सत्यमेव जयते

INDIA NON JUDICIAL

Chandigarh Administration

₹300

e-Stamp

Certificate No.	:	IN-CH61239004639282Y
Certificate Issued Date	:	27-Mar-2026 03:00 PM
Certificate Issued By	:	chsunkums
Account Reference	:	NEWIMPACC (GV)/ chspicg07/ E-SAMPARK SEC-43/ CH-CH
Unique Doc. Reference	:	SUBIN-CHCHSPICG0717512517393570Y
Purchased by	:	RAVINDER SINGH VIRDI
Description of Document	:	Article 12 Award
Property Description	:	Not Applicable
Consideration Price (Rs.)	:	0 (Zero)
First Party	:	PARAMHANS SECURITIES
Second Party	:	BSNL
Stamp Duty Paid By	:	PARAMHANS SECURITIES
Stamp Duty Amount(Rs.)	:	300 (Three Hundred only)

₹300

IN-CH61239004639282Y

Please write or type below this line

BEFORE THE ARBITRAL TRIBUNAL CONSISTING OF SH. S.K. GARG, DISTRICT & SESSIONS JUDGE (RETD.) AS SOLE ARBITRATOR

Arbitration Case No.157 Of 2024

Date of Award: 20.04.2026

M/s Paramhans Securities, through its Proprietor. Sh. BalwinderSingh Pannu, S.C.O. No. 9, Sector 30, Chandigarh-160009. ...Claimant

Versus

1. M/s Bharat Sanchar Nigam through the Assistant General Manager (H.R.) GMTD, BSNL T.E. Building, Sector 34, Chandigarh -160022.
2. Chief General Manager, Punjab Circle, M/s BSNLPlot No.2,Sector-2,Chandigarh-160022. ...Respondents

PF 0038440719

AWARD

Argued by: Sh. Ravinder Singh Virdi and Sh. Satwinder Singh, Advocates for the petitioner.
Sh. S.K. Khurcha advocate for the respondent.

1. The claimant, M/s Paramhans Securities, is a proprietorship concern engaged in providing manpower and security services to public sector undertakings. The respondents are Bharat Sanchar Nigam Limited (BSNL), a Government of India Public Sector Undertaking having its officesat Sector-34, Chandigarh.
2. The respondents had floated a limited tender for deployment of security guards and gunmen for telephone exchanges, telecom installations, store dumps and buildings in the Chandigarh Telecom District for the period 2013–2015. The claimant participated in the tender process and was declared the lowest bidder (L-1). Consequently, an agreement dated 31.08.2013 was executed between the parties whereby the claimant was awarded the contract for providing manpower services for the period from 01.09.2013 to 31.08.2015 in Chandigarh and Mohali. According to the claimant, the contractual obligations were duly performed in accordance with the terms of the agreement and no complaint regarding deficiency in service was raised during the subsistence of the contract.
3. The claimant states that the respondents subsequently extended the contract twice for a period of three months each, and the extended arrangement was to remain valid up to 29.02.2016 or till finalization of a new tender, whichever occurred earlier. However, the extension was terminated on 31.01.2016 after the respondents finalized a new tender and awarded the work to another agency with effect from01.02.2016.
4. The present dispute arose in connection with an alleged theft reported at the BSNL SSA Store located at Mohali. The claimant states that it received a communication dated 07.01.2016 from respondent No.1 alleging that theft of telecom equipment had occurred on 31.12.2015 at the said store and calling upon the claimant to explain why action should not be taken against it. A reminder dated 23.01.2016 was also issued. According to the claimant, the alleged incident was intimated to it after a delay of more than a week.

5. The claimant contends that the SSA store premises were spread over approximately 3.75 acres and were protected by multiple layers of security including steel gates, iron grills and barbed wire fencing. It is the claimant's case that the internal store area and godowns remained locked at all times and the keys were exclusively in the custody of the respondents' officials. The claimant's guards were posted only at the outer gate and were not permitted access to the store area. The process of sealing and opening the store gate was carried out by the respondents' officials and recorded in their daily registers.

6. The claimant denies any negligence or lapse on its part and submits that the alleged theft is stated to have taken place inside a locked godown which remained under the exclusive control of the respondents. According to the claimant, the dismantling and removal of batteries from telecom equipment would require specialized tools and considerable time, and the transportation of such a large quantity of material could not have occurred without the knowledge of persons having access to the store premises.

