3 mm adhesive base, whereas the executed work under Item 32 was laid over a 20 mm thick cement mortar base (1:3). This factual distinction renders HSR 14.97 wholly inapplicable. The use of adhesive in this context is strictly for grouting purposes as integrated in the Item 32 nomenclature, and not for bedding the tiles as per HSR 14.97. Thus, no claim under this head can be entertained.

4. This item has not been claimed earlier, however claimed first time before arbitrator, Therefore, it is not an dispute, however it denied.

5. Pre-Bid Duty to Clarify – Clauses 8.2 and 9.1 of Contract: The Claimant was under an express duty under Clauses 8.2 and 9.1 of the Contract (Annexure R-9) to examine the bid documents thoroughly and seek clarification prior to bidding. These clauses state:

- Clause 8.2 (Page 19):"The bidder is expected to examine carefully all instructions, conditions of contract, contract data, forms, items, technical specifications, bill of quantities, forms, Annexes and drawings in the Bid Document. Failure to comply with the requirements of Bid Documents shall be at the bidder's own risk."

- Clause 9.1 (Page 19):"Prospective bidder requiring any clarification of the bidding documents may notify the Employer in writing... The Employer will respond to any request for clarification which he receives earlier than 15 days prior to the deadline for submission of bids…"

No such clarification was ever sought by the Claimant with respect to Item 32 or the inclusion of spacers and adhesive. Therefore, the Claimant is now stopped from challenging the contents of the same BOQ item.

PRAYER FOR RELIEF: In view of the above factual matrix and contractual provisions, the Respondents respectfully submit that:

- Claim No. VII is not maintainable in law or in fact, being covered entirely under Item 32 of the BOQ;
- The reliance on HSR 14.97 is misplaced and factually inapplicable;
- No extra payment is legally or contractually justified;
- The claim is a clear instance of unjust enrichment and must be rejected with cost.

Therefore, The Respondents respectfully pray that Claim No. VII be dismissed.

In their Rejoinder to Statement of Defense, the Claimant has contested Respondent's denial of claim No. 7:

Claim no 7, Annexure C-14 – BOQ item no 32 – Providing and fixing double charged vitrified tiles of size 600x600 mm of approved make in flooring laid in any pattern as specified over base of 20mm thick cement coarse sand mortar 1:3 and jointed with white cement slurry mixed with pigment to match the shade of tiles. Note- Tile should be of first quality of reputed manufacturer. Spacer of 3mm thick adhesive of reputed brands such as Pidilite, Laticreto, Ferrouscrete&Valendure as per IS specification 15477-2004 using 5 Kg. adhesive per sqm area of the tiles. Note:- Tile shall be of premium quality (First quality) of reputed manufacturer like Nittco, Kajaria or Johnsons. (HSR 14.89).

The nomenclature of BOQ item is not as per HSR item no-32 (HSR 14.89) because in Boq item spacer of 3mm thickness has been added in HSR item. The rates of HSR item has not been increased for providing spacer of 3mm thickness. There is extra item in HSR no 14.97 page no 126 which provide for spacer of 3mm thickness but the rates of this item no 14.97 Rs.347.00 is not added in the BOQ item no 32 (HSR 14.89).

Since providing and laying spacer of 3mm thickness is a separate item in HSR applicable to this work and the rates of this item is not added in BOQ item 32 (HSR 14.89).

Hence This claim is payable to the claimant.

Following Submissions have been made on behalf of the Claimant during written arguments regarding claim No. 7:

He relied upon his statement of claim and rejoinder.

Following Submissions have been made on behalf of the Respondent during written arguments regarding claim No. 7:

Preliminary Submission: The Respondents categorically reject the Claimant's Claim No. VII, which seeks extra payment for "3 mm spacer and adhesive grout" on the ground that this is a non-schedule (NS) item. The claim is wholly without merit, legally untenable, factually inaccurate, and directly contradicted by the express terms of the Contract and the Bid documents.

Nomenclature of Contractual Item – Complete Inclusion of Spacer and Grout: The foundational flaw in the Claimant's submission is their incorrect reading of BOQ Item No. 32 on page 102 of the Contract Agreement. This item, which forms part of the Bill of Quantities, reads: "Providing and fixing Double charged vitrified tiles of size 600 x 600 mm of approved make in flooring laid in any pattern as specified over base of 20 mm thick cement coarse sand mortar 1:3 and joined with white cement slurry mixed with pigment to match the shade to tiles."
Note: Tile shall be of first quality of reputed manufacturer.

Spacer of 3 mm thick adhesive of reputed brands such as Pidilite, Laticreto, Ferrouscrete & Valendure as per IS specifications 15477-2004 using 5 Kg. adhesive per sqm area of tiles.
Note: Tile shall be of premium quality (first quality) of reputed manufacturer like NITCO, KAJARIA, RAK OR JOHNSONS.
Note: The contractor should quote the rate as per nomenclature above. Nothing extra will be payable on any account. (HSR 14.89 amended)."
(Reference: Annexure R-11)

From the above, it is evident beyond doubt that the item not only includes the supply and fixing of tiles but also categorically incorporates the use of 3 mm spacers and adhesive grout of specified brands, as part of the quoted rate. The Claimant's assertion that the use of 3 mm spacer and adhesive grout is a separate NS item is completely untenable and contrary to the plain meaning of the contractual provision.

Misplaced Reliance on HSR Item 14.97 – Not Applicable to Executed Work: The Claimant seeks to rely on HSR Item 14.97 to support its claim. However, HSR 14.97 pertains to tile laying over a 3 mm adhesive base, whereas the executed work under Item 32 was laid over a 20 mm thick cement mortar base (1:3). This factual distinction renders HSR 14.97 wholly inapplicable. The use of adhesive in this context is strictly for grouting purposes as integrated in the Item 32 nomenclature, and not for bedding the tiles as per HSR 14.97. Thus, no claim under this head can be entertained.

PRAYER FOR RELIEF: In view of the above factual matrix and contractual provisions, the Respondents respectfully submit that:

- Claim No. VII is not maintainable in law or in fact, being covered entirely under Item 32 of the BOQ;
- The reliance on HSR 14.97 is misplaced and factually inapplicable;
- No extra payment is legally or contractually justified;
- The claim is a clear instance of unjust enrichment and must be rejected with cost.

Therefore, The Respondents respectfully pray that Claim No. VII be dismissed.

Arbitrator's Findings and determination of claim No. 7

Under Claim No. VII- it is demanded by Claimant that, Extra Item for 3 mm spacer with Adhesive Grout-The Item 32 of BOQ on page No.102 is a HSR item and it is without spacer. Therefore 3mm spacer and Epoxy grout to be paid extra as per HSR item No.14.97. The total area is 9646 Sqmt amounting Rs.37,13,911/- . Hence this claim is acceptable and applicable.

Respondent submitted that, BOQ Item No. 32 on page 102 of the Contract Agreement. This item, which forms part of the Bill of Quantities, reads:"Providing and fixing Double charged vitrified tiles of size 600 x 600 mm of approved make in flooring laid in any pattern as specified over base of 20 mm thick cement coarse sand mortar 1:3 and joined with white cement slurry mixed with pigment to match the shade to tiles."
Note: Tile shall be of first quality of reputed manufacturer.

Spacer of 3 mm thick adhesive of reputed brands such as Pidilite, Laticreto, Ferrouscrete & Valendure as per IS specifications 15477-2004 using 5 Kg. adhesive per sqm area of tiles.
Note: Tile shall be of premium quality (first quality) of reputed manufacturer like NITCO, KAJARIA, RAK OR JOHNSONS.
Note: The contractor should quote the rate as per nomenclature above. Nothing extra will be payable

on any account. (HSR 14.89 amended).” (Reference: Annexure R-11)

This nomenclature of the item clearly incorporates the spacer of 3 mm thick adhesive of reputed brand etc. as part of the original contractual scope. As such, no additional payment is contractually permissible, and any claim for extra compensation is patently unfounded.

After hearing both parties and going through the submitted documents, I am of clear opinion that, it is clearly mentioned in the BOQ item that, 3mm thick spacer and adhesive of reputed brand has to be provided. So, nothing extra can be paid against this item. **Therefore, I award NIL against this Claim.**

Claim No. 8

Extra Item laying and fixing of granite stone groove, groove and head polishing in stare case trade amounting Rs. 6,95,994/-

Following Submissions have been made on behalf of the Claimant in their Statement of claims regarding claim No. 8:

Claim No.VIII-Extra Item for laying and fixing of Granite Stone-Groove and polishing in stair case treads. The item No.37 of BOQ on page No.105 is a HSR item and the rates are for laying and fixing of granite plain work. Therefore the making of grooves, polishing of grooves and trade head polishing is to be paid extra on market rate basis @ 356.92 Rs. Per sq.mt. Quantity 1950 amounting Rs.6,95,994/- . Hence this claim is acceptable and applicable.

Following Submissions in respect of claim No. 8 have been made on behalf of the Respondent in their Statement of Defense:

Preliminary Objection on Admissibility and Nature of the Claim: The Respondents respectfully submit that Claim No. VIII raised by the Claimant seeking Rs. 6,95,994/- for alleged extra work relating to “grooving and polishing of granite stone laid in stair treads” is not maintainable either in fact or in law. The claim is baseless, speculative, contradicted by the contractual documents, and appears to be a post-facto attempt to inflate costs.

2. Scope of Contractual Item – Fully Inclusive of the Claimed Work: The Claimant's claim is based on a misinterpretation of the relevant contractual provision—Item No. C-24 on page 116 of the Contract Agreement (Annexure R-10). This item reads: "Supplying of 15 mm to 18 mm thick slab of pre-polished granite stone as specified as per sample approved by the Engineer-in-Charge."

Note 1: Laying of granite will be paid under item no. HSR (14.95) & (14.96).
Note 2: Payment/Measurement will be made as per finished floor/wall etc. on actual basis."

The nomenclature of item clearly provides that the granite supplied was to be pre-polished and in accordance with samples approved by the Engineer-in-Charge. Further, the laying of granite—irrespective of the design, groove, or polish finish—is covered under HSR Items 14.95 and 14.96. These HSR items are composite items that include surface finishing, shaping, and installation in various configurations.

