IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

MISCELLANEOUS FIRST APPEAL NO. 9565 OF 2018 (AA)
C/W
MISCELLANEOUS FIRST APPEAL NO. 9564 OF 2018
MISCELLANEOUS FIRST APPEAL NO. 9566 OF 2018
MISCELLANEOUS FIRST APPEAL NO. 9567 OF 2018
MISCELLANEOUS FIRST APPEAL NO. 9568 OF 2018
MISCELLANEOUS FIRST APPEAL NO. 9569 OF 2018
MISCELLANEOUS FIRST APPEAL NO. 9570 OF 2018
MISCELLANEOUS FIRST APPEAL NO. 9571 OF 2018

IN MFA No. 9565/2018

BETWEEN:

HMT LIMITED
A COMPANY REGISTERED UNDER THE
COMPANIES ACT, 1913
HAVING ITS REGISTERED OFFICE
AT NO.59, BELLARY ROAD
BENGALURU-560 032
A WHOLLY OWNED SUBSIDIARY
OF HMT LIMITED, A COMPANY
INCORPORATED UNDER THE
INDIAN COMPANIES ACT, 1913
HAVING ITS REGISTERED OFFICE
AT NO.59, BELLARY ROAD
BENGALURU-560 032
REPRESENTED BY ITS GENERAL TECHNICAL

MANAGER, HMT WATCH FACTORY
BENGALURU

...APPELLANT

(BY SRI. SANATH KUMAR SHETTY K, ADVOCATE)

AND:

C. RAJAMMA (SINCE DIED)
W/O LATE M. NARAYANA REDDY
PROPRIETOR
ASHINI AUTO COMPONENTS
SINCE DEAD BY LRs

1(A). SMT. N. SHASHIKALA
D/O LATE C. RAJAMMA &
LATE M. NARAYAN REDDY
W/O C.N. LAKSHMI NARAYANA REDDY
AGED ABOUT 51 YEARS

1(B). NAVEEN KUMAR
GRAND SON OF LATE C. RAJAMMA &
LATE M. NARAYAN REDDY
S/O SHASHIKALA N
AGED ABOUT 21 YEARS

1(C). KUM C. POORNIMA
GRAND DAUGHTER OF LATE C. RAJAMMA
& LATE M. NARAYANA REDDY
D/O C.N. LAKSHMI NARAYANA REDDY
& SHASHIKALA N
AGED ABOUT 18 YEARS

2(A). K. NARAYANA REDDY
GRANDSON OF LATE C. RAJAMMA
& LATE M. NARAYANA REDDY
S/O LATE KRISHNAKUMAR
AGED ABOUT 17 YEARS
SINCE MINOR REPRESENTED BY

LEGAL AND NATURAL GUARDIN
THE MOTHER SMT. MANJULA

2(B). KUM K. LAKSHMI
GRAND DAUGHTER OF LATE C. RAJAMMA
& LATE M. NARAYAN REDDY
D/O LATE KRISHNAKUMAR &
SMT. MANJULA
AGED ABOUT 15 YEARS
SINCE MINOR REPRESENTED BY
LEGAL AND NATURAL GUARDIAN
THE MOTHER SMT. MANJULA

3(A). N. RAMAPRASAD REDDY
S/O LATE RAJAMMA
AGED ABOUT 43 YEARS

3(B) KUM. HEMA R ALSO NICKNAMED
AS KEERTHI R, GRAND DAUGHTER OF
LATE C. RAJAMMA &
LATE M. NARAYAN REDDY
D/O N. RAMAPRASAD REDDY
AGED ABOUT 3 YEARS
SINCE MINOR REPRESENTED BY
LEGAL AND NATURAL GUARDIAN
THE MOTHER OF SMT. SHYLAJA &
THE FATHER OF N. RAMAPRASAD REDDY

3(C). MASTER BHUVIK R
GRANDSON OF LATE C. RAJAMMA
& LATE M. NARAYAN REDDY
S/O N. RAMAPRASAD REDDY &
SMT. SHYLAJA
AGED ABOUT 4 YEARS
SINCE MINOR REPRESENTED BY LEGAL
& NATURAL GUARDIAN
THE MOTHER SMT. SHYLAJA &
THE FATHER SRI. N. RAMAPRASAD REDDY

