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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgment reserved on: 12.03.2026***
Judgment pronounced on: 01.04.2026

\+ O.M.P.(MISC.)(COMM.) 384/2024, I.A. 10888/2024 (Ex.) & I.A. 38745/2024 (Stay)

SP SINGLA CONSTRUCTIONS PVT LTD .....Petitioner

Through: Mr. Anirudh Wadhwa, Mr. Kartik Gupta and Mr. Vibhu Pahuja, Advocates.

versus

STATE OF JHARKHAND & ANR. .....Respondents

Through: Mr. Sachin Kumar, Additional Advocate General, Mr. Kumar Anurag Singh and Mr. Zain A. Khan, Advocates, for Respondent No. 1.
Ms. Astha Sharma and Mr. Nikhil Anand, Advocates, for Respondent No. 2.

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. The present Petition has been instituted under Sub-sections (4) and (5) of Section 29A of the **Arbitration and Conciliation Act, 1996**[1], *inter alia*, seeking the regularisation of the period commencing from 03.12.2023 and the grant of a further extension of twelve

[1] A&C Act

months, or such period as this Court may deem fit and appropriate, for the continuation of the mandate of the learned Arbitral Tribunal.

2. At the outset, it is noted that Respondent No. 1 has raised a preliminary objection with respect to the jurisdiction of this Court, which has been duly contested by the Petitioner. It is evident that, should the objection as to jurisdiction be sustained in the present adjudication, the Petition itself would not survive for consideration, and consequently, the reliefs sought by the Petitioner herein would not be liable to be granted.

BRIEF FACTS:

3. Shorn of unnecessary details, the material facts germane to the institution of the present Petition are set out hereunder:

(a). The parties entered into an **Agreement dated 25.05.2019**[2] for the '*Construction of a 4-Lane Elevated Corridor with Cable-Stayed Bridge and Approach Road for Anna Chowk-Gobindpur Bypass Road at Jamshedpur, having a total length of 1540 metres, on EPC mode*'.

(b). Alleging certain breaches on the part of the counterparty, the Agreement came to be terminated *vide* Termination Notice dated 22.10.2020. Consequently, the Petitioner issued a Notice dated 14.01.2021 under Section 21 of the A&C Act, invoking arbitration and seeking reference of the disputes to an Arbitral Tribunal.

(c). In the *interregnum*, it is the Petitioner's case that Respondent No. 1 failed to release the performance security furnished under the Agreement. The Petitioner was, therefore, constrained to

[2] Agreement

seek interim protection by filing a Petition under Section 9 of the A&C Act. *Vide* Order dated 27.01.2021, this Court issued notice in the said Petition and directed maintenance of *status quo*, till the next date of hearing, i.e., 04.03.2021, in respect of the Performance Bank Guarantee furnished by the Petitioner for an amount of Rs. 6,93,85,000/-.

(d). On the next date of hearing, i.e., 04.03.2021, the said Section 9 Petition came to be withdrawn by the Petitioner on instructions.

(e). Thereafter, *vide* letter dated 03.06.2022, the **Society for Affordable Redressal of Disputes**[3] constituted the learned Arbitral Tribunal and appointed Mr. Justice Vidya Bhushan Gupta (Retd.) as the learned Sole Arbitrator to adjudicate the disputes between the parties.

(f). Pursuant thereto, the Petitioner filed its Statement of Claim before the learned Arbitrator on 30.09.2022.

(g). In the meantime, Respondent No. 1 instituted Writ Petition No. 3609/2022 before the Jharkhand High Court, challenging the constitution of the learned Arbitral Tribunal. The said writ petition came to be dismissed as not maintainable *vide* Order dated 03.01.2023. The Jharkhand High Court, however, observed that such a challenge could appropriately be raised before the learned Arbitral Tribunal by way of an application under Section 16 of the A&C Act.

(h). In light of the aforesaid, Respondent No. 1 filed an application under Section 16 of the A&C Act on 05.01.2023, which came to be dismissed by the learned Arbitral Tribunal *vide* Order dated 08.08.2023.

[3] SARODE

(i). Thereafter, Respondent No. 1 filed its Statement of Defence and also preferred counterclaims. The said counterclaims were, however, dismissed by the learned Arbitrator *vide* Order dated 05.10.2023 on account of non-payment of fee.

(j). The Petitioner thereafter filed its Rejoinder along with the Affidavit of Admission and Denial, which were taken on record on 30.11.2023.

(k). Respondent No. 1, in turn, filed its Affidavit of Admission and Denial on 07.02.2024.

(l). On the same date, i.e., 07.02.2024, the learned Arbitral Tribunal sought the consent of the parties for extension of its mandate by a further period of six months with effect from 03.12.2023. However, the learned counsel for Respondent No. 1 submitted that he would need to seek instructions in this regard.

(m). On the subsequent date of hearing, i.e., 05.03.2024, the learned Arbitral Tribunal directed the Petitioner to file an appropriate application seeking extension of the Tribunal's mandate, in view of Respondent No. 1's continued stand of requiring instructions.

(n). Upon such application being filed, Respondent No. 1 declined to accord its consent for extension of the mandate of the learned Arbitral Tribunal, *inter alia*, on the ground that once the mandate had lapsed, the same could not be extended by mutual consent of the parties.

4. In these circumstances, the Petitioner has preferred this Petition under Section 29A of the A&C Act seeking appropriate orders from this Court.