Thus, the grooves or polishing mentioned by the Claimant are neither separate nor non-schedule (NS) items; they are inherently part of the granite installation covered under the contract.

3. Quotation Relied on by Claimant is Irrelevant and Vague: The Claimant has relied upon a quotation dated 28.01.2025 (Annexure C-15) to support this claim. However, the alleged work was executed significantly earlier. The post-dated quotation undermines its credibility and suggests it is an afterthought, fabricated only to substantiate a speculative claim.

4. Conflicting Representations – HSR vs. Market Rate Claim: The Claimant has shown confusion in the nature of the claim itself. On one hand, the Claimant refers to HSR Item 14.82 in 47th RA Bill (which deals with groove cutting), yet he claims the amount on a market rate basis. It is not clarified whether this is an NS item or an HSR-based item. This inconsistency casts serious doubt on the bona fides of the claim and indicates a lack of documentary or contractual foundation.

Moreover, any claim under HSR 14.82 must be based on a distinct BOQ provision or separate NS approval—none of which exists in the present case. The inclusion of this claim in the 47th RA bill and then again in arbitration constitutes duplication and violates the principle against unjust enrichment.

6. Absence of Timely Objection or Claim – Waiver by Conduct
It is pertinent that the Claimant never raised any contemporaneous objection or request for extra item approval from the Engineer-in-Charge at the time of executing the staircase treads. There is no

correspondence, notice, or protest letter seeking additional compensation, nor is there any mention of grooves being excluded from Item C-24. Under the doctrine of waiver by conduct and as per Clause 24.1 of the Contract (Annexure R-6), the Claimant had a duty to raise such disputes within 14 days of the Engineer's decision. Failure to do so renders this claim time-barred and contractually non-justifiable.

6. Speculative Quantity – No Measurement Record Provided: The Claimant's stated quantity of 1950 RMT (running meters) is arbitrary, unsubstantiated, and unsupported by any measurement book (MB) entries, joint records, or site instructions. The absence of corroborative documentation or Engineer's certification makes the entire quantum unreliable and speculative. The Hon'ble Tribunal cannot entertain a claim based on vague estimations.

7. Claim Violates Section 28(3) of the Arbitration and Conciliation Act, 1996: As per Section 28(3) of the Act, the Tribunal is bound to decide in accordance with the terms of the contract and usage of trade. Entertaining an extra claim that is already covered by the contractual BOQ item (Item C-24 read with HSR 14.95 and 14.96) would violate this provision and amount to rewriting the contract. No arbitral discretion permits such deviation from express contract stipulations.

PRAYER FOR RELIEF: In light of the clear contractual language, absence of procedural compliance, speculative nature of the quantum claimed, and the legal position under Section 28(3) of the Arbitration and Conciliation Act, 1996, the Respondents respectfully pray that:

- Claim No. VIII be dismissed in its entirety;
- The costs of defending this baseless and speculative claim be awarded in favor of the Respondents;

Therefore. The Respondents respectfully pray that Claim No. VIII may be dismissed.

In their Rejoinder to Statement of Defense, the Claimant has contested Respondent's denial of claim No. 8:

Claim no 8, Annexure C-15 – Extra for making grooves in staircase and polishing of grooves, double nosing & head polishing.

The item no C-24 is for supplying of 15 to 18 mm thick slab of pre polished granite stone as specified as per sample approved by the engineer in charge. Note laying of granite will be paid under item no HSR 14.95 & 14.96. (2) Payment/measurement will be made as per finished floor/wall etc on actual basis.

This item is only for supply of polished granite stone. The laying & fixing is separate item at serial number no 37 based on HSR item no 14.95.

In BOQ item no C-24 and item 37 nothing has been mentioned for making groove, groove & head polishing in granite which is used by claimant in staircase.

This is the extra over item no C-24 and 37 of BOQ, executed by the claimant. Hence this extra item is payable to the claimant.

Following Submissions have been made on behalf of the Claimant during written arguments regarding claim No. 8:

Claim No 08 - Extra item laying and fixing of granite stone Double nosing and polishing. – The item was resubmitted on page number 71 of additional papers submitted. (Copy is attached for your reference.)

Following Submissions have been made on behalf of the Respondent during written arguments regarding claim No. 8:

Preliminary Objection on Admissibility and Nature of the Claim: The Respondents respectfully submit that Claim No. VIII raised by the Claimant seeking Rs. 6,95,994/- for alleged extra work relating to "grooving and polishing of granite stone laid in stair treads" is not maintainable either in fact or in law. The claim is baseless, speculative, contradicted by the contractual documents, and appears to be a post-facto attempt to inflate costs.

Scope of Contractual Item – Fully Inclusive of the Claimed Work: The Claimant's claim is based on a misinterpretation of the relevant contractual provision—Item No. C-24 on page 116 of the Contract Agreement (Annexure R-10). This item reads: "Supplying of 15 mm to 18 mm thick slab of pre-polished granite stone as specified as per sample approved by the Engineer-in-Charge."

Note 1: Laying of granite will be paid under item no. HSR (14.95) & (14.96). Note 2: Payment/Measurement will be made as per finished floor/wall etc. on actual basis."

The nomenclature of item clearly provides that the granite supplied was to be pre-polished and in accordance with samples approved by the Engineer-in-Charge. Further, the laying of granite—irrespective of the design, groove, or polish finish—is covered under HSR Items 14.95 and 14.96. These HSR items are composite items that include surface finishing, shaping, and installation in various configurations.

Thus, the grooves or polishing mentioned by the Claimant are neither separate nor non-schedule (NS) items; they are inherently part of the granite installation covered under the contract.

Conflicting Representations – HSR vs. Market Rate Claim: The Claimant has shown confusion in the nature of the claim itself. On one hand, the Claimant refers to HSR Item 14.82 in 47th RA Bill (which deals with groove cutting), yet he claims the amount on a market rate basis. It is not clarified whether this is an NS item or an HSR-based item. This inconsistency casts serious doubt on the bona fides of the claim and indicates a lack of documentary or contractual foundation.

Moreover, any claim under HSR 14.82 must be based on a distinct BOQ provision or separate NS approval—none of which exists in the present case. The inclusion of this claims in the 47th RA bill and then again in arbitration constitutes duplication and violates the principle against unjust enrichment.

Speculative Quantity – No Measurement Record Provided: The Claimant's stated quantity of 1950 RMT (running meters) is arbitrary, unsubstantiated, and unsupported by any measurement book (MB) entries, joint records, or site instructions. The absence of corroborative documentation or Engineer's certification makes the entire quantum unreliable and speculative. The Hon'ble Tribunal cannot entertain a claim based on vague estimations.

PRAYER FOR RELIEF: In light of the clear contractual language, absence of procedural compliance, speculative nature of the quantum claimed, and the legal position under Section 28(3) of the Arbitration and Conciliation Act, 1996, the Respondents respectfully pray that:

Claim No. VIII be dismissed in its entirety;

Arbitrator's Findings and determination of claim No. 8

During oral hearing, Claimant himself accepted that, this item has already been paid to him. **Therefore, I award NIL against this claim.**

Claim No. 9

Extra Item for chamfering on granite skirting and DADO top Patti amounting Rs. 6,80,050/-

Following Submissions have been made on behalf of the Claimant in their Statement of claims regarding claim No. 9:

Claim No .(IX)-Extra Item for chamfering on Granite. The item No.37 of BOQ on page No.105 is a HSR Item and the rates are for laying and fixing of Granite plain work only. Therefore the chamfering work on granite skirting and DODO Top Patti are to be at the market rate basis @.Rs.56.47 per Rmt Quantity executed 12042.68 Rmt. Amounting Rs.6,80,050/- . Hence this claim is acceptable and applicable.

Following Submissions in respect of claim No. 9 have been made on behalf of the Respondent in their Statement of Defense:

1. Preliminary Objection: Claim is Procedurally Barred and Not Maintainable The Respondents respectfully submit that Claim No. IX is not maintainable before this Hon'ble Tribunal as it is barred under Clause 24.1 of the Contract and was already rejected by the competent authority. The Superintending Engineer had unequivocally denied this claim vide letter No. UWD/21/289-91 dated 11.06.2021 (Annexure R-17). Under Clause 24.1 of the Contract (Annexure R-6, Page 51), it was incumbent upon the Claimant to refer this dispute to the Dispute Review Expert (DRE) within 14 days from the rejection.

The relevant clause provides:"If the contractor believes that a decision taken by the Engineer was either outside the authority given to the Engineer by the contract or that the decision was wrongly taken, the decision shall refer to the Dispute Review Expert as mentioned in the contract data within 14 days of the notice of the Engineer's decision."

The Claimant failed to take any such steps within the prescribed time. Thus, the claim is time-barred and ought to be dismissed on this ground alone.

2. Entire Scope Covered Under Contractual Item C-24 and HSR 14.95 / 14.96: The nature of the work alleged—chamfering on granite skirting and Dado top patti—is already covered within the scope of Item No. C-24 of the Contract Agreement (Annexure R-1, Page 116). The clause expressly

3. states:"Supplying of 15 mm to 18 mm thick slab of pre-polished granite stone as specified as per sample approved by the Engineer in charge.

Note 1: Laying of granite will be paid under item no. HSR (14.95) & (14.96). Note 2: Payment/Measurement will be made as per finished floor/wall etc. on actual basis."

Chamfering, polishing, shaping, and similar workmanship is standard and implied in the rate of laying granite under HSR 14.95 and 14.96, which are composite items. No additional payment is permissible unless the work was separately ordered and approved, which is not the case here.

3. PWD Specifications Confirm No Additional Payable for Chamfering: As per PWD Specification 14.13 (Page 475, Paras 10-11) and Specification 14.21 (Page 485, Paras 6-7) (Annexures R-2 & R-3), measurement is to be taken as per finished surface area, and no additional payment is provided for chamfering or edge work. The specifications clearly incorporate chamfering as standard finishing within the composite rate of laying granite. There is no basis in contract or technical specifications for carving out an extra item on this account.