ALL ARE RESIDING AT NO.313/A
6^{TH} CROSS, GOKULA, 13^{TH} MAIN ROAD

1ST STAGE, 1 ST PHASE, MATHIKERE
BENGALURU-560 054

...RESPONDENTS

(BY SRI. M. NARAYANA BHAT, ADVOCATE FOR R1, [A TO C], R2 [A & B], R3 [A TO C];
R3[B] MINOR REP. BY R3 [A];
R3[C] MINOR REP. BY R3 [A])

THIS MFA IS FILED U/S 37(1)(C) OF ARBITRATION AND CONSOLATION ACT, AGAINST THE JUDGMENT AND DECREE DATED 09.08.2018, PASSED IN A.S.NO.70/2002, ON THE FILE OF THE XV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-3), DISMISSING THE ARBITRATION SUIT FILED U/SEC.34 OF THE ARBITRATION AND CONCILIATION ACT.

IN MFA NO. 9564/2018

BETWEEN:

H.M.T LIMITED
A COMPANY REGISTERED UNDER THE
COMPANIES ACT, HAVING ITS
REGISTERED OFFICE
AT NO.59, BELLARY ROAD
BENGALURU-560 032
A WHOLLY OWNED SUBSIDIARY
OF H.M.T LIMITED, A COMPANY
INCORPORATED UNDER THE
INDIAN COMPANIES ACT, 1913
HAVING ITS REGISTERED OFFICE
AT NO.59, BELLARY ROAD
BENGALURU-560 032
REPRESENTED BY ITS GENERAL MANAGER
H.M.T WATCH FACTORY
BENGALURU

...APPELLANT

(BY SRI. SANATH KUMAR SHETTY K, ADVOCATE)

AND:

1. C RAMU
MAJOR
S/O CHIKKANNA
PROPRIETOR
SRI RAMA AUTO COMPONENTS
NO.11, GELEYARA BALAGA LAYOUT
1ST STAGE, MAHALAKSHMI LAYOUT
BENGALURU-560 086
DEAD BY LEAGAL REPRESENTATIVES

1(A). LAKSHMAMMA
WIDOW OF LATE C. RAMU
AGED ABOUT 64 YEARS

1(B). UMA R
D/O LATE C. RAMU
AGED ABOUT 42 YEARS

1(C). BHARATH
S/O LATE C. RAMU
AGED ABOUT 38 YEARS

ALL ARE RESIDING AT NO.11
GELEYARA BALAGA LAYOUT
1ST STAGE, MAHALAKSHMI LAYOUT
BENGALURU-560 086

...RESPONDENTS

(BY SRI. M. NARAYANA BHAT, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 37(1)(C) OF ARBITRATION AND CONCILIATION ACT, 1996, AGAINST THE JUDGMENT AND DECREE DATED 09.08.18 PASSED ON A.S.NO.65/2002 ON THE FILE OF THE XV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-3), DISMISSING THE ARBITRATION SUIT FILED UNDER SECTION 34 OF THE ARBITRATION AND CONCILIATION ACT, 1996.

<u>IN MFA NO. 9566/2018</u>

<u>BETWEEN:</u>

H.M.T LIMITED
A COMPANY REGISTERED UNDER THE
COMPANIES ACT, HAVING ITS
REGISTERED OFFICE
AT NO.59, BELLARY ROAD
BENGALURU-560 032
A WHOLLY OWNED SUBSIDIARY
OF H.M.T LIMITED, A COMPANY
INCORPORATED UNDER THE
INDIAN COMPANIES ACT, 1913
HAVING ITS REGISTERED OFFICE
AT NO.59, BELLARY ROAD
BENGALURU-560 032
REPRESENTED BY ITS GENERAL MANAGER
H.M.T WATCH FACTORY
BENGALURU

...APPELLANT

(BY SRI. SANATH KUMAR SHETTY K, ADVOCATE)