SUBMISSIONS BY THE PARTIES:

5. Learned **Additional Advocate General**[4] appearing for Respondent No. 1-State would raise a preliminary objection as to the maintainability of the present Petition, contending that the same is not maintainable before this Court for want of jurisdiction. In support of this contention, reliance would be placed upon Article/Clause 27 of the Agreement, being the jurisdiction clause, which unequivocally stipulates that the courts at Ranchi shall have exclusive jurisdiction in respect of all matters arising out of or relating to the Agreement.

6. It would be further submitted that Clause 26 of the Agreement, which governs dispute resolution, and in particular Clause 26.3(ii)(d) thereof, provides that the venue of arbitration shall be at Ranchi. According to the learned AAG, a conjoint reading of the aforesaid clauses clearly establishes that the courts at Ranchi alone would have territorial jurisdiction to entertain disputes arising between the parties, thereby excluding the jurisdiction of the courts at Delhi.

7. In order to buttress the aforesaid submissions, learned counsel for Respondent No. 1 would place reliance upon the judgment of the Hon'ble Supreme Court in ***BGS SGS SOMA JV v. NHPC***[5].

8. ***Per Contra,*** learned counsel appearing for the Petitioner would submit that the present Petition is maintainable before this Court and that this Court possesses the requisite territorial jurisdiction to entertain the same.

9. It would be contended that this Court had, on an earlier occasion, entertained and adjudicated upon a Petition filed by the Petitioner under Section 9 of the A&C Act, and in view thereof, it

[4] AAG
[5] (2020) 4 SCC 234

would be urged that the objection raised by Respondent No. 1 is barred by virtue of Section 42 of the A&C Act, which mandates that once a Court has been approached in relation to an arbitration agreement, all subsequent applications arising out of the same agreement must be made before that very Court.

10. It would be further submitted that the reliance placed by the learned AAG on the exclusive jurisdiction clause, i.e., Clause 27 of the Agreement, is misplaced. Attention would be drawn by Petitioner to the Dispute Resolution Clause, particularly Clause 26.3(i), which provides that disputes not resolved amicably through conciliation shall be referred to arbitration '*in accordance with the Rules of the Society for Affordable Redressal of Disputes (SAROD)*'.

11. Learned counsel for the Petitioner would then place reliance upon Rule 23.1 of the SAROD Rules to contend that the seat of arbitration is designated as New Delhi. It would thus be argued that, since the parties have expressly agreed to be governed by the SAROD Rules, the seat of arbitration as stipulated therein would prevail, thereby conferring jurisdiction upon the courts at New Delhi.

12. Learned counsel for the Petitioner would further submit that it is a well-settled principle of law that, in the event of a conflict between a broad or general exclusive jurisdiction clause and a clause designating the seat of arbitration, primacy must be accorded to the latter, and this is for the reason that the designation of the seat of arbitration carries with it the legal consequence of conferring exclusive supervisory jurisdiction upon the courts of the seat.

13. In support of this proposition, reliance, by the learned counsel for the Petitioner, would be placed upon the judgment of the Madras High Court in ***Balapreetham Guest House (P) Ltd. v. Mypreferred***

Transformation and Hospitality (P) Ltd.[6], as well as the decisions of the Coordinate Benches of this Court ***Manmohan Kapani v. Kapani Resorts (P) Ltd.***[7] and ***Devyani International Ltd. v. Siddhivinayak Builders and Developers***[8].

14. Learned counsel for the Petitioner, in conclusion, would submit that in light of the material placed on record, this Court is duly vested with the jurisdiction to entertain the present Petition, and, therefore, would pray that the present Petition be allowed and the mandate of the learned Arbitral Tribunal be extended in terms of the reliefs sought herein.

15. ***In rebuttal,*** learned AAG for Respondent No. 1 would submit, on the aspect of the earlier Section 9 Petition relied upon by the Petitioner, that no adjudication on merits was ever undertaken by this Court in the said proceedings. It would be contended that the order passed on the first date of hearing was purely *ex parte*, rendered in the absence of and without participation by Respondent No. 1, and furthermore, the said Petition itself came to be withdrawn on the very next date of hearing by the Petitioner.

16. In such circumstances, it would be urged by the learned AAG that there was no adjudication on merits under Section 9 of the A&C Act. It would further be submitted that a petition which is withdrawn without adjudication, particularly in the context of arbitration proceedings, ceases to exist in the eyes of the law and, therefore, cannot be relied upon to anchor jurisdiction before this Court under Section 42 of the A&C Act.

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[6] (2021) 1 HCC (Mad) 515
[7] 2023 SCC OnLine Del 1618
[8] 2017 SCC OnLine Del 11156

17. Learned AAG would further submit that the Agreement executed between the parties does not expressly designate any "seat" of arbitration. According to him, the Agreement merely stipulates that disputes, once referred to arbitration, shall be governed by the Rules of the SAROD, which, in itself, does not *ipso facto* imply that the seat indicated in the SAROD Arbitration Rules would automatically become the juridical seat of arbitration.

18. It would further be contended that there exists a catena of judicial precedents to the effect that, in the absence of an express designation of the "seat" in the agreement, the "venue" of arbitration may, depending on the facts and intention of the parties, be construed as the seat.

19. Expanding upon the aforesaid submissions, learned AAG would argue that the Agreement, as consciously executed between the parties, makes a dual reference to "Ranchi", *first*, as the venue of arbitration, and *second*, as the place whose courts shall have exclusive jurisdiction. It would thus be contended that the intention of the parties is manifest and unequivocal, *namely*, to vest exclusive jurisdiction in the courts at Ranchi.