7. The claimant further submits that the respondents subsequently alleged that approximately 970 batteries had been stolen, resulting in a loss assessed at Rs. 14,90,890/-. The claimant asserts that earlier communications referred to a lower quantity and value of the alleged stolen items and that the figures were later increased. The claimant also alleges that a departmental inquiry was conducted by the respondents without providing the claimant an opportunity to participate or present its case, and that the findings of such inquiry were not shared with the claimant.

8. Thereafter, vide letter dated 14.10.2016, the respondents informed the claimant that the competent authority had approved recovery of the alleged loss from the claimant. A sum of Rs. 11,54,353/- was adjusted from the claimant's pending bills and the claimant was directed to deposit the remaining amount of Rs. 3,36,357/-. The claimant disputes the legality of the said recovery and contends that no inventory of store material was ever handed over to it and that it had no control over the materials stored inside the godown.

9. The claimant states that a FIR regarding the alleged theft was registered against unknown persons after a considerable delay and that the police ultimately submitted an untrace report. According to the claimant, several representations were thereafter submitted to the respondents seeking release of the recovered amount, but no response was received.

10. It is further stated that the claimant had earlier filed a civil suit for recovery before the Civil Judge (Senior Division), Chandigarh. The respondents raised an objection under Section 8 of the Arbitration and Conciliation Act, 1996 on the basis of the arbitration clause contained in the agreement. The said suit was subsequently dismissed in default and the restoration application was also dismissed.

11. Thereafter, the claimant invoked the arbitration clause by issuing a notice dated 01.11.2023 under Section 21 of the Arbitration and Conciliation Act, 1996 seeking appointment of a sole arbitrator. As the respondents did not accede to the request, the claimant approached the Hon'ble Punjab and Haryana High Court, pursuant to which the present arbitral tribunal was constituted to adjudicate the disputes between the parties.

12. In the present proceedings, the claimant has raised claims seeking setting aside of the recovery order dated 14.10.2016, refund of the amount of Rs. 11,54,353/- allegedly recovered from its bills along with interest, damages on account of the actions of the respondents, and costs of arbitration.

13. Upon notice the respondents appeared and filed statement of defence raising preliminary objections that the claim petition is not maintainable and has been filed on the basis of false documents and facts and without any cause of action. The dispute raised by the claimant is criminal in nature which falls outside the scope of arbitrable dispute under Indian Law. Present petition is barred by limitation and has been filed to get undue benefits from the respondent. On merits it is alleged that all the terms and conditions of the agreement were binding upon the claimant. The matter of theft was reported to the police without any delay vide D.D.R.no.18 dated 1.1.2016 though the F.I.R was registered on 31.03.2016. The theft in the store room of the respondents itself proves the deficiency of services by the claimant. Vide letter dated 17.03.2016

the police wasintimated regarding the theft of 970 batteries. It was the duty of the claimant to look after the area to prevent any untoward incident in the store. The responsibility of security of the store and to check the gate passes issued by the BSNL staff for entry and exit of the vehicles was of the claimant as per clause 27 and 35 of the agreement. As per clause 25 and 33 of the agreement it is the duty of the claimant to indemnify the respondents of the loss suffered by them due to theft in their store.

14. The departmental inquiry against the claimant was conducted in rightful manner as per CVO guidelines and in this regard questionnaire of 12 points was served upon the claimant and the same was replied through letter dated 23.06.16. When there was round the clock security at the front main gate of the store then how can the BSNL staff could move such large quantity of stolen items from the main gate. The claimant has raised frivolous and unjustified claims which deserve dismissal. Claim no 1 & 2 are barred by limitation. The deduction of the amount from the bills of the claimant is justified as per clause 25 of the agreement. The recovery was imposed after giving full opportunity to the claimant in the departmental inquiry. Claim no.4 has already been decided whereas claim no.3 is also liable to dismissed as there is no breach of contract on the part of respondents.