<u>AND:</u>

SRI. C. NARAYANA GOWDA
MAJOR
PROPRIETOR
PRASHANTH AUTOMATS
NO.N3/1, 4TH CROSS
1ST STAGE, PEENYA INDUSTRIAL AREA
BENGALURU-560 058
DEAD BY LEAGAL REPRESENTATIVES

1(A). RATHNAMMA A
WIDOW OF C. NARAYANA GOWDA
AGED ABOUT 73 YEARS
R/AT AVALAHALLI
SINGANAYAKANAHALLI POST
BENGALURU NORTH
BENGALURU-560 064

1(B). N. MAHESH
S/O LATE C. NARAYANA GOWDA
AGED ABOUT 51 YEARS
R/AT AVALAHALLI
SINGANAYAKANAHALLI POST
BENGALURU NORTH
BENGALURU-560 064

1(C). N. MADHUSUDHAN
S/O LATE C. NARAYANA GOWDA
AGED ABOUT 48 YEARS
R/AT NO.30, AVALAHALLI
SINGANAYAKANAHALLI POST
BENGALURU NORTH
BENGALURU-560 064

1(D). N. PRASHANTH
S/O LATE C. NARAYANA GOWDA
AGED ABOUT 45 YEARS
R/AT NO.67, AVALAHALLI
SINGANAYAKANAHALLI POST
BENGALURU NORTH
BENGALURU-560 064

1(E). RADHA N
D/O LATE C. NARAYANA GOWDA
AGED ABOUT 60 YEARS
R/AT NO.67, AVALAHALLI
SINGANAYAKANAHALLI POST
BENGALURU NORTH
BENGALURU-560 064

...RESPONDENTS

(BY SRI. M. NARAYANA BHAT, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 37(1)(C) OF THE ARBITRATION AND CONCILIATION ACT, 1996, AGAINST THE ORDER DATED 09.08.2018 PASSED IN A.S.NO.71/2002, ON THE FILE OF THE XV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY (CCH.NO.3), DISMISSING THE

SUIT FILED UNDER SECTION 34 OF ARBITRATION AND CONCILIATION ACT, 1996.

IN MFA NO. 9567/2018

BETWEEN:

HMT LIMITED
A COMPANY REGISTERED UNDER THE
COMPANIES ACT, 1913, HAVING ITS
REGISTERED OFFICE
AT NO.59, BELLARY ROAD
BENGALURU-560 032
A WHOLLY OWNED SUBSIDIARY
OF HMT LIMITED, A COMPANY
INCORPORATED UNDER THE
INDIAN COMPANIES ACT, 1913
HAVING ITS REGISTERED OFFICE
AT NO.59, BELLARY ROAD
BENGALURU-560 032
REPRESENTED BY ITS GENERAL
TECHNICAL MANAGER
HMT WATCH FACTORY
BENGALURU

...APPELLANT

(BY SRI. SANATH KUMAR SHETTY K, ADVOCATE)

AND:

SRI. SIDDARAJAIAH
S/O SRI. CHIKKANNA
AGED ABOUT 68 YEARS
PROPRIETOR
ARUN PRECISION ENGINEERING
NO.241, EWS II STAGE, K.H.B. COLONY
BASAVESHWARANAGAR
BENGALURU-560 079

...RESPONDENT

(BY SRI. M. NARAYANA BHAT, ADVOCATE)

THIS MFA IS FILED U/S 37(1)(C) OF ARBITRATION AND CONSOLATION ACT, AGAINST THE JUDGMENT AND DECREE DATED 09.08.2018, PASSED IN A.S.NO.69/2002, ON THE FILE OF THE XV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-3), DISMISSING THE ARBITRATION SUIT.