4. Post-Dated Quotation and Arbitrary Quantity – No Evidentiary Value: The Claimant relies on a market quotation dated 28.01.2025 (Annexure C-16) to substantiate his rate. However, the alleged work was admittedly completed much earlier, rendering the quotation wholly retrospective and fabricated for the purposes of this arbitration. Moreover, the claimed quantity of 12,042.68 RMT has not been corroborated with any measurement book entries, certified site record, or engineer verification. It appears to be a speculative estimate, entirely unworthy of reliance.

5. Violation of Section 28(3) of the Arbitration and Conciliation Act, 1996: The Hon'ble Tribunal is required under Section 28(3) of the Arbitration and Conciliation Act, 1996 to decide disputes strictly in accordance with the terms of the contract and relevant trade usages. Entertaining this baseless claim for chamfering would amount to re-writing the Contract, which is legally impermissible.

PRAYER FOR RELIEF: In light of the above facts mentioned above, the Respondents respectfully pray that this Hon'ble Tribunal:

- Dismiss Claim No. IX as procedurally barred, factually unsubstantiated, and contractually untenable;
- Hold that the chamfering is covered under Item C-24 and HSR 14.95 / 14.96, with no scope for extra payment;

The Respondents respectfully pray that Claim No. IX may be dismissed

In their Rejoinder to Statement of Defense, the Claimant has contested Respondent's denial of claim No. 9:

Claim no 9, Annexure C-16 – Extra item for chamfering on granite skirting dado top patti.

The item no C-24 is supplying of 15 to 18 mm thick slab of pre polished granite stone as specified as per sample approved by the engineer in charge. Note: laying of granite will be paid under item no HSR 14.95 & 14.96. (2) Payment/measurement will be made as per finished floor/wall etc on actual basis.

This item in BOQ is only for supply of polished granite stone. The laying & fixing is separate item at serial number no 36 based on HSR item no 14.95 in BOQ item no C-24 and item 36 nothing has been mentioned for chamfering & polishing in granite skirting and patti over dado which is used by claimant in corridors and staircase.

This is the extra over item no C-24 and 36 of BOQ, executed by claimant. Hence this extra item is payable to the claimant.

Following Submissions have been made on behalf of the Claimant during written arguments regarding claim No. 9:

He relied upon his statement of claim and rejoinder.

Following Submissions have been made on behalf of the Respondent during written arguments regarding claim No. 9:

Preliminary Objection: Claim is Procedurally Barred and Not Maintainable

Entire Scope Covered Under Contractual Item C-24 and HSR 14.95 / 14.96: The nature of the work alleged—chamfering on granite skirting and Dado top patti—is already covered within the scope of Item No. C-24 of the Contract Agreement (Annexure R-1, Page 116). The clause expressly states: "Supplying of 15 mm to 18 mm thick slab of pre-polished granite stone as specified as per sample approved by the Engineer in charge.

Note 1: Laying of granite will be paid under item no. HSR (14.95) & (14.96). Note 2: Payment/Measurement will be made as per finished floor/wall etc. on actual basis."

Chamfering, polishing, shaping, and similar workmanship is standard and implied in the rate of laying granite under HSR 14.95 and 14.96, which are composite items. No additional payment is permissible unless the work was separately ordered and approved, which is not the case here.

PWD Specifications Confirm No Additional Payable for Chamfering: As per PWD Specification 14.13 (Page 475, Paras 10-11) and Specification 14.21 (Page 485, Paras 6-7) (Annexure R-2 & R-3), measurement is to be taken as per finished surface area, and no additional payment is provided for chamfering or edge work. The specifications clearly incorporate chamfering as standard finishing within the composite rate of laying granite. There is no basis in contract or technical specifications for carving out an extra item on this account.

Post-Dated Quotation and Arbitrary Quantity – No Evidentiary Value: The Claimant relies on a market quotation dated 28.01.2025 (Annexure C-16) to substantiate his rate. However, the alleged work was admittedly completed much earlier, rendering the quotation wholly retrospective and fabricated for the purposes of this arbitration. Moreover, the claimed quantity of 12,042.68 RMT has not been corroborated with any measurement book entries, certified site record, or engineer verification. It appears to be a speculative estimate, entirely unworthy of reliance.

PRAYER FOR RELIEF: In light of the above facts mentioned above, the Respondents respectfully pray that this Hon'ble Tribunal:

- Dismiss Claim No. IX as procedurally barred, factually unsubstantiated, and contractually untenable;
- Hold that the chamfering is covered under Item C-24 and HSR 14.95 / 14.96, with no scope for extra payment;

The Respondents respectfully pray that Claim No. IX may be dismissed

Arbitrator's Findings and determination of claim No. 9

Claimant Claims under Claim No.(IX)-Extra Item for chamfering on Granite. The item No.37 of BOQ on page No.105 is a HSR Item and the rates are for laying and fixing of Granite plain work only. Therefore the chamfering work on granite skirting and DODO Top Patti are to be at the market rate basis @.Rs.56.47 per Rmt. Quantity executed 12042.68 Rmt. Amounting Rs.6,80,050/-. Hence this claim is acceptable and applicable.

Respondent submitted as, Entire Scope Covered Under Contractual Item C-24 and HSR 14.95 / 14.96: The nature of the work alleged—chamfering on granite skirting and Dado top patti—is already covered within the scope of Item No. C-24 of the Contract Agreement (Annexure R-1, Page 116). The clause expressly states:"Supplying of 15 mm to 18 mm thick slab of pre-polished granite stone as specified as per sample approved by the Engineer in charge.

Note 1: Laying of granite will be paid under item no. HSR (14.95) & (14.96). Note 2: Payment/Measurement will be made as per finished floor/wall etc. on actual basis."

Chamfering, polishing, shaping, and similar workmanship is standard and implied in the rate of laying granite under HSR 14.95 and 14.96, which are composite items. No additional payment is permissible unless the work was separately ordered and approved, which is not the case here.

Respondent's plea is not correct here.

Written argument is just repetition of SOD.

BOQ items are only for supply of Granite, for laying & fixing:

HSR 14.95, laying and fixing granite stone in all shades 15mm to 18mm thick in skirting/dado, risers of steps, pillars and wall facing, laid in any pattern as specified over base of 12mm thick cement coarse sand mortar 1:3 and jointed with white cement slurry mixed with pigments to match the shade of granite including labour for fixing cramps pins and dowels etc. (excluding the cost of granite stone).
HSR 14.96 laying and fixing granite stone in all shades 15mm to 18mm thick in flooring, laid in any pattern as specified over base of 2mm thick cement coarse sand mortar 1:3 and jointed with white cement slurry mixed with pigments to match the shade of granite including labour for fixing cramps pins and dowels etc. (excluding the cost of granite stone).

After going through the analyses of above both labour items, it was found that, labour for Chamfering of edges of Granite is not included in these rates.
So, claim considered genuine and admissible, hence accepted. Quantity executed 12042.68 rm @ 56.47 amounting Rs. 6,80,050 is allowed. **Therefore, I award Rs. 6,80,050 against this claim.**

Claim No. 10

Exposed Brick work, brick work with non-modular fly ash bricks conforming to IS:12894 class designation 10 average compressive strength in super structure above plinth level up to floor V level in cement mortar 1:6 amounting Rs. 73,53,525/-

Following Submissions have been made on behalf of the Claimant in their Statement of claims regarding claim No. 10:

Claim No. X- Exposed Brick work brick work with non-modular fly ash bricks conforming to IS: 12894 class designation 10 average compressive strength in super structure above plinth level up to floor V level in cement mortar 1:6. Hence the claim of Rs. 73,53,525/- is acceptable and applicable.

Following Submissions in respect of claim No. 10 have been made on behalf of the Respondent in their Statement of Defense:

Preliminary Objection: Claim Not Maintainable and Time-Barred:

The Respondents submit that Claim No. X is legally not maintainable before this Hon'ble Tribunal as it was never raised or pursued by the Claimant during the execution of the work or at any appropriate stage, nor was any such claim referred to the Dispute Review Expert (DRE) as per Clause 24.1 of the Contract (Annexure R-6). The Claimant is barred from invoking arbitration in respect of claims that have not been disputed within the contractually stipulated framework.

DSR, no legal binding: There is no contractual provision or direction authorizing payment under DSR Item 6.34.2, nor has the Claimant substantiated that this alternate DSR item was expressly sanctioned for execution, especially when no instruction was passed by the Respondents to execute such item.

Contractual Specification: No Extra Payment for Face Work:

The relevant specification (Page 300 of the contract – Annexure R-18) clearly states that nothing extra is payable for face work in the case of exposed brick masonry. The contract contemplates a composite rate, inclusive of such finishes, unless a specific NS (non-scheduled) item is created and approved – which is not the case here.

Claim no. X is Vague, Unsupported and Based on Arbitrary Rate Differential: The Claim is calculated based on a deducted DSR rate (5096.49/m^3) and alleged underpayment at Rs. 2163/m^3, but there is no engineer-certified quantity, execution sheet, or basis for such computation. The Claimant has fabricated this claim ex post facto without contractual or evidentiary backing.

Violation of Section 28(3) of the Arbitration and Conciliation Act, 1996: Section 28(3) mandates that:"In all cases, the Arbitral Tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction."Granting relief in this claim would result in a deviation from the contractually agreed BOQ and would amount to re-writing the contract, which is impermissible under the Arbitration and Conciliation Act.

PRAYER FOR RELIEF: In view of the above mentioned facts, the Respondents respectfully pray that this Hon'ble Tribunal:

Dismiss Claim No. X as being barred by contract and limitation, untenable, unsubstantiated, and without legal or contractual foundation;

Therefore, The Respondents respectfully pray that Claim No. X may be dismissed.

In their Rejoinder to Statement of Defense, the Claimant has contested Respondent's denial of claim No. 10:

Claim no 10, Annexure C-17 – Extra item for exposed brick work for boundary wall.