15. After denying the other averments, it has been prayed that claim petition be dismissed.

16. To prove its case the claimant examined Sh. Balwinder Singh Pannu proprietor of the claimant firm who tendered his affidavit and produced various documents including Ex. C-1 agreement, Ex. C-3 to C-5, C-7 to C-11, C-13 to C-17, C-12 recovery order, Ex.C-22 order of the court vide which closure report of FIR No. 50/2016 was accepted. On the other hand, the respondents examined RW-1 JTO Yogesh Guleria who in his cross examination admitted that the store area is surrounded by an 8-foot barbed wire fence with a steel gate that operates on a lock and key mechanism and that the keys of the gate remained with the officers of the respondents and the lock remained sealed. He further admitted that the security officials deputed by the claimant could not go inside the shed area protected by the barbed fencing. RW-2 RM Kuljeet Singh who

admitted that his duty was up to the gate only which is approximately 200 meters away from the store. RW-3 store keeper Brinder Kumar who admitted that control and access to the store inventories were with BSNL officials and keys were deposited with JTO/SDO in the evening and that the record of articles entering and leaving the store remained in his custody and that the store was open only when articles were to be stored or taken out. These facts as stated by this witness has also been admitted being correct by RW-1 as well. RW-4 AGM Planning sh. Manish Marhwal who joined in 2020 had no personal knowledge of the incident. He could not verify the authenticity of certain documents or the purchase date of the batteries.

17. I have heard the learned counsel for both the parties and have gone through the record/ evidence produced on the file by the parties as well as written arguments submitted by the parties.

18. The learned counsel for the respondents mainly argued that the dispute involves criminal charges relating to theft which is non-arbitrable as per the judgement of Hon'ble Supreme Court in Vidya Drolia v/s Durga Trading Corporation (2021) 2 SCC 1 and that the claim petition is barred by limitation and is based on false pleadings. The Learned counsel after referring Clauses 15, 25, 27, 33 and 35 of the agreement further argued that the security agency (claimant) is contractually liable to make good any loss/damage caused by the negligence and security lapse of the guards deputed by the agency. He further submitted that the theft took place during the claimant's deployment, so it is the claimant who was liable for the loss and that it was the security agency which was responsible for surveillance, access, control, and preventing theft. Furthermore, before making the recovery order proper departmental inquiry as per rules was conducted against the claimant. On the other hand, the learned counsel for the claimant has made submissions as per the pleadings of the claim petition.

19. Based on the pleadings, evidence and arguments of both the parties, the following points arise for determination:

    a. Whether the dispute raised by the claimant is arbitrable being criminal in nature and is within limitation?

b. Whether the respondents were justified in recovering Rs. 11,54,353/- from the claimant?

c. Whether the claimant is entitled to a refund of the recovered amount with interest?

d. Whether the claimant is entitled to damages amounting to Rs. 15,00,000/-?

e. Whether the claimant is entitled to the cost of arbitration?

POINT NO.1

20. The issue regarding the arbitrability of the dispute has already been decided vide my detailed order dated 20.08.2025 against the respondents. However, it has been argued by the ld. Counsel for the respondents that the claim petition is also barred by limitation. According to the ld. Counsel the cause of action for the first time arose in favour of the claimant on 14.10.2016 when he was intimated regarding recovery/adjustment of the loss of the respondents from the running bills of the claimant and thereafter when the last communication was made by the claimant on 01.02.2019 whereas the notice for appointment of arbitrator was given on 01.11.2023after delay of 4 years and 9 months. So, the present petition is hopelessly barred by limitation. On the other hand, it has been submitted by the ld. Counsel for the claimant that admittedly the claimant filed a civil suit no.1209 on 31.05.2019 with regard to the dispute between the parties and that suit was dismissed on 25.07.2023. The period spent in civil court is liable to be excluded for calculating the period of limitation as per provisions of section 14(2) of Limitation Act. So, by excluding that period the present petition is well within limitation.

21. Section 43 of Arbitration and Reconciliation Act provides that Limitation Act 1963 shall apply to arbitrations as it applies to proceedings in court. Article 55 of Schedule to limitation Act prescribes the period of limitation for breach of contract as three years. Section 14(2) of Limitation Act provides that in computing the period of limitation for any application the time for which the applicant has been prosecuting with due diligence and in good faith another civil proceedings against the same party for the same relief shallbe excluded. Admittedly the petitioner filed one civil suit no.1201 against the