IN MFA NO. 9568/2018

BETWEEN:

HMT LIMITED
A COMPANY REGISTERED UNDER THE
COMPANIES ACT, 1913, HAVING ITS
REGISTERED OFFICE
AT NO.59, BELLARY ROAD
BENGALURU-560 032
A WHOLLY OWNED SUBSIDIARY
OF HMT LIMITED, A COMPANY
INCORPORATED UNDER THE
INDIAN COMPANIES ACT, 1913
HAVING ITS REGISTERED OFFICE
AT NO.59, BELLARY ROAD
BENGALURU-560 032
REPRESENTED BY ITS GENERAL
TECHNICAL MANAGER
HMT WATCH FACTORY
BENGALURU

...APPELLANT

(BY SRI. SANATH KUMAR SHETTY K, ADVOCATE)

AND:

M.C. PONNAPPA
S/O MR. M.P. CHINNAPPA
MAJOR
PROPRIETOR
MANJUNATHA ENTERPRISES
RESIDING AT NO.401
SREE SHIVAJYOTHI

MYTHYALANAGARA, M.E.S. ROAD
BENGALURU 560 054

...RESPONDENT

(BY SRI. M. NARAYANA BHAT, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 37(1)(C) OF THE ARBITRATION AND CONCILIATION ACT, AGAINST THE ORDER DATED 09.08.2018 PASSED IN A.S.NO.64/2002, ON THE FILE OF THE XV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY (CCH.NO.3), DISMISSING THE SUIT FILED UNDER SECTION 34 OF ARBITRATION AND CONCILIATION ACT 1996.

IN MFA NO. 9569/2018

BETWEEN:

HMT LIMITED
A COMPANY REGISTERED UNDER THE
COMPANIES ACT, 1913, HAVING ITS
REGISTERED OFFICE
AT NO.59, BELLARY ROAD
BENGALURU-560 032
A WHOLLY OWNED SUBSIDIARY
OF HMT LIMITED, A COMPANY
INCORPORATED UNDER THE
INDIAN COMPANIES ACT, 1913
HAVING ITS REGISTERED OFFICE
AT NO.59, BELLARY ROAD
BENGALURU-560 032
REPRESENTED BY ITS GENERAL
TECHNICAL MANAGER
HMT WATCH FACTORY
BENGALURU

...APPELLANT

(BY SRI. SANATH KUMAR SHETTY K, ADVOCATE)

AND:

H. RAJAGOPAL
MAJOR
PROPRIETOR
M/S. SAPTHAGIRI AUTO PRECISION
ENGINEERING, NO.89/1
KALA THEATRE ROAD
KAMMAGONDANAHALLI
BENGALURU-560 015

...RESPONDENT

(BY SRI. M. NARAYANA BHAT, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 37(1)(C) OF ARBITRATION AND CONCILIATION ACT, 1996, AGAINST THE JUDGMENT AND DECREE DATED 09.08.18 PASSED ON A.S.NO.81/2002 ON THE FILE OF THE XV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-3), DISMISSING THE ARBITRATION SUIT FILED UNDER SECTION 34 OF THE ARBITRATION AND CONCILIATION ACT, 1996.

IN MFA NO. 9570/2018

BETWEEN:

HMT LIMITED
A COMPANY REGISTERED UNDER THE
COMPANIES ACT, 1913, HAVING ITS
REGISTERED OFFICE
AT NO.59, BELLARY ROAD
BENGALURU-560 032
A WHOLLY OWNED SUBSIDIARY
OF HMT LIMITED, A COMPANY
INCORPORATED UNDER THE
INDIAN COMPANIES ACT, 1913
HAVING ITS REGISTERED OFFICE
AT NO.59, BELLARY ROAD
BENGALURU-560 032
REPRESENTED BY ITS GENERAL
TECHNICAL MANAGER

HMT WATCH FACTORY
BENGALURU

...APPELLANT

(BY SRI. SANATH KUMAR SHETTY K, ADVOCATE)

AND:

M/S. NARMADA AUTO MATS PVT. LTD.,
REPRESENTED BY THE
MANAGING DIRECTOR
SRI. N. NAGARAJA REDDY
S/O SRI. NARASA REDDY
MAJOR
NO.36, BEHIND VINAYAKA TEMPLE
MADIWALA, BENGALURU 560 068

...RESPONDENT

(BY SRI. M. NARAYANA BHAT, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 37 (1)(C) OF ARBITRATION AND CONCILIATION ACT, 1996, AGAINST THE JUDGMENT AND DECREE DATED 09.08.2018 PASSED IN AS.NO.82/2002 ON THE FILE OF THE XV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU, (CCH-3). DISMISSING THE ARBITRATION SUIT FILED UNDER SECTION 34 OF THE ARBITRATION AND CONCILIATION ACT, 1996.