As per specification number 11.1 page 300 brick work 1st class. – (8) The face joints shall be daily raked to minimum depth of 13 mm by raking tool during the progress of work when the mortar is still green, so as to provide proper key for the plaster or pointing to be done. Where in case of exposed brick work in cement or lime mortar, pointing is not provided as a separate item, the joints in each days works shall be struck by a separate mason following up the brick layers. This shall be paid for separately by superficial measurement as 'striking joints'. The striking of joints will conform to specification no 15.12.

The deep groove cut pointing is payable to the claimant which is clear from the specification of the brick work page no-3 point no 8 as mentioned in the specification above. Since there is no item in HSR for this work it is carried out by claimant. The rates of DSR are taken in the claim. The DSR rates are applicable everywhere in India and guiding also.

The rates have been taken from DSR and the work executed by claimant is different from normal brick work and pointing item, not included with the brick work.

This extra work is payable to the claimant.

Following Submissions have been made on behalf of the Claimant during written arguments regarding claim No. 10:

Claim no 10, Annexure C-17 – Extra item for exposed brick work for boundary wall.

As per specification number 11.1 page 300 brick work 1st class. – (8) The face joints shall be daily raked to minimum depth of 13 mm by raking tool during the progress of work when the mortar is still green, so as to provide proper key for the plaster or pointing to be done. Where in case of exposed brick work in cement or lime mortar, pointing is not provided as a separate item, the joints in each days works shall be struck by a separate mason following up the brick layers. This shall be paid for separately by superficial measurement as 'striking joints'. The striking of joints will conform to specification no 15.12.

The deep groove cut pointing is payable to the claimant which is clear from the specification of the brick work page no-3 point no 8 as mentioned in the specification above. Since there is no item in HSR for this work it is carried out by claimant. The rates of DSR are taken in the claim. The DSR rates are applicable everywhere in India and guiding also.

The rates have been taken from DSR and the work executed by claimant is different from normal brick work and pointing item, not included with the brick work.

This extra work is payable to the claimant.

Following Submissions have been made on behalf of the Respondent during written arguments regarding claim No. 10:

Preliminary Objection: Claim Not Maintainable: The claim is legally untenable as it is founded on a fundamental error. The Claimant has quantified its claim in cubic meters, whereas the governing contract specifications explicitly stipulate payment for this item to be paid in square meters to the extent of additional Labour. Therefore, Claimant have raised a wrong claim of such item which wholly outside the contractual terms is not tenable.

DSR, no legal binding: There is no contractual provision or direction authorizing payment under DSR Item 6.34.2, nor has the Claimant substantiated that this alternate DSR item was expressly sanctioned for execution, especially when no instruction was passed by the Respondents to execute such item.

Contractual Specification: No Extra Payment for Face Work:

The relevant specification (Page 300 of the contract – Annexure R-18) clearly states that nothing extra is payable for face work in the case of exposed brick masonry. The contract contemplates a composite rate, inclusive of such finishes, unless a specific NS (non-scheduled) item is created and approved – which is not the case here.

Claim no. X is Vague, Unsupported and Based on Arbitrary Rate Differential: The Claim is calculated based on a deducted DSR rate (5096.49/m^3) and alleged underpayment at Rs. 2163/m^3, but there is no engineer-certified quantity, execution sheet, or basis for such computation. The Claimant has fabricated this claim ex post facto without contractual or evidentiary backing.

Violation of Section 28(3) of the Arbitration and Conciliation Act, 1996: Section 28(3) mandates that: "In all cases, the Arbitral Tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction." Granting relief in this claim would result in a deviation from the contractually agreed BOQ and would amount to re-writing the contract, which is impermissible under the Arbitration and Conciliation Act.

PRAYER FOR RELIEF: In view of the above mentioned facts, the Respondents respectfully pray that this Hon'ble Tribunal:

Dismiss Claim No. X as being barred by contract and limitation, untenable, unsubstantiated, and without legal or contractual foundation;

Therefore, The Respondents respectfully pray that Claim No. X may be dismissed.

Arbitrator's Findings and determination of claim No. 10

Claimant claimed under Claim No. X- Exposed Brick work brick with non-modular fly ash bricks conforming to IS: 12894 class designations 10 average compressive strength in super structure above plinth level up to floor V level in cement mortar 1:6. Hence the claim of Rs. 73,53,525/- is acceptable and applicable.

Respondent submitted that, the relevant specification (Page 300 of the contract – Annexure R-18) clearly states that nothing extra is payable for face work in the case of exposed brick masonry. The contract contemplates a composite rate, inclusive of such finishes, unless a specific NS (non-scheduled) item is created and approved – which is not the case here.

Claim no. X is Vague, Unsupported and Based on Arbitrary Rate Differential: The Claim is calculated based on a deducted DSR rate(5096.49/m^3) and alleged underpayment at Rs. 2163/m^3, but there is no engineer-certified quantity, execution sheet, or basis for such computation. The Claimant has fabricated this claim ex post facto without contractual or evidentiary backing.

After hearing both parties and going through the documents submitted by both parties, it is found that claim is mispresented by unit of measurement, it cannot be considered. Hence, claim rejected.

Therefore, I award NIL against this claim.

Claim No. 11

Following Submissions have been made on behalf of the Claimant in their Statement of claims regarding claim No. 11:

Item No. XI- Providing and fixing M.S. clamps of approved design to PVC rain water pipes hanging on wall expose surface with fixing with big nails etc. with complete scaffolding etc. of any lead lift, material, Tools and plants etc. 100 mm. Hence the claim of Rs. 37,935/- is acceptable and applicable.

Following Submissions in respect of claim No. 11 have been made on behalf of the Respondent in their Statement of Defense:

Preliminary Objection: Claim is Time-Barred and Not Maintainable: The Respondents respectfully submit that Claim No. XI is not maintainable before this Hon'ble Tribunal, as the Claimant failed to raise this issue for reference to the Dispute Review Expert (DRE) within the limitation period specified under Clause 24.1 of the Contract (Annexure R-6). Accordingly, this claim is time-barred and lacks a cause of action for arbitration.

2. Scope of Work Already Covered Under BOQ Item No. 23: The work relating to the provision and fixing of PVC rainwater pipes, including all necessary fittings and fixtures, has been fully captured and paid under BOQ Item No. 21. The Claimant has already accepted and been compensated for this work at agreed contractual rates, which are inclusive of all required accessories, unless otherwise specified.

3. No Contractual Provision for Extra Payment for M.S. Clamps: The relevant specification in the contract clearly states that the rates for PVC rainwater pipes are inclusive of all necessary fittings and fixtures. There is no contractual provision or direction authorizing payment for M.S. clamps as a separate item, nor has the Claimant substantiated that this additional item was expressly sanctioned for execution.

4. Failure to Produce Evidence of Engineer's Instructions – Burden of Proof Not Discharged Under BSA: The Claimant has failed to provide any credible or cogent evidence demonstrating that the alleged work of providing and fixing M.S. clamps was executed upon express instruction or with prior written approval of the Engineer-in-Charge. The burden of proof lies on the party asserting the fact. Mere production of self-serving calculations does not satisfy this evidentiary burden.

5. Claim Based on Arbitrary Rate and Fabricated Quantity: The Claimant has provided no measurement records, engineer certifications, or site orders validating execution of this additional item. The rate of Rs. 55/- per clamp is a fabricated post-hoc analysis, and the claimed quantity remains unsubstantiated. The calculations are entirely speculative and devoid of contractual relevance.

6. Lack of Variation Order or NS Approval Under Clause 38.1 :No variation under Clause 38.1 of the Contract was issued in respect of this work. The clause empowers only the Engineer-in-Charge to modify specifications and issue NS rates, which was not done. Hence, the claim lacks both legal and contractual validity.

7. Violation of Section 28(3) of the Arbitration and Conciliation Act, 1996: This Hon'ble Tribunal must determine the matter strictly in accordance with the terms of the contract and applicable trade practices, as required by Section 28(3). Entertaining Claim No. XI would breach this mandate and distort the intent of the BOQ framework and shall amount to rewriting the contract.

PRAYER FOR RELIEF: In view of the above, the Respondents respectfully pray that this Hon'ble Tribunal:

Dismiss Claim No. XI as being time-barred, unsubstantiated, and without legal or contractual foundation;

Hold that BOQ Item No. 21 and the contractual specification fully encompass the work claimed;

Recognize that no express instruction or valid NS item exists to justify any additional entitlement;

Award costs of the proceedings in favour of the Respondents under Section 31A of the Arbitration and Conciliation Act, 1996;

And grant such other relief as may be deemed just and proper in the interest of justice.

Therefore. The Respondents respectfully pray that Claim No. XI may be dismissed

In their Rejoinder to Statement of Defense, the Claimant has contested Respondent's denial of claim No. 11:

Claim no 11 & 11A, Annexure C-18 & 19 – Providing and fixing MS clamps of approved design to pvc rain water pipe hanging on wall expose surface with fixing with big nails etc.

Item number 21 & 23 of BOQ is – Item no (21) Providing & fixing PVC Rain water pipe 6 kg. Pressure of ISI mark in cement mortar during masonry work. (A) 100 mm dia PVC pipe 6 kg. Pressure, Supreme, Finolex, Prince (HSR 13.89 (a) Item no-(23) Providing and fixing PVC Bend ISI mark. 100 mm dia PVC Bend Supreme, Finolex, Prince (HSR 13.90 (a).

This item provides for fixing of PVC rain water pipes during masonry work but we were directed to fix up rain water pipes & bends outside the masonry work by fixing the pipes with MS clamps.

The MS clamps were separately brought by claimant &Pvc pipe & bends were fixed with these MS clamps.

Since MS clamps were purchased from the market & fixed at site by labor. This item of providing and fixing MS clamps is totally separate item then the Boq item no 21 & 23 as such it is payable to the claimant.

Following Submissions have been made on behalf of the Claimant during written arguments regarding claim No. 11:

He relied upon his statement of claim and rejoinder.

Following Submissions have been made on behalf of the Respondent during written arguments regarding claim No. 11:

Scope of Work Already Covered Under BOQ Item No. 23: The work relating to the provision and fixing of PVC rainwater pipes, including all necessary fittings and fixtures, has been fully captured and paid under BOQ Item No. 23. The Claimant has already accepted and been compensated for this work at agreed contractual rates, which are inclusive of all required accessories, unless otherwise specified.