ANALYSIS:

20. This Court has heard learned counsel for the parties at considerable length. With the able assistance rendered by them, the Court has also carefully perused the material placed on record, including the pleadings, documents, and the judicial precedents relied upon during the course of arguments.

21. Upon hearing learned counsel for the parties on the preliminary issue of jurisdiction, which arises at the very outset for consideration,

this Court is of the view that the following broad questions fall for determination:

I. Whether the Petition under Section 9 of the A&C Act, filed by the Petitioner before this Court in January 2021, prior to the constitution of the learned Arbitral Tribunal, in the facts and circumstances of the present case, would operate so as to vest or seize jurisdiction in the courts at New Delhi in terms of Section 42 of the A&C Act; and

II. If the aforesaid question is answered in the negative, whether the juridical seat of arbitration, as contemplated under the SAROD Arbitration Rules, would prevail over the other clauses in the Agreement designating the "venue" of arbitration and conferring "exclusive jurisdiction", for the purpose of determining the court vested with supervisory jurisdiction over the arbitral proceedings.

22. Turning first to the submission regarding the filing of the petition under Section 9 before this Court, it is apposite, for the sake of clarity and convenience, to extract Section 42 of the A&C Act, which reads as follows:

> "**42. Jurisdiction.-** Notwithstanding anything contained elsewhere in this Part or in any other law for the time being in force, where with respect to an arbitration agreement any application under this Part has been made in a Court, that Court alone shall have jurisdiction over the arbitral proceedings and all subsequent applications arising out of that agreement and the arbitral proceedings shall be made in that Court and in no other Court."

23. Section 42 of the A&C Act essentially stipulates that once an application concerning an arbitration agreement is made before a "Court" of competent jurisdiction, that Court alone shall exercise jurisdiction over the arbitral proceedings and all subsequent

applications arising out of the arbitration agreement and the arbitral process.

24. However, within the scheme of the A&C Act, Section 42 is not intended to vest exclusive jurisdiction in a court merely by virtue of the fortuitous, premature, or tactical filing of an application under Part I. The underlying legislative intent is to prevent multiplicity of proceedings and to ensure procedural certainty and consistency, but only after a court of competent jurisdiction has validly and lawfully assumed seisin of the matter. Consequently, the jurisdiction contemplated under Section 42 of the A&C Act must be real, effective, and legally sustainable, and cannot be founded upon a jurisdictional assumption that is illusory, contrived, or inherently lacking in competence.

25. The expression "*has been made in a Court*" occurring in Section 42 assumes considerable significance, as it necessarily requires a determination of what qualifies as a "*Court*" for the purposes of the A&C Act. This determination is not left to general notions of jurisdiction, but is specifically governed by Section 2(1)(e) of the Act, which provides an exhaustive and determinative definition of the term "Court" as under:

> "**2. Definitions.** - (1) In this Part, unless the context otherwise requires, -
> (e) "Court" means –
> (i) in the case of an arbitration other than international commercial arbitration, the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any Civil Court of a grade inferior to such principal Civil Court, or any Court of Small Causes;
> (ii) in the case of international commercial arbitration, the High Court in exercise of its ordinary original civil jurisdiction, having

> jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, and in other cases, a High Court having jurisdiction to hear appeals from decrees of courts subordinate to that High Court;"
>
> ***(emphasis supplied)***

26. A plain and contextual reading of the said definition makes it manifest that the term "*Court*" refers to the principal civil court of original jurisdiction in a district, or, where applicable, a High Court exercising ordinary original civil jurisdiction, provided such court is competent to adjudicate the subject-matter of the arbitration as if it were a civil suit. The provision expressly excludes courts subordinate to such principal civil court, as well as Courts of Small Causes.

27. The determinative test, therefore, is whether the forum in question possesses the requisite subject-matter, territorial, and pecuniary jurisdiction to entertain and decide the dispute forming the subject-matter of the arbitration. In the context of domestic arbitration, this would ordinarily denote the principal civil court at the district level; however, in jurisdictions such as Delhi, Mumbai, Kolkata, Chennai, and Himachal Pradesh, where High Courts exercise ordinary original civil jurisdiction, such High Courts would also qualify as the "*Court*" within the meaning of the A&C Act, subject to the applicable pecuniary thresholds. Thus, the expression "Court" for the purposes of Section 42 must be understood as the forum which is otherwise competent to entertain the dispute in terms of Section 2(1)(e) of the Act.

28. The phrase "*having jurisdiction to decide the questions forming the subject-matter of the arbitration*" further reinforces that only a court vested with complete and lawful jurisdiction, encompassing subject-matter, territorial, and pecuniary competence, can validly

assume supervisory authority over arbitral proceedings under the A&C Act. In the present case, the principal controversy between the parties centres around the territorial jurisdiction of this Court to entertain the present proceedings.