IN MFA NO. 9571/2018

BETWEEN:

HMT LIMITED
A COMPANY REGISTERED UNDER THE
COMPANIES ACT, 1913, HAVING ITS
REGISTERED OFFICE
AT NO.59, BELLARY ROAD
BENGALURU-560 032
A WHOLLY OWNED SUBSIDIARY
OF HMT LIMITED, A COMPANY
INCORPORATED UNDER THE
INDIAN COMPANIES ACT, 1913
HAVING ITS REGISTERED OFFICE

AT NO.59, BELLARY ROAD
BENGALURU-560 032
REPRESENTED BY ITS GENERAL
TECHNICAL MANAGER
HMT WATCH FACTORY
BENGALURU

...APPELLANT

(BY SRI. SANATH KUMAR SHETTY K, ADVOCATE)

AND:

G. SURESH KUMAR
S/O D.G. DESIGAN
AGED ABOUT 41 YEARS
PROPRIETOR
JANAKSHI ENTERPRISES
NO.1/6, JYOTHI INDUSTRIAL COMPLEX
BENGALURU 560 015

...RESPONDENT

(BY SRI. M. NARAYANA BHAT, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 37(1)(C) OF ARBITRATION AND CONCILIATION ACT, 1996, AGAINST THE JUDGMENT AND DECREE DATED 09.08.18 PASSED ON A.S.NO.63/2002 ON THE FILE OF THE XV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-3), DISMISSING THE ARBITRATION SUIT FILED UNDER SECTION 34 OF THE ARBITRATION AND CONCILIATION ACT, 1996.

THESE APPEALS, HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 13.08.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **T.P.VIVEKANANDA J.,** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE T.P.VIVEKANANDA

<u>CAV JUDGMENT</u>

(PER: HON'BLE MR. JUSTICE T.P.VIVEKANANDA)

The appellant-Company is before this Court challenging the judgment and decree dated 09.08.2018 passed in A.S.Nos.70, 63, 64, 65, 69, 70, 71, 81 and 82 /2002 by XV Addl. City Civil & Sessions Judge at Bangalore City (CCH.No.3), thereby dismissed the arbitrations suit filed by the appellant by confirming the arbitration award dated 29.07.2002.

2. This appeal has a chequered history, which can be summarized as follows:

2.1 The appellant is a Company fully owned by Central Government. The respondents/claimants in these appeals were the employees of the appellant-Company. In the year 1990, the appellant-Company had issued an office order inviting applications for identification of prospective entrepreneurs for off-loading auto components. The said invitation was to the employees who were working in the appellant-Company at the relevant point of time. In response to the said invitation, the respondents/claimants have all submitted the applications and they have appeared before the Committee constituted for identifying the entrepreneurs along with supporting documents. It was a condition precedent for the identified entrepreneurs to tender resignation to the post, in which, they were working or apply for VRS. The aforesaid Scheme was formulated by the appellant to get over from the in-house production difficulties in the production of certain space, which required for manufacture of the watches.

2.2 It was also the intention of the appellant that by entrusting the manufacture and supply of the spare parts to the entrepreneurs identified from among the existing employees; the appellant could reduce the cost of production and also maintain the requisite quality. All the respondents have given their consent subject to conditions stipulated by the appellant. After much discussion regarding the modality of supply of spare parts, the appellant and the respondents have agreed for minimum duration of the contract and minimum price of the components. As per the terms of the contract, the respondents were required to procure machinery from the appellant, the appellant would supply the raw materials and the respondents had to auto-turn the materials supplied into finished parts. Since, the respondents-entrepreneurs have all either resigned to the post or opted for VRS had no financial position to set up the units for production of spare parts. Therefore, they have approached the Karnataka State Financial Corporation (hereinafter referred to as 'KSFC' for short) for financial assistance with the project report. Though, the KSFC has initially agreed to extend the financial assistance to the entrepreneurs, however, there were certain conditions relating to minimum supply of material and minimum duration of the contract.