respondents on 31.05.2019 for the same relief which has been sought in these proceedings and in that case the respondents filed objectionsu/s 8 of the Arbitration & Conciliation Act 1996 that the suit is not maintainable in view of the arbitration clause in the contract between the parties and that the claimant be directed to approach competent authority for the arbitration for getting its dispute resolved through the process of arbitration. The suit was ultimately dismissed on 25.07.2023. It is not the case of the respondents that the claimant had not prosecuted its case in the civil court in good faith. The objection regarding jurisdiction of the civil court was also taken by the respondents. In these circumstances the entire period w.e.f. 31.05.2019 to 25.07.2023 is liable to be excluded under section 14(2) of Limitation Act. After excluding the period spent in prosecuting the case in civil court, the present reference is found to be well within limitationas it is the case of the respondents themselves that the claimant gave notice for appointment of arbitrator on 01.11.2023. The Authority titled as BSNL and Another Versus M/S Nortel Networks India Pvt. Ltd. (Supreme Court) is of no help to the respondents as in that case it has been held that the period of limitation for issuing notice of arbitration would not get extended by mere exchange of letters or mere settlement discussions, where a final bill is rejected by making deductions or otherwise. This is not the position in the present case. Here the claimant has been found to be prosecuting for the same relief and against the same parties in the civil court in good faith whereas it was not so in the referred case. So, the facts in both the cases are different. Therfore the submission of the ld. Counsel for the respondents that the present petition is barred by limitation is rejected.

POINT NO.2

22. The main dispute between the parties revolves around the question whether BSNL was justified in recovering Rs. 11,54,353/- from the claimant's bills. The respondents relied on contractual clauses imposing responsibility on the security agency for losses due to negligence and security lapses. However, the evidence on record, particularly the cross-examination of the respondents' own witnesses, reveals a stark contradiction to their claims of the claimant's liability. RW-1 Yogesh Guleria and RW-3 Brinder Kumar have catagorically admitted that the

storage area was enclosed within fencing and locked gates and the keys strictly remained with BSNL officials and thatthe claimant's guards had no independent access to the storage area. Furthermore, inventory management and the issuance of materials were exclusively under the control of BSNL staff. This establishes that the physical custody and control over the alleged stolen items and the internal store premises rested solely with BSNL.If the storage area remained locked and entirely under the physical control of BSNL officials, it cannot be automatically presumed that the external security agency was negligent or responsible for the alleged theft. The duty of the claimant's guards was primarily external, at the main gate, and not within the inner, locked store area. There is no direct causal link established between the duties assigned to the claimant's security personnel and the internal theft from a secured BSNL-controlled facility.

23. Furthermore,the respondents failed to establish specific negligence by the guards deployed by the claimant. There is nothing on record that there is any violation of duty charts, or complicity of the claimant's personnel. Ex.R-4 is the duty chart of the security guards of the claimant from 27.12.2015 to 31.12.2015 produced by RW-1. This witness is also one of the signatories of this duty chart. This very witness alongwith other officials of respondents have found the duty performed by the security guards as satisfactory as is evident from the remarks at column no.3 underneath this chart. If the security staff had performed their duty satisfactorily then how can they be suspected to have committed theft. Then FIRno.50 got registered regarding theftby Mr. Manoj SDE(MM) was against unknown persons and ultimately an untraced/closure report was filed by the Police and Mr. Manoj SDE vide his statement dated 31.03.2017 recorded in the court expressed no objection to the untrace report submitted by the police and further expressed no objection if the untrace report is accepted by the court. On the basis of his statement the court of CJM Mohali accepted the untrace report on the same day (EX C-22). The respondents neither filed any objections in the court prior to the acceptance of closure report nor challenged the court order which indicates that even the police investigation could not pinpoint specific culpability, let alone negligence attributable to the claimant and that the

respondents were also satisfied that some unknown persons had stolen the articles as they never named the claimant agency during the police investigation. The respondents cannot be allowed to blow heat and cold in the same breath as at one time they are recovering lacs of Rupees on the pretext that theft has taken place because of the negligence and security lapses by the claimant agency and at the same time their SDE Mr Manoj who was the complainant in the FIR no 50 registered in this case categorically admitted in the court that the claimant agency has no role in the alleged theft and RW-1 Mr. Yogesh Guleria also found himself satisfied with the duty performed by the security staff on the day the alleged theft took place. So,in these circumstances how can the respondents pass order dated 14.10.2016 Annexure C-12 for recovery of Rs. 14,90,890/- from the claimant on the basis of report of Mr. Manoj SDE only.

24. Then no physical verification report of the stock lying in the store prior to the alleged theft has been produced to prove that the alleged stolen articles were actually lying in the store prior to the incident of theft. None of the witnesses examined by the respondents has stated as to when the last physical verification of the stock lying in the store was conducted. No reliable or convincing evidence has been produced to prove that the respondents wereinfect having the alleged stolen articles in their store on the date of alleged theft. So, there is no question of theft of any material the existence of which is not proved.