No Contractual Provision for Extra Payment for M.S. Clamps: The relevant specification in the contract clearly states that the rates for PVC rainwater pipes are inclusive of all necessary fittings and fixtures. There is no contractual provision or direction authorizing payment for M.S. clamps as a separate item, nor has the Claimant substantiated that this additional item was expressly sanctioned for execution.

Lack of Variation Order or NS Approval Under Clause 38.1 : No variation under Clause 38.1 of the Contract was issued in respect of this work. The clause empowers only the Engineer-in-Charge to modify specifications and issue NS rates, which was not done. Hence, the claim lacks both legal and contractual validity.

PRAYER FOR RELIEF: In view of the above, the Respondents respectfully pray that this Hon’ble Tribunal:

Dismiss Claim No. XI as being time-barred, unsubstantiated, and without legal or contractual foundation;

Hold that BOQ Item No. 21 and the contractual specification fully encompass the work claimed;

Recognize that no express instruction or valid NS item exists to justify any additional entitlement;

Award costs of the proceedings in favour of the Respondents under Section 31A of the Arbitration and Conciliation Act, 1996;

And grant such other relief as may be deemed just and proper in the interest of justice.

Therefore, the Respondents respectfully pray that Claim No. XI may be dismissed

Arbitrator's Findings and determination of claim No. 11

Claimant claims under this claim as - Providing and fixing M.S. clamps of approved design to PVC rain water pipes hanging on wall expose surface with fixing with big nails etc. with complete scaffolding etc. of any lead lift, material, Tools and plants etc. 100 mm. Hence the claim of Rs. 37,935/- is acceptable and applicable. Annexure C18.

Respondent stated that it has been covered under item C 23, but not correct.

BOQ item no. 23 (Page No. 266 of the agreement) is reproduced as under :
"Providing & fixing PVC Rain water pipe 6kg. pressure of ISI mark in cement mortar during masonry work. (B) 100 mm dia PVC pipe 6kg. pressure, Make- Supreme, Finolex, Prince "

For item providing & fixing 100 mm rain water pipe as above was to be paid as per HSR item (13.89 a) and Clamp was to be paid extra.

So, payment as per Annuxre C-18, 135x281=Rs. 37935/- is genuine and admissible, hence allowed. **Therefore, I award Rs 37,935/- against this claim.**

Claim No. 11(A)

Following Submissions have been made on behalf of the Claimant in their Statement of claims regarding claim No. 11(A):

Item No. XI-A Providing and fixing M.S. clamps of approved design to PVC rain water pipes hanging on wall expose surface with fixing with big nails etc. with complete scaffolding etc. of any lead lift, material, Tools and plants etc. 150 mm. Hence the claim of Rs. 75,435/- is acceptable and applicable.

Following Submissions in respect of claim No. 11(A) have been made on behalf of the Respondent in their Statement of Defense:

1. Preliminary Objection – Time-Barred Under Clause 24.1 :The Respondents submit that Claim No. XI-A is barred by limitation as per Clause 24.1 of the Contract (Annexure R-6). The Engineer-in-Charge rejected the non-schedule item through SE's letter No. UWD/21/289-91 dated 11.06.2021 (Annexure R-17).Despite being in clear knowledge of this rejection, the Claimant failed to refer the matter to the Dispute Review Expert (DRE) within the contractually prescribed 14 days. The failure to initiate dispute resolution as required renders this claim legally inadmissible before this Hon'ble Tribunal.

2. No Provision for Extra Payment in BOQ – Scope Already Covered: BOQ Item No. 22 at page 100 of the Agreement (Annexure R-19) governs the work of providing and fixing 150mm PVC rainwater pipes, which implicitly includes all necessary accessories required for proper installation unless specifically excluded. There is no contractual clause or BOQ note that separately authorizes reimbursement for clamps. Therefore, the claim lacks any contractual foundation.

3. No Instruction or Approval for NS Item – Burden of Proof Not Discharged: The Claimant has failed to submit any documentary evidence or written instruction from the Engineer-in-Charge demonstrating express approval to treat the clamps as a non-schedule (NS) item. The Law clearly imposes the burden of proof upon the party asserting such an entitlement. Mere self-serving assertions and retrospective quotations do not fulfill this evidentiary burden.

4. Fabricated and Vague Quotation Evidence: The quotations attached by the Claimant, particularly the one dated 15.01.2025 included in Annexure C-19, lack basic authenticity. Notably, one quotation does not even mention the vendor's address, raising serious questions about its genuineness. These documents were created post facto and are neither contemporaneous with the execution of work nor sanctioned by any site records or measurement books.

5. Violation of Contractual Process for NS Items: Under Clause 38.1 of the Contract, the Engineer-in-Charge alone has the authority to approve any additional item as NS along with rate fixation. The absence of any such formal order confirms that the claim was never recognized contractually. Hence, the NS rate relied upon is without legal sanction and fabricated solely for post-dispute enrichment.

6. Violation of Section 28(3) of the Arbitration and Conciliation Act, 1996: The Hon’ble Arbitral Tribunal is requested under Section 28(3) of the Act to adjudicate in accordance with the express terms of the contract and applicable trade usage. Entertaining this inflated and unsubstantiated claim would amount to re-writing the contract, contrary to the statutory mandate.

PRAYER FOR RELIEF: In light of the above detailed rebuttal, the Respondents respectfully pray that this Hon’ble Tribunal:

- Dismiss Claim No. XI-A as being time-barred, unsupported by any contractual or legal basis, and fabricated through post-facto records;
- Recognize that the relevant contractual BOQ item (Item No. 22) fully encompasses the claimed scope of work;
- Hold that no entitlement arises without express instruction or approval under the contract;

Therefore, The Respondents respectfully pray that Claim No. XIA may be dismissed

In their Rejoinder to Statement of Defense, the Claimant has contested Respondent’s denial of claim No. 11(A):

Claim no 11 & 11A, Annexure C-18 & 19 – Providing and fixing MS clamps of approved design to pvc rain water pipe hanging on wall expose surface with fixing with big nails etc.

Item number 21 & 23 of BOQ is – Item no (21) providing & fixing PVC Rain water pipe 6 kg. Pressure of ISI mark in cement mortar during masonry work. (A) 100 mm dia PVC pipe 6 kg. Pressure, Supreme, Finolex, Prince (HSR 13.89 (a) Item no-(23) Providing and fixing PVC Bend ISI mark. 100 mm dia PVC Bend Supreme, Finolex, Prince (HSR 13.90 (a).

This item provides for fixing of PVC rain water pipes during masonry work but we were directed to fix up rain water pipes & bends outside the masonry work by fixing the pipes with MS clamps.

The MS clamps were separately brought by claimant & Pvc pipe & bends were fixed with these MS clamps.

Since MS clamps were purchased from the market & fixed at site by labor. This item of providing and fixing MS clamps is totally separate item then the Boq item no 21 & 23 as such it is payable to the claimant.

Following Submissions have been made on behalf of the Claimant during written arguments regarding claim No. <u>11(A)</u>:

He relied upon his statement of claim and rejoinder.

Following Submissions have been made on behalf of the Respondent during written arguments regarding claim No. <u>11(A)</u>:

No Provision for Extra Payment in BOQ – Scope Already Covered: BOQ Item No. 22 at page 100 of the Agreement (Annexure R-19) governs the work of providing and fixing 150mm PVC rainwater pipes, which implicitly includes all necessary accessories required for proper installation unless specifically excluded. There is no contractual clause or BOQ note that separately authorizes reimbursement for clamps. Therefore, the claim lacks any contractual foundation.

No Instruction or Approval for NS Item – Burden of Proof Not Discharged: The Claimant has failed to submit any documentary evidence or written instruction from the Engineer-in-Charge demonstrating express approval to treat the clamps as a non-schedule (NS) item. The Law clearly imposes the burden of proof upon the party asserting such an entitlement. Mere self-serving assertions and retrospective quotations do not fulfill this evidentiary burden.

Fabricated and Vague Quotation Evidence:

Violation of Contractual Process for NS Items: Under Clause 38.1 of the Contract, the Engineer-in-Charge alone has the authority to approve any additional item as NS along with rate fixation. The absence of any such formal order confirms that the claim was never recognized contractually. Hence, the NS rate relied upon is without legal sanction and fabricated solely for post-dispute enrichment.

PRAYER FOR RELIEF: In light of the above detailed rebuttal, the Respondents respectfully pray that this Hon'ble Tribunal:

Dismiss Claim No. XI-A as being time-barred, unsupported by any contractual or legal basis, and fabricated through post-facto records;

Recognize that the relevant contractual BOQ item (Item No. 22) fully encompasses the claimed scope of work;

Hold that no entitlement arises without express instruction or approval under the contract;

Therefore, The Respondents respectfully pray that Claim No. XIA may be dismissed

Arbitrator's Findings and determination of claim No. 11(A)

Claimant claims under this claim as Providing and fixing M.S.clamps of approved design to PVC rain water pipes hanging on wall expose surface with fixing with big nails etc. with complete scaffolding etc. of any lead lift, material, Tools and plants etc. 150 mm. Hence the claim of Rs. 75,435/- is acceptable and applicable. Annexure C 19.

Respondent stated that it has been covered under item C 22, but irrelevant.

"Providing & fixing PVC Rain water pipe 6kg. pressure of ISI mark in cement mortar during masonry work. (B) 150 mm dia PVC pipe 6kg. pressure, Supreme, Finolex, Prince (HSR 13.89 b)"

The payment of Clamp was to be paid extra.