29. Consequently, for the bar under Section 42 of the A&C Act to be attracted, it is not sufficient that the initial application is one referable to Part I of the Act; it must, in addition, be instituted before and entertained by a court that satisfies the statutory definition under Section 2(1)(e). This legal position stands authoritatively settled by a three-Judge Bench of the Hon'ble Supreme Court in ***State of W.B. v. Associated Contractors***[9], wherein it was held that the exclusivity contemplated under Section 42 is triggered only when the first application is made to a court of competent jurisdiction. Applications instituted before forums lacking jurisdiction, or before authorities that do not qualify as a "*Court*" within the meaning of the Act, fall outside the ambit of Section 42 and, therefore, do not operate as a bar to subsequent proceedings being instituted before a duly competent forum. The relevant portion of the said judgment reads as under:

> "**24.** If an application were to be preferred to a court which is not a Principal Civil Court of original jurisdiction in a district or a High Court exercising original jurisdiction to decide questions forming the subject matter of an arbitration if the same had been the subject matter of a suit, then obviously such application would be outside the four corners of Section 42. If, for example, an application were to be filed in a court inferior to a Principal Civil Court, or to a High Court which has no original jurisdiction, or if an application were to be made to a court which has no subject-matter jurisdiction, such application would be outside Section 42 and would not debar subsequent applications from being filed in a court other than such court.
> **25.** Our conclusions therefore on Section 2(1)(*e*) and Section 42 of the Arbitration Act, 1996 are as follows:

[9] (2015) 1 SCC 32

(*a*) Section 2(1)(*e*) contains an exhaustive definition marking out only the Principal Civil Court of Original Jurisdiction in a district or a High Court having original civil jurisdiction in the State, and no other court as "court" for the purpose of Part I of the Arbitration Act, 1996.

(*b*) The expression "with respect to an arbitration agreement" makes it clear that Section 42 will apply to all applications made whether before or during arbitral proceedings or after an award is pronounced under Part I of the 1996 Act.

(*c*) However, Section 42 only applies to applications made under Part I if they are made to a court as defined. Since applications made under Section 8 are made to judicial authorities and since applications under Section 11 are made to the Chief Justice or his designate, the judicial authority and the Chief Justice or his designate not being court as defined, such applications would be outside Section 42.

(*d*) Section 9 applications being applications made to a court and Section 34 applications to set aside arbitral awards are applications which are within Section 42.

(*e*) In no circumstances can the Supreme Court be "court" for the purposes of Section 2(1)(*e*), and whether the Supreme Court does or does not retain seisin after appointing an arbitrator, applications will follow the first application made before either a High Court having original jurisdiction in the State or a Principal Civil Court having original jurisdiction in the district, as the case may be.

(*f*) Section 42 will apply to applications made after the arbitral proceedings have come to an end provided they are made under Part I.

(*g*) If a first application is made to a court which is neither a Principal Court of Original Jurisdiction in a district or a High Court exercising original jurisdiction in a State, such application not being to a court as defined would be outside Section 42. Also, an application made to a court without subject-matter jurisdiction would be outside Section 42.

The reference is answered accordingly."

30. In the present case, although a petition under Section 9 of the A&C Act was initially instituted before this Court, there is no consideration, either express or implied, that this Court possessed the requisite jurisdiction to entertain the same. This aspect assumes particular significance in light of the sequence of events that unfolded. The initial order dated 27.01.2021, directing Respondent No. 1 to

maintain the *status quo*, came to be passed in its absence, as Respondent No. 1 had not yet entered an appearance. On the very next date of hearing, upon Respondent No. 1 entering an appearance before this Court, the Petitioner chose, of its own volition, to withdraw the said petition. As a direct consequence of such withdrawal at a nascent stage, the question of jurisdiction, whether territorial, pecuniary, or with respect to subject-matter, was neither adjudicated upon nor even substantively examined by this Court.

31. In this backdrop, it becomes evident that Respondent No. 1 was effectively deprived of any meaningful and substantive opportunity to raise objections as to the jurisdiction of this Court. Jurisdictional objections, particularly those going to the root of the matter, are required to be raised and determined at the threshold, so as to ensure that proceedings are not conducted before a forum lacking competence in law. Had the proceedings under Section 9 been pursued and contested, Respondent No. 1 would have been fully entitled to challenge the maintainability of the petition on jurisdictional grounds, and this Court would have been called upon to render a considered finding on such objections. However, in the absence of any such opportunity or adjudication, no presumption can be drawn that this Court had validly assumed jurisdiction over the dispute.

32. In these circumstances, it would be wholly untenable to suggest that Respondent No. 1 stands precluded, by operation of Section 42 of the A&C Act, from questioning the jurisdiction of this Court in the present proceedings. Section 42 cannot be construed in a manner that forecloses a party's right to raise a fundamental jurisdictional objection, particularly when such objection could never be raised or was never adjudicated upon at any prior stage. Indeed, if this Court

otherwise lacks jurisdiction in accordance with the settled principles of law, the mere prior filing of a petition under Section 9 or any other petition of application under the A&C Act, without any determination thereon, cannot operate as a binding factor so as to confer jurisdiction by default or estoppel. It is a settled principle of law that jurisdiction cannot be conferred by acquiescence, waiver, or mere procedural happenstance; it must inherently exist in law and be demonstrable in accordance with established legal principles.

33. In such circumstances, to hold that the mere filing of a petition under Section 9, followed by its immediate withdrawal, or the institution of any application under Part I of the Act without any judicial scrutiny on the issue of jurisdiction, would irrevocably vest exclusive jurisdiction in that court under Section 42 of the A&C Act, would amount to a manifest distortion and misuse of the statutory framework. Section 42 of the A&C Act, as noticed hereinabove, is intended to ensure consistency and avoid multiplicity of proceedings by conferring exclusive jurisdiction upon a court that has validly assumed seisin of the arbitral process. However, such an assumption of jurisdiction must be real, effective, and judicially sustainable.