2.3 When the KSFC raised the concern regarding the minimum assured duration of workload, the same was brought to the notice of the appellant and the appellant had revised the service charges and the guaranteed period of supply from 3 to 5 years. The respondents have submitted the revised project report to the KSFC for availing the financial assistance. There was tripartite meeting between the appellant, KSFC and the respondents regarding the quantity of workload and charges payable by the appellant and after negotiation, the charges were increased and the minimum period of workload was increased from 7 to 8 years. After conclusion of the formalities regarding approval of the project and the assurance by KSFC for grant of financial assistance, the respondents have all opted for VRS.

3. It is seen from the records that as per the agreed terms, the appellant had provided the assured workload for about a year and thereafter, there was shortfall in providing the assured workload. Despite the fact that the workload was reduced intermittently, however, the respondents-entrepreneurs had no other option except to the lesser workload and supply the spare

parts to the appellant. In view of the fact that the respondents have resigned to the employment and have also obtained financial assistance from the KSFC by offering their personal properties as security for the loan, on the ground that the appellant has reduced the workload, the respondents were not in a position to terminate the contract with the appellant-Company.

4. When things stood thus, the respondents had demanded for paying of damages towards loss incurred by them on account of short supply of raw material. As the same was not considered, the respondents have invoked the arbitration clause and sought for appointment of Arbitrator by filing CMP.Nos.68 to 76 of 1999 before this Court. This Court by order dated 03.12.1999 while allowing the said petitions appointed the sole Arbitrator to arbitrate the dispute raised by the respondents/claimants. The respondents have filed claims before the learned Arbitrator seeking compensation/damages for shortfall in providing the minimum agreed workload along with the

interest rate at 24% p.a. The appellant was the respondent before the learned Arbitrator. The claims of the respondent/claimants before the learned Arbitrator could be summarized as follows:

> a. *amounts quantified for the shortage of the assured workloads with interest thereon;*
>
> b. *amount admitted as due by HMT, but not paid, with interest;*
>
> c. *damages, including damages for loss of reputation;*
>
> d. *In the case of Narmada, there is also an assertion that the machineries supplied by way of sale by the HMT were defective, which were earlier rejected by the customers of HMT."*

5. The appellant was the respondent before the learned Arbitrator filed common objections contending as follows:

(a) There was serious competition by private watch manufacturers who had the benefit of using modern machineries, which made inroads into the market created by the appellant.

(b) Huge sums were due payable to it by several dealers, which could not be recovered.

(c) Decline in production and sales of watches by the appellant.

(d) The Company started facing problems of different kind due to business reasons and the consumption of mechanical watches came down. Therefore, the appellant had to reduce the sales of mechanical watches. There was lack of working capital and other infrastructural facilities, which resulted in the appellant not being able to pay the service of the employees on time.

6. Based on the claim and the counter statement, the learned Arbitrator has framed as many as 15 issues for consideration. The learned Arbitrator had rejected the defence of the appellant and allowed the claim petitions.

7. The award passed by the Arbitral Tribunal were challenged by the appellant by filing of Arbitration Suit

Nos.63, 64, 65, 69, 70, 71, 81 and 82 of 2002. Since, the subject matter of the arbitration suit rose out of the arbitral proceedings concerning the identical issues, all the suits were clubbed together. During the pendency of the arbitration suit, the respondents-claimants have filed the application i.e., I.A.No.10 under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act' for short) seeking direction to the appellant/plaintiff-Company to deposit 75% of the award amount as stipulated under Section 7 of the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993 (hereinafter referred to as the '1993, Act') r/w Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006, (hereinafter referred to as the 'Act, 2006'). Section 34 Court had allowed the said application and directed the appellant-Company to deposit 75% of the award amount in each of the cases. The appellant-Company had filed W.P.Nos.31044-31051/2014 challenging the order passed by the District Court contending that the provisions of the

1993, Act, are not applicable to the case on hand in as much as the 1993, Act has been repealed and also contended that the respondents-claimants have waived their right under Section 4 of the Act. It was also contended that the 1993, Act has no application, since the agreements between the appellant and respondents was prior to the coming into force 1993, Act. The contentions urged on behalf of the appellant-Company were rejected by the writ Court and writ petitions were dismissed by extending the time to deposit 75% of the award amount.