25. The inquiry conducted by the department was done without the claimant's participation, denying it a fair opportunity to present its case, to cross examine the witnesses and to challenge the accusations. The alleged inquiry report has neither been produced on the file nor shared with the claimant rendering the whole process procedurally flawed and its findings unreliable for imposing penalty. Therefore, it is held that the recovery notice of the amount of Rs. 14,90,890/- sent to the claimant is unjustified and illegal. Both these issues are therefore decided in favour of the claimants and against the respondents.

POINT NO. 3

26. Since the recovery has been held to be unjustified and illegal, the claimant is entitled to the refund of the recovered amount of Rs.

11,54,353/-. Under Section 31(7) of the Arbitration and Conciliation Act, 1996, the tribunal has the discretion to grant interest. The principle that a person deprived of money legitimately entitled to has a right to be compensated by way of interest is well-established, as held in *Secretary, Irrigation Department, Government of Orissa v. G.C.Roy, AIR 1992 SC 732*, and reiterated in *UHL Power Company Ltd. v. State of Himachal Pradesh, 2022 SCC OnLine SC 19*. While the claimant has prayed for interest @ 12% per annum, however considering the facts, circumstances, the nature of the dispute, and the delay involved, simple interest at the rate of 9% per annum from the date of the illegal recovery till the date of passing of this Award is considered reasonable and equitable.

ISSUE NO. 4

27. **Claim for Damages:**The claimant sought damages of Rs. 15,00,000/- alleging loss of reputation, honour, and a drastic decline in business turnover. While income tax returns were produced showing a reduction in turnover from Rs. 3.04 crores to zero, the claimant has not conclusively proved that this financial decline occurred solely and directly due to the actions of the respondents. Establishing a direct causal connection for unliquidated damages requires a higher standard of proof, which the evidence on record did not sufficiently meet. Business fluctuations can be influenced by various market factors, and the evidence presented was insufficient to attribute the entire decline directly and exclusively to the respondents' actions. Therefore, the claim for damages is rejected.

ISSUE NO. 5

28. **Cost of Arbitration:**The claimant has sought costs of arbitration. Given the findings of the Tribunal, where the claimant has largely succeeded in its primary claims, it is appropriate that the costs be borne equitably. The Arbitrator's fee and administrative expenses shall be shared equally by both parties. Each party shall bear its own litigation and legal costs. Since, admittedly, it is the claimant who paid the Arbitration Fee on behalf of the respondents, so claimant is entitled to recover Rs. 99,975/- from the respondents.

FINAL AWARD

29. In view of the findings recorded above, the Tribunal passes the following Award:

    a. The impugned recovery order issued by the Respondents, is hereby set aside.

    b. The Respondents are directed to refund the illegally recovered amount of Rs. 11,54,353/- (Rupees Eleven Lakhs Fifty-Four Thousand Three Hundred Fifty-Three Only) to the Claimant.

    c. The Claimant shall be entitled to simple interest @ 9% per annum on the aforesaid amount of Rs. 11,54,353/- from the date of its deduction/recovery (i.e.15.10.2016) till the date of the passing of the award.

    d. The claim for Rs. 15,00,000/- towards unliquidated damages is hereby rejected.

    e. Each party shall bear its own litigation, administrative expenses and legal costs. However, the claimant is entitled to recover Arbitrator's fee of Rs. 99,975/- Paid by the claimant on behalf of the respondents, from the respondents, alongwith interest @ 9% per annum from 22.09.2025 (when the claimant paid the fee on behalf of the respondents) till the passing of the Award.

30. The respondents are directed to make the payment of the Awarded amount and interest to the claimant within three months from the receipt of the Award failing which they shall be liable to pay interest @ 12% per annumfrom the date of Award till actual payment.

31. The undersigned shall weed out the record of this case after six months of the publication of this award. In case any party decide to move to the court for judicial redressal, the party concerned shall intimate the undersigned by speed post and e-mail regarding their intention to do so. The party concerned shall also intimate the undersigned about filing of the petition in the court. Thereafter the record will be preserved for filing the same in the court. If the party fails to do so then they will be wholly and squarely responsible for the consequences due to the weeding of Arbitral Records.

32. The Award has been made and signed today i.e. on 20.04.2026 and incorporated on a judicial stamp paper of Rs. 300/- provided by the

claimant. The claimant shall have the correct value of the stamp paper adjudicated & make up the shortfall, if any.

Chandigarh
Dated:20.04.2026

(SANJEEV KUMAR GARG)
SOLE ARBITRATOR