34. Where proceedings are terminated at the threshold without any adjudication, and where the opposing party is not even afforded a fair and effective opportunity to contest the competence of the forum, the foundational requirement for the application of Section 42 of the A&C Act remains unfulfilled. To permit the invocation of Section 42 of the A&C Act in such a scenario would enable parties to engage in forum shopping by filing proceedings in a court of their choice, obtaining ad interim orders in the absence of the opposite party, and thereafter withdrawing such proceedings so as to create an artificial basis for

invoking exclusivity. Such an interpretation would not only defeat the legislative intent underlying Section 42 of the A&C Act but would also undermine the principles of fairness, procedural propriety, and jurisdictional discipline that form the bedrock of the arbitral framework.

35. Accordingly, Section 42 of the A&C Act cannot be invoked to legitimise or sanctify proceedings instituted before a forum whose competence remains uncertain, untested, or unadjudicated, particularly where such proceedings are not carried to their logical or legal conclusion. The provision cannot be employed as a tool to create jurisdiction where none exists, nor can it be used to preclude a legitimate challenge to jurisdiction in subsequent proceedings.

36. This Court is, therefore, unable to accept the proposition that a unilateral and transient invocation of jurisdiction, by way of filing an application under Part I of the Act before a potentially incompetent forum, can bind the parties for all subsequent proceedings arising out of the arbitration agreement. The exclusivity envisaged under Section 42 A&C Act is neither automatic nor mechanical; rather, it is conditional upon the initial application having been made before a court of competent jurisdiction which has validly and effectively assumed seisin of the arbitral process.

37. The concept of "*seisin*" in this context necessarily implies a conscious and lawful assumption of jurisdiction by the court, coupled with an opportunity to the parties to contest such jurisdiction and a corresponding judicial determination, whether express or implicit. In the absence of such elements, the mere filing of an application cannot be elevated to the status of a jurisdiction-conferring event. To hold

otherwise would be to reduce the statutory safeguards embedded in the A&C Act to a matter of form rather than substance.

38. In view of the foregoing analysis, and having regard to the facts and circumstances of the present case, this Court is of the considered view that the reliance placed by the Petitioner on Section 42 of the A&C Act, to sustain the jurisdiction of this Court, is wholly misconceived and untenable in law. The invocation of Section 42 of the A&C Act, in the absence of any prior adjudication or lawful assumption of jurisdiction, cannot operate as a bar to the present proceedings, nor can it confer jurisdiction where none otherwise exists.

39. The determinative question that thus arises for consideration is whether this Court independently possesses the requisite jurisdiction, within the meaning of the A&C Act and in accordance with settled principles governing territorial competence, which constitutes the central issue in the present adjudication, to entertain the petition arising out of the arbitration agreement and the arbitral proceedings in question. It is only upon a proper and conclusive determination of this foundational issue that the maintainability of the present proceedings can be finally determined.

40. The Court now turns to the next aspect for consideration, namely, the interpretation and effect of the relevant clauses of the agreement executed between the parties, in particular the Dispute Resolution Clauses and the Exclusive Jurisdiction Clause contained therein, which are extracted herein below for ready reference:

> "….
>
> **Article 26**
> **Dispute Resolution**
>
> 26.1 Dispute Resolution

(i) Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other party (the "Dispute") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 26.2.

(ii) The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

26.2 Conciliation

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26.3. Arbitration

(i) Any Dispute which is not resolved amicably by conciliation, as provided in Clause 26.2, shall be finally settled by arbitration in accordance with the rules of arbitration of the Society for Affordable Redressal of Disputes (SAROD).

(ii). The parties expressly agree as under in case of arbitration of disputes:

(a) There shall be no arbitration for a dispute involving a claim value upto INR 50 Lakh (IN fifty lakh). The Authority's Engineer shall give a reasoned decision in case of such dispute and the same shall be binding on both the parties.

(b) In case of a dispute involving claim value of above INR 50Lakh (INR fifty lakh), but upto INR 50 Crore (INR fifty crore), the same shall be referred to a Sole Arbitrator within 30 days propose names of 5 (five) Arbitrators from the list of Arbitrators maintained by SAROD (Society for Affordable Redressal of Disputes) and the Contractor shall within 30 (thirty) days select one name from the list of five and the name so selected by the Contractor shall be the Sole Arbitrator for the matter in dispute. In case Authority delays in providing the list of 5 (five) names, President, SAROD will provide 5 names within 30 (thirty) days of receipt of reference from aggrieved party in this regard In case the Contractor fails in selecting one from the list of five, President, SAROD shall select one from the list of five provided by Authority within 30 (thirty)days of receipt of reference from aggrieved party in this regard

(c) In case of a dispute involving a claim value of more than IN 50 Crore (INR Fifty crore), the same shall be referred to an Arbitral Tribunal comprising 3 (three) Arbitrators. The Dispute shall be settled in accordance with the rules of Arbitration of the Society for Affordable Redressal of Disputes (SAROD)

(d) The venue of arbitration shall be Ranchi, and the language if arbitration proceedings shall be in English.

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26.4 Adjudication by Regulatory Authority, Tribunal or Commission

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Article 27
Miscellaneous

27.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by laws of India, and the courts at [Ranchi] shall have exclusive jurisdiction over matters arising out of or relating to this Agreement."

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…."

(emphasis supplied)

41. It is also necessary to advert to Rule 23 of the SAROD Arbitration Rules, upon which considerable reliance has been placed by the Petitioner in support of the contention that the juridical seat of arbitration ought to be New Delhi. The said Rule 23 reads as follows:

"**Rule 23 - Judicial Seat of Arbitration**

23.1 Unless otherwise agreed by the Parties, the judicial seat of arbitration shall be New Delhi. The venue for the Arbitration meeting shall be organized by the SAROD Secretariat.