So, payment as per Annexure C-19, 235x321=Rs. 75435/-is genuine and admissible hence allowed. **Therefore, I award Rs. 75,435/- against this claim.**

Claim No. 12

Supply of Erection of GRC screens(Jali) in approved designs & sizes & 50mm thick manufactured containing alkali resistant glass fibre make NEG, Japan and fixing by dry cladding using SS cleats, SS threading rods, self trapping screws etc amounting Rs. 97,10,517/-

Following Submissions have been made on behalf of the Claimant in their Statement of claims regarding claim No. 12:

Claim S. No .XII-Item No.C-3 is NS item which was a profitable item in work. This is BOQ item. This work was for 13469 Sq. Mt. and cost of item was estimated for Rs.8,75,16,040/- . This work item was withdrawn on 22.3.2021 by the DSW because item was withdrawn on account of cost cutting. Claimant was ready to execute work of this item and earn at least profit @10%. Thus claim is raised for Rs.97,10,517/- .Copy of letter dated 22.3.2021 is filed and marked Annexure C-14.

Following Submissions in respect of claim No. 12 have been made on behalf of the Respondent in their Statement of Defense:

Preliminary Objection – Claim is Not Maintainable: The Respondents respectfully submit that Claim No. XII is not maintainable before this Hon'ble Tribunal. The Claimant's assertion for loss of anticipated profit due to the withdrawal of the GRC Jali work is speculative and lacks contractual foundation. The contract does not guarantee execution of all items listed in the Bill of Quantities (BOQ), and the withdrawal of any item, including the GRC Jali work, falls within the contractual rights of the Respondents.

Contractual Provisions Allowing Alterations and Omissions: Clause 38.1 of the Contract (Annexure R-20) explicitly empowers the Engineer-in-Charge to make any alterations, omissions, additions, or substitutions to the original specifications, drawings, designs, and instructions as may appear necessary or advisable during the progress of the work. The clause states:"The quantities of all items given in the Schedule are tentative. These can be increased or decreased as per working Architectural drawings/ structural's drawings & nothing extra shall be paid. The Engineer-in-Charge shall have power to make any alteration/ omission addition to or substitutions for the original specifications, drawing, designs and instructions that may appear to him to be necessary or advisable during the progress of the work..."

This provision clearly indicates that the quantities mentioned in the BOQ are tentative and subject to change. The withdrawal of the GRC Jali work was executed under this clause, and the Claimant is contractually bound to accept such changes without any claim for compensation or loss of anticipated profit.

No Contractual Right to Anticipated Profits: The Claimant's demand for anticipated profit at the rate of 10% on the withdrawn GRC Jali work is untenable. The contract does not provide any clause that entitles the contractor to claim anticipated profits on items that are omitted or altered. The Supreme

Court of India, in the case of M/s. Satish Builders vs Union of India (2025), has held that a contractor cannot claim compensation for loss of anticipated profits on the ground of omission of work by the employer when the contract provides for such omissions.

4 Doctrine of Mitigation of Losses: Even if, for the sake of argument, it is assumed that the Claimant had a legitimate expectation of profit from the GRC Jali work, the Claimant is under a duty to mitigate losses. The Claimant has not demonstrated any efforts made to mitigate the alleged loss, such as reallocating resources or seeking alternative work. This failure further weakens the claim.

5 Prayer for Relief: In view of the above, the Respondents respectfully pray that this Hon'ble Tribunal:

Dismiss Claim No. XII as being speculative, unsubstantiated, and lacking contractual basis;

Hold that the withdrawal of the GRC Jali work was within the contractual rights of the Respondents under Clause 38.1;

Declare that the Claimant is not entitled to any compensation for loss of anticipated profit on the withdrawn item;

Therefore, The Respondents respectfully pray that Claim No. XII may be dismissed.

In their Rejoinder to Statement of Defense, the Claimant has contested Respondent's denial of claim No. 12:

Claim no 12, Annexure C-20 – Loss on unexecuted item number C-3 supply and erection of GRC screen.

The claimed amount of this item is revised as Rs 6473921.00 which was initially claimed for Rs 9710517.00. Corrected copy is enclosed.

Following Submissions have been made on behalf of the Claimant during written arguments regarding claim No. 12:

Claim no 12- Loss on unexecuted item number C-3 supply & Erection of GRC screen. There was a difference in the quantity taken earlier in this item which was revised later. (Copy attached)

Following Submissions have been made on behalf of the Respondent during written arguments regarding claim No. 12:

Preliminary Objection – Claim is Not Maintainable: The Respondents respectfully submit that Claim No. XII is not maintainable before this Hon'ble Tribunal. The Claimant's assertion for loss of anticipated profit due to the withdrawal of the GRC Jali work is speculative and lacks contractual foundation. The contract does not guarantee execution of all items listed in the Bill of Quantities (BOQ), and the withdrawal of any item, including the GRC Jali work, falls within the contractual rights of the Respondents.

Contractual Provisions Allowing Alterations and Omissions: Clause 38.1 of the Contract (Annexure R-20) explicitly empowers the Engineer-in-Charge to make any alterations, omissions, additions, or substitutions to the original specifications, drawings, designs, and instructions as may appear necessary or advisable during the progress of the work. The clause states: "The quantities of all items given in the Schedule are tentative. These can be increased or decreased as per working Architectural drawings/ structural's drawings & nothing extra shall be paid. The Engineer-in-Charge shall have power to make any alteration/ omission addition to or substitutions for the original specifications, drawing, designs and instructions that may appear to him to be necessary or advisable during the progress of the work..."

This provision clearly indicates that the quantities mentioned in the BOQ are tentative and subject to change. The withdrawal of the GRC Jali work was executed under this clause, and the Claimant is contractually bound to accept such changes without any claim for compensation or loss of anticipated profit.

No Contractual Right to Anticipated Profits: The Claimant's demand for anticipated profit at the rate of 10% on the withdrawn GRC Jali work is untenable. The contract does not provide any clause that entitles the contractor to claim anticipated profits on items that are omitted or altered. The Supreme Court of India, in the case of M/s. Satish Builders vs Union of India (2025), has held that a contractor cannot claim compensation for loss of anticipated profits on the ground of omission of work by the employer when the contract provides for such omissions.

Doctrine of Mitigation of Losses: Even if, for the sake of argument, it is assumed that the Claimant had a legitimate expectation of profit from the GRC Jali work, the Claimant is under a duty to mitigate losses. The Claimant has not demonstrated any efforts made to mitigate the alleged loss, such as reallocating resources or seeking alternative work. This failure further weakens the claim.

Prayer for Relief: In view of the above, the Respondents respectfully pray that this Hon'ble Tribunal:

Dismiss Claim No. XII as being speculative, unsubstantiated, and lacking contractual basis;

Hold that the withdrawal of the GRC Jali work was within the contractual rights of the Respondents under Clause 38.1;

Declare that the Claimant is not entitled to any compensation for loss of anticipated profit on the withdrawn item;

Therefore, The Respondents respectfully pray that Claim No. XII may be dismissed.

Arbitrator's Findings and determination of claim No. 12

Claimant claimed under the Claim .No.XII- Item No.C-3 is NS item which was a profitable item in work. This is BOQ item. This work was for 13469 Sq. Mt. and cost of item was estimated for Rs.8,75,16,040/- . This work item was withdrawn on 22.3.2021 by the DSW because item was withdrawn on account of cost cutting. Claimant was ready to execute work of this item and earn at least profit @10%. Thus claim is raised for Rs.97,10,517/- .Copy of letter dated 22.3.2021 is filed and marked Annexure C-14.

Respondent submitted that, Contractual Provisions Allowing Alterations and Omissions: Clause 38.1 of the Contract (Annexure R-20) explicitly empowers the Engineer-in-Charge to make any alterations, omissions, additions, or substitutions to the original specifications, drawings, designs, and instructions as may appear necessary or advisable during the progress of the work. The clause states:"The quantities of all items given in the Schedule are tentative. These can be increased or decreased as per working Architectural drawings/ structural's drawings & nothing extra shall be paid. The Engineer-in-Charge shall have power to make any alteration/ omission addition to or substitutions for the original specifications, drawing, designs and instructions that may appear to him to be necessary or advisable during the progress of the work..."

This provision clearly indicates that the quantities mentioned in the BOQ are tentative and subject to change. The withdrawal of the GRC Jali work was executed under this clause, and the Claimant is

contractually bound to accept such changes without any claim for compensation or loss of anticipated profit.

No Contractual Right to Anticipated Profits: The Claimant's demand for anticipated profit at the rate of 10% on the withdrawn GRC Jali work is untenable.

After hearing both parties and going through the documents submitted by both parties, it is found correct that, agreement is item rate based agreement not an EPC contract. As per Clause 38.1, it is clear that, the Engineer-in-Charge is empowered to make any alterations, omissions, additions, or substitutions to the original specifications, drawings, designs, and instructions as may appear necessary or advisable during the progress of the work. The clause states:"The quantities of all items given in the Schedule are tentative. These can be increased or decreased. So, claim of 10% profit is not admissible to the Claimant, hence rejected. **Therefore, I award NIL against this claim.**

Interest demanded by Claimant:

Interest @ 12% per annum on Rs. 3,46,10,285/- on claims from the date 5.10.2020 of invoking arbitration till the date of payment may also be awarded.

Arbitrator's Findings and determination of claim regarding Interest:

No interest will be applicable if payment made within date of award + 90 days. 10% simple interest is allowed on awarded amount in claims No. 3,9,11 & 11A (Total amount Rs. 9,86,583/-) if payment not made within date of award + 90 days, then, interest will be applicable with effect from date of award.

COUNTER CLAIM:

Counter Claim No. 1: Cost of Arbitration, (For Recovery of Arbitration Costs, DRE Fees, and Legal Expenditures) subjected to actual expenditure.