8. The appellant-Company approached the Hon'ble Supreme Court in SLP (C) Nos.4534-4541/2015 challenging the orders passed in the writ petitions. It appears that pursuant to the interim order passed in the aforesaid SLPs, the appellant-Company had deposited before this Court 75% of the principal sum awarded by the learned Arbitrator. The SLPs were disposed of on 09.02.2018 directing disbursement of 75% of the amount deposited by the appellant in favour of the

respondents/legal representatives of one of the respondent who died during the pendency of the proceedings. The disbursement of the amount also included the interest accrued on 75% of the deposited amount. While disposing of the SLPs, the Hon'ble Supreme Court had directed the trial Court to dispose of the petition filed under Section 34 of the Act within six months.

9. Pursuant to the aforesaid directions of the Hon'ble Supreme Court, the District Court (Section 34 Court) had dismissed the arbitration suits. Challenging the award passed by the Arbitral Tribunal confirmed by the District Court, the proceedings under Section 34 of the Act, the appellant is before this Court in the present appeal.

10. The details of the claimants, award amount, arbitration suit and the present appeals are extracted below in a tabular statement for immediate reference.

M.F.A No.	Name of the Claimant	Amount awarded by the Arbitrator	Arbitration Suit No
9565/2018	Smt. Rajamma, Proprietor M/s.Ashwini Auto Components	Rs.32,35,000/-	A.S 70/2002
9564/2018	Sri. C. Ramu Proprietor M/s. Sri Rama Auto Components	Rs.23,61,300/-	A.S 65/2002
9566/2018	Sri. Narayana Gowda Proprietor M/s. Prashanth Automats	Rs.18,29,000/-	A.S 71/2002
9567/2018	Sri. Siddarajaiah Proprietor M/s. Arun Precision Engg	Rs.9,14,500/-	A.S 69/2002
9568/2018	Sri. M.C. Ponnappa Proprietor M/s. Manjunatha Enterprises	Rs.13,11,300/-	A.S 64/2002
9569/2018	Sri. H. Rajagopal Proprietor M/s. Saptagiri Auto Precision Engineering	Rs.6,86,700/-	A.S 81/2002
9570/2018	M/s. Narmada Automats (Pvt) Ltd., Managing Director Sri. Nagaraja Reddy	Rs.19,37,000/-	A.S 82/2002
9571/2018	Sri. G. Suresh Kumar Proprietor M/s. Jnanakshi Enterprises	Rs.16,64,500/-	A.S 63/2002

11. The grounds of appeal could be summarized as follows:

(a) In terms of the agreement between the parties, if the object is not achieved to the satisfaction of either of the parties, the parties are at liberty to terminate the agreement. In that view of the matter, if according to the claimants there was a short supply of the assured loan, it was open for the claimants to terminate the contract. However, on the contrary, they continued to supply the spares without raising any concerns and therefore, after completion of the contractual period of 8 years, the claimants were not entitled to raise a dispute regarding short supply of the raw materials.

(b) The claimants have not exercised the right conferred under Section 39 of the Contract Act, due to which, the claimants have waived their right to seek the performance of the promise at the fag end of the tenure.

(c) The conduct of the respondents/claimants in continuing with the short supply of assured loan amounts to acquiescence and waiver. Thus, the appellant placed reliance on Section 63 of the Contract Act. When the claimants have not made any complaint about the shortfall of supply of raw materials throughout the period of contract, awarding damages for whole of the contract period is outside the scope of the contract and the terms of reference to the arbitration.

(d) The terms of the agreement contains a force measure clause according to which the agreement between the parties has frustrated. Due to the circumstances beyond the control of the appellant, it could not supply the required load to the claimants.

(e) The short supply is on account of the market condition that is less production and shortfall in sale of watches in the competitive market, where the companies who produces mechanical watches have come into the market. The awarding of interest at the rate of 20% p.a., on the damages is illegal and it is beyond the jurisdiction of the learned Arbitrator.