23.1 Notwithstanding Rule 22 and 23.1, the Tribunal may, unless otherwise agreed by the Parties, hold hearings and meetings anywhere convenient, subject to the provisions of Rule 28.2."

(emphasis supplied)

42. A holistic and purposive reading of Clauses 26 and 27 of the agreement, however, reveals that the intention of the parties with respect to jurisdiction and the arbitral framework must be discerned from the agreement as a whole, and not from isolated provisions read in abstraction. The contractual scheme indicates a carefully structured dispute resolution mechanism, beginning with amicable resolution and conciliation, followed by arbitration under SAROD Rules, and culminating in a clear stipulation regarding governing law and exclusive jurisdiction.

43. The principal controversy between the parties, therefore, centres on the determination of the juridical seat of arbitration. While Respondent No. 1 relies upon Clause 26.3(ii)(d), which designates Ranchi as the venue of arbitration, read conjointly with Clause 27.1, which confers exclusive jurisdiction upon courts at Ranchi, to contend that Ranchi is the seat of arbitration, the Petitioner, on the other hand, relies upon the incorporation of SAROD Arbitration Rules through Clause 26.3(i), and then read with Rule 23 of the SAROD Arbitration Rules, to assert that New Delhi must be treated as the juridical seat.

44. This Court is unable to accept the submissions advanced on behalf of the Petitioner. The contention that the seat of arbitration is New Delhi, solely by virtue of the incorporation of SAROD Rules, overlooks the fundamental principle that party autonomy must be gathered from the express terms of the contract, and that a clear and specific stipulation in the agreement cannot be overridden by a general provision contained in a set of institutional rules.

45. The determination of the juridical seat in the present case, therefore, necessitates a careful reconciliation of three competing contractual indicators, *first*, the designation of Ranchi as the venue of arbitration; *second*, the conferment of exclusive jurisdiction upon courts at Ranchi; and *third*, the incorporation of SAROD Rules, which provide that, in the absence of agreement to the contrary, the seat shall be New Delhi. The resolution of this apparent divergence must be guided by settled principles of arbitral jurisprudence, particularly those relating to party autonomy, contractual interpretation, and the distinction among "seat", "venue", "exclusive jurisdiction", and "institutional rules".

46. It is well settled that the "seat" of arbitration constitutes the juridical centre of gravity of the arbitral process. It determines the curial law governing the arbitration and identifies the court that exercises supervisory jurisdiction over the arbitral proceedings. The Hon'ble Supreme Court, in a catena of decisions including ***Indus Mobile Distribution Pvt. Ltd. v. Datawind Innovations Pvt. Ltd***.[10] and ***BGS SGS Soma JV*** *(supra)*, has authoritatively held that the designation of a seat is akin to an exclusive jurisdiction clause, conferring supervisory authority upon the courts of that seat to the exclusion of all others. However, these principles operate on the foundational premise that the seat has been clearly and consciously designated by the parties.

47. In the present case, the agreement does not contain any explicit stipulation designating New Delhi as the seat of arbitration. The Petitioner's contention seeks to derive such designation indirectly, on account of the adoption of SAROD Rules. This distinction between an express designation and a derivative or implied attribution is of critical importance. The juridical seat must emanate from the conscious and deliberate choice of the parties, and not from a default provision contained in institutional rules, particularly where the contract itself contains indications to the contrary.

48. In contrast, the agreement contains two clear and unequivocal stipulations pointing towards Ranchi. *First*, Clause 26.3(ii)(d) designates Ranchi as the venue of arbitration. *Second*, and more significantly, Clause 27.1 confers exclusive jurisdiction upon courts at Ranchi in respect of all matters arising out of or relating to the agreement. These provisions are explicit, deliberate, and leave little

[10] (2017) 7 SCC 678

room for ambiguity. The exclusive jurisdiction clause, in particular, is a strong indicator of the parties' intention to localise all legal proceedings in Ranchi.

49. While it is true that the designation of a "*venue*" does not, in every case, amount to the designation of a "*seat*", the legal position is equally clear that where the designation of a venue is accompanied by other significant indicia, such as an exclusive jurisdiction clause, the venue may, in fact, assume the character of the seat. The combined effect of specifying Ranchi as the venue and conferring exclusive jurisdiction upon Ranchi courts strongly suggests that the parties intended Ranchi to be the juridical seat of arbitration.

50. This position finds support in the decisions of the Hon'ble Supreme Court in ***Brahmani River Pellets Ltd. v. Kamachi Industries Ltd.***[11] and ***BGS SGS Soma JV*** *(supra),* wherein it has been held that where an agreement specifies a particular place for arbitration and also evinces an intention to exclude other courts, such place may be construed as the seat of arbitration. The rationale underlying this principle is that the combination of a specified location and an exclusionary jurisdiction clause reflects a conscious and deliberate localisation of the arbitral process. The relevant extract of ***BGS SGS Soma JV*** *(supra)* is reproduced below:

> **"59.** Equally incorrect is the finding in ***Antrix Corpn. Ltd.* v. *Devas Multimedia (P) Ltd.*, 2018 SCC OnLine Del 9338,** that Section 42 of the Arbitration Act, 1996 would be rendered ineffective and useless. Section 42 is meant to avoid conflicts in jurisdiction of courts by placing the supervisory jurisdiction over all arbitral proceedings in connection with the arbitration in one court exclusively. This is why the section begins with a *non obstante* clause, and then goes on to state "…*where with respect to an arbitration agreement any application under this part has been made in a court*…" It is obvious that the application made under