Following Submissions have been made on behalf of the Respondent in their Counter Claim regarding Counter claim 1:

i). Nature of the Counter Claim: The Respondents hereby submit Counter Claim No. 1 for reimbursement of arbitration-related expenses, including but not limited to: Fees of the Hon'ble

Arbitrator; Fees and costs associated with the Dispute Review Expert (DRE);Advocate and legal counsel fees; Administrative costs borne by the Respondents in connection with defending the present proceedings; Documentation, consultancy, and technical report preparation fees.

ii). Legal ground for Cost of arbitration Recovery Under the Arbitration and Conciliation Act, 1996, particularly Sections 31(8)and 31A, the Arbitral Tribunal is empowered to award costs to a party, including: "reasonable costs relating to the arbitration, including fees and expenses of the arbitrators, legal fees and expenses, any other expenses incurred in connection with the arbitral or court proceedings."Given that the Respondents have been compelled to engage in protracted legal proceedings solely due to the Claimant's baseless, exaggerated, and procedurally barred claims, the Respondents are legally entitled to recover reasonable costs incurred for defending the matter.

iii). To Be Determined Based on Actual Evidence: The Respondent submit that the actual quantification of such costs will be: Substantiated by documentary evidence, including fee receipts, invoices, and internal expenditure reports; Presented during the evidence stage of the arbitration proceedings; Open for verification and cross-examination. Accordingly, the present Counter Claim is reserved on account of: Costs already incurred, and anticipated future expenses related to ongoing arbitration.

Following Submissions in respect of Counter Claim No. 1 have been made on behalf of the Claimant in their Reply to Counter Claim:

1. Part 1 of the counter claim for cost of arbitration and recovery of DRE fees and legal expenses is baseless counter claim and respondents are not entitled to get anything out of counter claim. Respondents themselves have dragged to the claimant in litigation and claims are genuine which respondents failed to settled therefore respondents are not entitled for any cost or expenses and fees etc. but claimant is entitled to recover the amount on account of all the expenses and legal charges etc. As already explained in earlier paras no reference was made to DRE inspite of request made by claimant. Appointment of DRE was challenged by the respondents.

2. Legal ground for cost of arbitration and recovery mentioned in sub para (ii) is also not maintainable. The suffering party only is entitled for reasonable costs not the offending party. Due to respondents' inaction and non-settlement of disputes and non-referring the matter to DRE claimant was forced to come into litigation therefore claimant is only entitled for all the expenses

3. including reasonable costs. Respondents are not entitled for any amount on this basis of this claim.

4. Respondents have also mentioned the determination base on actual evidence for claiming expenses which is sufficient that respondents are not even assured the amount of expenses they have actually incurred or will incur in future. Therefore all the expenses and costs claimed under this head is a futile exercise of useless claim. Therefore, counter claim is liable to be rejected with heavy costs.

5. Prayer clause under counter claim as prayed for is not awardable to the respondents nor they are entitled to take any amount under this head. Since they are not entitled for any expenses or other charges, therefore they are not entitled to claim interest. Prayer made is not sustainable.

6. In the last prayer clause respondents have also claimed Rs.7,81,55,111/- and interest there on which is not sustainable and respondents are not entitled to claim any amount to get on account of imposing liquidated damages (LD) nor they can recover such amount. Thus claim is baseless and prayer is not awardable.

It is therefore humbly prayed that the counter claim may please be rejected with costs.

In their Counter Reply to Rejoinder, the Respondent has contested reply to preliminary objection No.1

1. That the contents of para 1 of the Claimant's reply to the counter claim are denied in to being erroneous, misleading, and contrary to the contractual and factual record. The Respondents reiterate that Part 1 of the Counter Claim seeking costs of arbitration, legal expenses, and DRE-related expenses is valid and maintainable under law and contract. The allegations that the Respondents "dragged the Claimant into litigation" and are not entitled to any costs or fees are vehemently denied.

   It is submitted that Clause 24.1 of the contract governs the dispute resolution process and is a matter of record. As admitted by the Claimant, Shri Ashok Kumar Modi, Consultant

Engineer (Retired Chief Engineer), was appointed as the Dispute Review Expert (DRE) by office order dated 06.12.2019, as per Annexure C-4. However, the Claimant has suppressed the material fact that Shri A.K. Modi tendered his resignation from the position of Consultant Engineer, which was duly accepted by the Respondents on 04.09.2020. Consequently,

Shri Modi ceased to hold any official capacity under the contract thereafter. The resignation and its acceptance were within the knowledge of the Claimant. A copy of the office order relieving Shri A.K. Modi is annexed herewith as Annexure R-23.

Despite this, the Claimant, in violation of the contractual provisions and knowing fully that Shri Modi was no longer designated as Consultant Engineer or DRE, illegally approached him to refer disputes. Such a reference, made after the resignation and official relieve of Shri Modi, is void ab initio, without jurisdiction, and cannot be relied upon to satisfy the requirements of Clause 24.1. The DRE mechanism envisaged under the contract stands frustrated by the Claimant's improper and unilateral action.

It is further submitted that Clause 24.1 stipulates a strict timeline of 14 days for referring the decision of the Engineer to the DRE, failing which the decision of the Engineer is final and binding. The Claimant failed to adhere to this contractual procedure and sought to unlawfully revive the DRE mechanism long after it lapsed and without a valid DRE in place.

Therefore, the initiation of arbitration by the Claimant without exhausting the mandatory pre-arbitral procedure is procedurally defective and contractually barred. The subsequent legal expenses and costs incurred by the Respondents in defending this premature and flawed arbitration are wholly attributable to the Claimant's conduct, and the Respondents are justly entitled to recover the same under Section 31A of the Arbitration and Conciliation Act, 1996 and as per established principles of equity, fairness, and justice.

2. That the contents of para 2 of the Claimant's reply of counter claims are denied as being legally unsustainable, factually inaccurate, and contrary to the governing contractual terms and statutory principles. The assertion that only the "suffering party" is entitled to reasonable costs is a misstatement of law and ignores the established legal position under Section 31A of the Arbitration and Conciliation Act, 1996. The said provision empowers the Arbitral Tribunal to determine and

award costs based on the conduct of the parties, including any delay, obstruction, or non-compliance with procedural obligations.

It is submitted that the Claimant is not the "suffering party" but rather the offending party who initiated arbitral proceedings in complete violation of the mandatory dispute resolution process stipulated under Clause 24.1 of the contract. The Respondents have acted within the bounds of the contract and have at no stage hindered genuine dispute resolution. It was the Claimant who failed to lawfully pursue the DRE mechanism, deliberately referred disputes to an individual who had resigned, and thereby rendered the contractual process in fructuous.

Furthermore, the Claimant's unsubstantiated claim that the Respondents failed to settle the dispute or refer the matter to DRE is incorrect and misconceived. As explained in the previous para, the designated DRE had already ceased to hold office, and no mutually agreed substitute was ever nominated. The Claimant's unilateral and improper actions necessitated these proceedings, thus warranting that the Respondents be awarded all reasonable and incidental costs of arbitration and legal representation.

Therefore, the Respondents' counter claim for cost recovery is valid in law and fact, and denial of the same by the Claimant is an attempt to deflect liability for its own contractual breach.

3. That the contents of para 3 of the Claimant's reply of counter claims are denied in their entirety as being devoid of merit and based on conjecture. The assertion that the Respondents' counter claim lacks evidentiary support or clarity regarding actual or future expenses is erroneous and misleading.

The Respondents have provided a principled and legally sustainable basis for their claim for recovery of arbitration costs, legal expenses, and associated fees, which have been incurred or are bound to be incurred as a direct consequence of the Claimant's unjustified conduct and breach of contractual procedure. It is a settled principle under Section 31A of the Arbitration and Conciliation Act, 1996 that the Arbitral Tribunal is empowered to award costs based not merely on fixed quantification but also on a reasonable estimation of expenses incurred or reasonably expected to be incurred due to the other party's conduct.

It is submitted that the Respondents are not required to predetermine the exact quantum of future legal and arbitration-related expenses at this stage. The Tribunal is competent to assess and determine the quantum based on pleadings, submissions, and evidence presented during the proceedings. Hence, the allegation that the claim is "futile" or "useless" is baseless and unsupported by any legal precedent.

The prayer for rejection of the counter claim "with heavy costs" is itself unwarranted and contrary to the principles of equity and fairness. The counter claim stands on a sound legal foundation and deserves to be adjudicated on merits.

4. That the contents of para 4 of the Claimant's reply to counter claims are categorically denied. The Claimant's assertion that the prayer clause under the counter claim is not awardable and not sustainable is wholly without merit and contrary to established principles of arbitral jurisprudence.

It is reiterated that the Respondents have sought recovery of costs, legal charges, arbitration fees, and interest thereon in accordance with the Arbitration and Conciliation Act, 1996, particularly Section 31(7) and Section 31A. The law explicitly allows for the award of interest on sums found to be due and also permits the Tribunal to grant costs, including legal and administrative expenses, to the party that has been compelled to incur them due to the conduct of the opposing party.

The entitlement to interest on legitimate claims—whether arising from the principal claim or from counter claims—is well supported in law and is designed to compensate the suffering party for the time value of money and the unjustified retention or denial of rightful expenses.

The blanket denial by the Claimant, without addressing the basis and legal provisions under which the prayer is made, is unsustainable. The prayer clause of the counter claim is not only maintainable but fully justified based on the record and the procedural misconduct by the Claimant that necessitated the initiation and continuance of these proceedings.

5. That the contents of para 5 of the Claimant's reply are emphatically denied. The Respondents' counter claim for cost of arbitration is contractually justified, and maintainable in equity and law.

It is categorically submitted that the Respondents have not raised the issue of LD imposition as a dispute before this Tribunal. The LD was already imposed in accordance with Clause 49 of the General Conditions of Contract, and the Respondents merely reserved their right to recover the LD amount, which has been deferred at present and does not form part of the counter claim for adjudication. The respondents has claimed only the cost of arbitration as per the counter claim no.1. The amount of counter claim is subjected to actual expenditure already incurred or to be incurred.

The Claimant is attempting to misrepresent this reserved right of recovery as a "counter claim", which it is not. This mischaracterization is aimed at diverting attention from the fact that the Claimant itself failed to meet contractual timelines, resulting in the imposition of LD. The

Claimant has also deliberately concealed the LD imposition in its Statement of Claim, which is indicative of mala fide intent.

The delay in completion of work is admitted, and the entire delay is attributable solely to the Claimant, due to lack of planning, poor resource mobilization, and failure to complete the project by the stipulated date of 08.01.2020. The LD imposed @10% of the accepted contract value, amounting to ₹7,81,58,111/-, is a pre-agreed contractual remedy for such default.

It is denied that Liquidated Damages was never communicated to claimant, This LD was also duly communicated by email dated Oct 30,2021 at 15.53 Hrs., and copies of the imposition orders and related correspondence are annexed as Annexure R-24 Colly. Further, the reservation of the Respondents to claim this amount in the final bill is prayed. There has been no challenge to the LD under the dispute resolution process.

It is submitted that the Respondents' right to recover LD is further reinforced by Sections 55 and 74 of the Indian Contract Act, 1872. Section 55 entitles the respondent to compensation where time is of the essence and there is failure to perform. Section 74 permits recovery of a stipulated sum agreed as compensation for breach, without the necessity of proving actual damages. The imposition of LD under Clause 49 squarely fits within this legal framework.

Additionally, the actual losses suffered by the Respondents—due to delays, disruption of project timelines, administrative burdens, and reputational damage and inability to use building, go beyond the LD amount, though the Respondents have chosen not to seek additional damages under section 73 of Indian Contract act at this stage.

Accordingly, the claim for interest alone on the LD amount is a limited, justified, and lawful component of the counter claim, and is distinct from any new or disputed imposition of LD. The Claimant's attempt to label it as a "counter claim" for the principal LD is misleading and without legal basis.

Following Submissions have been made on behalf of the Respondent during arguments regarding Counter claim No. 1:

i.) Nature of the Counter Claim: The Respondents hereby submit Counter Claim No. 1 for reimbursement of arbitration-related expenses, including but not limited to:

Fees of the Hon'ble Arbitrator; @ Rs 383500.00

Advocate and legal counsel fees; @ Rs 143670.00

Administrative costs borne by the Respondents in connection with defending the present proceedings; @ Rs 25000.00

Documentation, consultancy, and technical report preparation fees. @ Rs 10000.00

Total= Rs 562170.00(proof attached)

ii). Legal ground for Cost of arbitration Recovery

Under the Arbitration and Conciliation Act, 1996, particularly Sections 31(8) and 31A, the Arbitral Tribunal is empowered to award costs to a party, including: "reasonable costs relating to the arbitration, including fees and expenses of the arbitrators, legal fees and expenses, any other expenses incurred in connection with the arbitral or court proceedings."

Given that the Respondents have been compelled to engage in protracted legal proceedings solely due to the Claimant's baseless, exaggerated, and procedurally barred claims, the Respondents are legally entitled to recover reasonable costs incurred for defending the matter.

iii). Actual Evidence enclosed: The Respondents submit that the actual quantification this claim is Rs 562170.00

- Substantiated by documentary evidence, including fee receipts, invoices, and internal expenditure reports;

- Presented during the evidence stage of the arbitration proceedings;

PRAYER FOR RELIEF (Counter Claim No. 1) The Respondents respectfully pray that:

- The Hon'ble Arbitral Tribunal may allow Counter Claim No. 1 in favor of Respondents and against Claimant; along interest @12 percent Per annum, pendentelite and post award interest of @12% per Annum after the date of award on counter claim no.1.

And such other relief be granted as deemed just and equitable in the interests of justice.

Following Submissions have been made on behalf of the Claimant during written arguments regarding reply to Counter claim No. 1:

He didn't replied.

Arbitrator's Findings and determination of Counter Claim No. 1

After hearing both parties and going through the documents submitted by both parties, I have reached on the conclusion that both parties are equally responsible for dispute created. Moreover, Claimant has to bear both side expenses of DRE due to confusion. So, counter claim cannot be considered genuine and admissible, hence rejected. **Therefore, I award NIL against this Counter Claim.**

AWARD

Whereas, dispute arose between the Claimant M/s Ess pee Construction, Plot No.30, Shiv Park, Ambabari, Jaipur-302039, through Partner and Director Student's Welfare-cum-Estate Officer, LUVAS, Hisar. (Employer) and Lala Lajpat Rai University of Veterinary and Animal Science, Hisar, through the Vice Chancellor. For the work of "CONSTRUCTION OF COLLEGE OF DAIRY SCIENCE AND TECHNOLOGY (CODST) & BOUNDARY WALL WITH 03 GATES OF NEW CAMPUS (1125 ACRE) LUVAS HISAR".

Hon'ble Punjab & Haryana High Court appointed me (Subhash Bhambhu) Sole Arbitrator vide order dated 12.08.2024 in Arbitration Case No.ARB-519-2021 (O&M) to resolve the matter.

Whereas, having held hearings on claims / disputes, when both the parties were represented & discussed the issues.

Now, therefore, I (Sole Arbitrator) have taken upon myself the burden of references & having heard both the parties on the claims/disputes to their full satisfaction in all aspects. I have deliberated fully & considered thought fully, the valid aspects placed before me by both parties & having duly applied my mind in the matter, have determined and decided there in.

I, accordingly hereby award the following in respect of Claims:

Claim No.1:-

Claim for Treads in stairs using single length (non-schedule). Extra item 1200 Sq. mts. @ Rs.622.75 per Sqm. Mt. Total claimed amounting Rs. 5,80,416/-

I award the Claim on account of reasons recorded here-in-before as NIL.

Claim No.2:-

Claim for execution of work V-Groove in DholpurStone cladding in boundary wall. This item is already included in Item No.26. No payment of this item was made to the claimant. Item rate paid to claimant was for HSR item @ 14.60 which does not include grooving. Whereas V-groove work was done, therefore the payment is claimed for V-groove in stone. V-Grooving work payment is not made although work was done as required and directed. Thus difference is claimed as per rate detailed in Item No.26 amounting Rs.7,05,669/-

I award the Claim on account of reasons recorded here-in-before as NIL.

Claim No.3:-

Extra for providing opening required size and shape for wash basin etc. This was an extra work for providing opening required size and shape for wash basin/kitchen plate form , vanity counter and similar location in marble/ granite/stone work including necessary holes for pillar tape etc. No payment of this item was released. Claim of this item is raised for. This work is included for molding, rubbing and polishing of cut edges etc. complete (DSR-8.5). Whole stone has to be paid as cut-piece stone removed will be a wastage and claimant has claimed for extra labour required to be carried out the DSR item No.8.5, Thus this is applicable and claim is acceptable amounting Rs. 1,93,163/-

I award the Claim on account of reasons recorded here-in-before for RS. 1,93,163/-

Claim No.4:-

Claim for difference between double charge vitrified and single charge tiles. Under this item No.32, page 102 of CA. There is no specification for vitrified tiles and single charge tiles. As per description of item double charge was directed to use for a long lasting finish. Claimant was directed to use vitrified double charge tiles which was not specified in item No.14.89. This claim is raised for using difference in double charge vitrified tiles which is applicable amounting Rs.13,63,670/-

I award the Claim on account of reasons recorded here-in-before as NIL.

Claim No.5:-

Cost of smooth concrete surface work is claimed. Work executed by special shattering material amounting Rs. 95,00,000/-

I award the Claim on account of reasons recorded here-in-before as NIL.

Claim No.6:-

Claiming charges of litigation and fees to DRE and Hon'ble Arbitrator as provided under Arbitration and Conciliation Act, 1996 amounting Rs. 30,00,000/-

I award the Claim on account of reasons recorded here-in-before as NIL.

Claim No-7:-

L&F ceramic & glazed tiles/vitrified tiles of any size of approved make in floor/dodos, laid in any pattern as specified over base of 3mm thick adhesive of reputed brands as per IS specifications 15477-2004 using 5 kg. adhesive per sqm. area of tiles and jointed with while cement slurry mixed with pigment to match the shade of tiles excluding cost of tiles amounting Rs. 37,13,911/-

I award the Claim on account of reasons recorded here-in-before as NIL.

Claim No-8:-

Extra Item laying and fixing of granite stone groove, groove and head polishing in stare case trade amounting Rs. 6,95,994/-

I award the Claim on account of reasons recorded here-in-before as NIL.

Claim No-9:-

Extra Item for chamfering on granite skarting and DADO top Patti amounting Rs. 6,80,050/-

I award the Claim on account of reasons recorded here-in-before for RS. 6,80,050/-

Claim No-10:-

Exposed Brick work brick work with non-modular fly ash bricks conforming to IS:12894 class designation 10 average compressive strength in super structure above plinth level upto floor V level in cement mortar 1:6 amounting Rs. 73,53,525/-

I award the Claim on account of reasons recorded here-in-before as NIL.

Claim No-11:-

Providing and fixing M.S. clamps of approved design to PVC rain water pipes hanging on wall expose surface with fixing with big nails etc. with complete scaffolding etc. of any lead lift, material, Tools and plants etc. 100 mm amounting Rs. 37,935/-

I award the Claim on account of reasons recorded here-in-before for RS. 37,935/-

Claim No-11(A):-

Providing and fixing M.S. clamps of approved design to PVC rain water pipes hanging on wall expose surface with fixing with big nails etc. with complete scaffolding etc. of any lead lift, material, Tools and plants etc. 150 mm amounting Rs. 75,435/-

I award the Claim on account of reasons recorded here-in-before for RS. 75,435/-

Claim No-12:-

Supply of Erection of GRC screens(Jali) in approved designs & sizes & 50mm thick manufactured containing alkali resistant glass fibre make NEG, Japan and fixing by dry cladding using SS cleats, SS threading rods, self trapping screws etc amounting Rs. 97,10,517/-

I award the Claim on account of reasons recorded here-in-before as NIL.

Interest demanded by Claimant:

Interest @ 12% per annum on Rs. 3,46,10,285/- on claims from the date 5.10.2020 of invoking arbitration till the date of payment may also be awarded.

No interest will be applicable if payment made within date of award + 90 days. 10% simple interest is allowed on awarded amount in claims No. 3,9,11 & 11A (Total amount Rs. 9,86,583/-) if payment not made within date of award + 90 days, then, interest will be applicable with effect from date of award.

COUNTER CLAIM

Counter Claim No. 1: Cost of Arbitration, (For Recovery of Arbitration Costs, DRE Fees, and Legal Expenditures) subjected to actual expenditure.

I award the Claim on account of reasons recorded here-in-before as NIL.

Subhash Bhambhu
Sole Arbitrator