[11] (2020) 5 SCC 462

this part to a court must be a court which has jurisdiction to decide such application. The subsequent holdings of this court, that where a seat is designated in an agreement, the courts of the seat alone have jurisdiction, would require that all applications under Part I be made only in the court where the seat is located, and that court alone then has jurisdiction over the arbitral proceedings and all subsequent applications arising out of the arbitral agreement. So read, Section 42 is not rendered ineffective or useless. Also, where it is found on the facts of a particular case that either no "seat" is designated by agreement, or the so-called "seat" is only a convenient "venue", then there may be several courts where a part of the cause of action arises that may have jurisdiction. Again, an application under Section 9 of the Arbitration Act, 1996 may be preferred before a court in which part of the cause of action arises in a case where parties have not agreed on the "seat" of arbitration, and before such "seat" may have been determined, on the facts of a particular case, by the Arbitral Tribunal under Section 20(2) of the Arbitration Act, 1996. In both these situations, the earliest application having been made to a court in which a part of the cause of action arises would then be the exclusive court under Section 42, which would have control over the arbitral proceedings. For all these reasons, the law stated by the Bombay and Delhi High Courts in this regard is incorrect and is overruled.

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Tests for determination of "seat"

60. The judgments of the English courts have examined the concept of the "juridical seat" of the arbitral proceedings, and have laid down several important tests in order to determine whether the "seat" of the arbitral proceedings has, in fact, been indicated in the agreement between the parties. The judgment of Cooke, J., in ***Shashoua* v. *Sharma*, 2009 EWHC 957 (Comm): (2009) 2 Lloyd's Law Rep 376**, states:

> "*34.* London arbitration is a well-known phenomenon which is often chosen by foreign nationals with a different law, such as the law of New York, governing the substantive rights of the parties. This is because of the legislative framework and supervisory powers of the courts here which many parties are keen to adopt. When therefore there is an express designation of the arbitration venue as London and no designation of any alternative place as the seat, combined with a supranational body of rules governing the arbitration and no other significant contrary indicia, the inexorable conclusion is, to my mind, that London is the juridical seat and English Law the curial law. In my judgment it is clear that either London has been designated by the parties to the arbitration agreement as the seat of the arbitration, or, having regard to the parties' agreement and all the relevant

> circumstances, it is the seat to be determined in accordance with the final fall back provision of Section 3 of the Arbitration Act."
>
> **61.** It will thus be seen that wherever there is an express designation of a "venue", and no designation of any alternative place as the "seat", combined with a supranational body of rules governing the arbitration, and no other significant contrary indicia, the inexorable conclusion is that the stated venue is actually the juridical seat of the arbitral proceeding."
>
> ***(emphasis supplied)***

51. Applying the aforesaid principles to the facts of the present case, this Court is of the considered view that Ranchi cannot be regarded as a mere geographical venue chosen for convenience. Rather, it emerges as the juridical focal point intended by the parties. The presence of an exclusive jurisdiction clause in favour of Ranchi courts removes any residual ambiguity and reinforces the conclusion that the parties intended Ranchi to be the seat of arbitration.

52. On the contrary, the reliance placed by the Petitioner on the SAROD Arbitration Rules to contend that New Delhi constitutes the juridical seat of arbitration must be examined in the proper contractual and legal context. It is a well-settled canon of contractual interpretation that terms incorporated by reference, whether expressly or by necessary implication, cannot override or supplant clear and specific stipulations contained in the principal agreement between the parties. Institutional arbitration rules are, by their very nature, designed to provide a procedural framework for the conduct of arbitral proceedings. While such rules may supplement the agreement by filling gaps or providing default mechanisms in the absence of contrary stipulations, they cannot be construed in a manner that displaces or nullifies an express contractual arrangement regarding jurisdiction, venue, or forum.

53. To accept the Petitioner's contention that New Delhi becomes the seat of arbitration solely by virtue of the applicability of the SAROD Arbitration Rules would effectively elevate a derivative procedural provision above the express and negotiated terms of the agreement. Such an approach would not only undermine the fundamental principle of party autonomy but would also invert the established hierarchy between the primary contractual terms and secondary incorporated rules. The correct interpretative approach, therefore, is to treat institutional rules as subordinate to, and operating within, the framework delineated by the agreement, rather than as instruments capable of overriding it.

54. Furthermore, the argument advanced by the Petitioner, if accepted, would lead to uncertainty and inconsistency in the interpretation of arbitration agreements. The Petitioner seeks to isolate Clause 26.3(i), which provides that disputes shall be resolved in accordance with the SAROD Arbitration Rules, and to read it independently so as to import the default seat provision contained in Rule 23.1. Such a piecemeal and fragmented reading of the dispute resolution clause cannot be countenanced. It is trite that contractual provisions must be construed holistically, with due regard to the agreement as a whole. A conjoint reading of Clause 26 (*dealing with dispute resolution*) and Clause 27 (*dealing with governing law and jurisdiction*) makes it abundantly clear that the parties intended to anchor the arbitral process in Ranchi.

55. This Court also cannot be oblivious to the internal structure and scheme of the relevant clauses. Clause 26 constitutes the comprehensive dispute resolution mechanism, within which Clause 26.3 specifically addresses arbitration, including the applicable

procedural rules, the venue, and the language of proceedings. Clause 27.1, on the other hand, is a distinct and explicit provision dealing with governing law and jurisdiction, wherein it is categorically stipulated that the courts at Ranchi shall have exclusive jurisdiction over all matters arising out of or relating to the agreement. The intent of the parties, as reflected in these provisions, is both clear and unequivocal. A harmonious construction of the designation of Ranchi as the venue, read together with the conferment of exclusive jurisdiction upon Ranchi courts, leads to the inescapable conclusion that Ranchi was intended to be the juridical centre of the arbitral process. The mere absence of the express term "*seat*" in the agreement does not detract from, or dilute, the significance of these provisions in determining the parties' intention as to the *seat of arbitration*.

56. It is also a settled principle that contractual provisions must be interpreted in a manner that gives effect to all parts of the agreement, and avoids any construction that renders a clause redundant, otiose, or devoid of meaning. If New Delhi were to be treated as the seat of arbitration, the express conferment of exclusive jurisdiction upon the courts at Ranchi would be rendered nugatory. Such an interpretation would effectively deprive Clause 27.1 of its substantive content and reduce it to a mere surplusage, which is impermissible in law. If the parties had indeed intended to designate Ranchi as the venue and to confer exclusive jurisdiction upon its courts, while simultaneously treating New Delhi as the seat of arbitration, such an arrangement would have been explicitly provided for in the agreement. It cannot be inferred indirectly by placing reliance on a default provision contained in institutional rules. Acceptance of the Petitioner's construction would, in effect, result in a situation where, in most institutional

arbitrations, the default provisions of arbitral rules would override contractual stipulations unless the term "seat" is expressly used, an outcome that is both anomalous and contrary to established principles of contractual interpretation.

57. It is further pertinent to note that Rule 23.1 of the SAROD Arbitration Rules itself is prefaced with the qualifying expression "*unless otherwise agreed by the Parties*". This phrase is of critical importance, as it clearly indicates that the default designation of New Delhi as the seat is subject to any contrary agreement between the parties. In the present case, the agreement, when read as a whole, clearly manifests such a contrary intention by designating Ranchi as the venue and conferring exclusive jurisdiction upon its courts. Accordingly, the default rule contained in Rule 23.1 stands displaced by the express and implied terms of the agreement. In any event, at the cost of repetition, institutional rules cannot, as a matter of principle, override the express or necessarily implied contractual stipulations agreed upon between the parties.

58. As regards the various judicial precedents relied upon by the Petitioner, this Court is of the considered view that none of them advance the Petitioner's case in the factual matrix at hand. In none of the cited decisions has it been held that a default provision contained in the rules of an arbitral institution can override a clear designation of venue coupled with an exclusive jurisdiction clause in determining the seat of arbitration. The factual and contractual context in the present case is materially distinct, and the principles laid down in those decisions do not support the proposition canvassed by the Petitioner.

59. Lastly, this Court is of the considered view that treating Ranchi as the juridical seat of arbitration enables a harmonious and consistent

construction of the arbitration agreement in its entirety. Under this interpretation, Ranchi serves both as the designated venue and the juridical seat of arbitration; consequently, the courts at Ranchi alone would exercise exclusive supervisory jurisdiction over the arbitral proceedings. At the same time, the SAROD Arbitration Rules operate purely as the procedural framework governing the conduct of the arbitration and do not, in any manner, displace or dilute the parties' express choice of seat. Such a construction preserves the coherence, efficacy, and internal consistency of the contractual arrangement, while giving due primacy to the clearly manifested intention of the parties.

60. Further, this Court cannot lose sight of the fact that it is nobody's case before this Court that any part of the contract was performed in Delhi. On the contrary, the cause of action between the parties has arisen in Ranchi. This undisputed factual matrix lends further support to the conclusion that Ranchi constitutes the appropriate juridical seat of arbitration.

61. It is also pertinent to emphasise that the doctrine of the arbitral seat is ultimately a means to give effect to party autonomy, and not to defeat it. Where the agreement discloses a clear and discernible preference for a particular forum, courts must lean in favour of upholding that choice, unless there exists an equally clear and competing designation of seat. In the present case, no such competing express designation exists. The invocation of New Delhi as the seat rests solely on an indirect and inferential basis, which is insufficient to override the clear contractual indicators pointing towards Ranchi.

62. In view of the foregoing discussion, this Court is of the considered opinion that the only tenable conclusion is that the parties,

by expressly designating Ranchi as the venue of arbitration and by conferring exclusive jurisdiction upon the courts at Ranchi, have consciously and unequivocally chosen Ranchi as the juridical seat of arbitration. The incorporation of the SAROD Arbitration Rules does not evince any contrary intention sufficient to displace this conclusion and must be understood as procedural in character.

63. Accordingly, the reliance placed by the Petitioner on Clause 26.3(i) read with Rule 23.1 of the SAROD Arbitration Rules to contend that New Delhi is the seat of arbitration is misconceived and untenable, and is therefore rejected.

CONCLUSION:

64. In view of the foregoing analyses, this Court is of the considered opinion that it lacks territorial jurisdiction to entertain the present petition. The competent court, having regard to the contractual stipulations and the juridical seat of arbitration, is the court at Ranchi alone.

65. Accordingly, the present petition is held to be not maintainable and is, therefore, dismissed.

66. The present Petition, along with pending application(s), if any, stands disposed of in the above terms.

67. No orders as to cost.

HARISH VAIDYANATHAN SHANKAR, J.

APRIL 01, 2026/sm/va