12. In addition to attacking the award of the learned Arbitrator, the appellant has also challenged the

judgment of the District Court in the arbitration suits on the same grounds as extracted above.

13. We have heard the learned counsel for the appellant and the respondents.

14. The learned counsel for the appellant reiterating the grounds of the appeals has pointed out that the claim made by the respondents/claimants was purely a speculative claim. The short supply of raw materials would not automatically entitle the respondents/claimants to seek compensation/damages. It is his contention that the actual damage suffered by the respondents/claimants is not proved in as much as there is no guarantee that if the appellant had supplied the agreed quantity of raw materials, there is no guarantee that the respondents would have made profit commensurate with the profit made in respect of the materials supplied during the relevant point of time.

15. If at all there was a shortfall in supply of raw materials, it was open for the respondents to terminate the contract. It is the case of the respondents that from the second year of the contract itself, there was a shortfall in supply, without raising any objections the respondents/claimants accepted the shortfall of the supply and proceeded to manufacture and supply the spares during the entire tenure of contract, which amounts to acquiescence. After having continued to receive short supply and manufacturing the spare parts and supplying the same to the appellant, the respondents/claimants cannot turn back after several years and seek compensation/damages in respect of the alleged shortfall of the supply of raw materials. It is further contended by the appellant that at any stretch of imagination, the respondents/claimants are not entitled for interest at the rate of 20% p.a., which is much higher than the interest payable for the commercial loans. Moreover, what was claimed by the claimants is the presumptive loss of profit and not the value of the materials supplied. Therefore,

awarding of interest @ 20% p.a., is against the existing public policy.

16. The learned counsel representing the respondents/claimants seeks to defend the award of the learned Arbitrator, so also the judgment passed by the District Court under Section 34 of the Act. He hastens to add that one of the grounds urged by the appellant before Section 34 Court comes within the ambit of Section 34(2) of the Act and therefore, the District Court has rightly dismissed the arbitration suits confirming the award of the learned Arbitrator. When the appellant has not made out any grounds for setting aside the arbitral award under Section 34 of the Act, the award of the learned Arbitrator and the judgment of Section 34 Court cannot be interfered with under Section 37 of the Act, since the requirement of grounds for interference in an appeal under Section 37 of the Act is much narrower and stringent as compared to Section 34 of the Act. Therefore, seeks dismissal of the appeals.

17. Insofar as the argument of the learned counsel for the appellant that the award of interest at 20% p.a., on the damages/compensation is outside the scope of the arbitration and beyond the powers of the Arbitrator is concerned, the learned counsel for the respondents/claimants submits that all the respondents, after they availed the VRS from the appellant-Company had no financial capacity to start the industries and with the concurrence of the appellant, the respondents/claimants have availed the financial assistance from KSFC by offering their personal properties as security for the loans. They were all under the fond hope that they would get minimum agreed quantity of workload during the entire contract duration of 8 years, so that they could discharge the financial liability and earn for themselves. However, on account of shortfall in supply of materials, the respondents/claimants could not earn the expected income, which resulted in some of the respondents had to sell their personal assets in order to discharge the loans. Therefore, the learned Arbitrator was

right in directing payment of interest @ 20% p.a., added to that since the respondents were all MSMEs, they were governed by 1993, Act and Act, 2006, which prescribes the award of interest at 20% p.a. Therefore, seeks to justify the award of the learned Arbitrator, which was confirmed by the District Court.

18. We have given our anxious consideration to the submissions and all the contentions advanced by the appellant and respondents, we have also perused the award passed by the learned Arbitrator, so also the judgment passed by the District Court.

19. On perusal of the award of the learned Arbitrator, the judgment of the District Court and the material placed before this Court, it is abundantly clear that the short supply of material to the respondents-entrepreneurs is an admitted fact. Despite the appellant having not supplied the assured load, the respondents/claimants have continued to discharge the contractual obligation and accepted less quantity of

materials and supplied the manufactured spare parts to the appellant is also an admitted position. The justification offered by the appellant for short supply and offloading of less quantity has not been accepted either by the Arbitral Tribunal or by the District Court.

20. When that being so, this Court while considering an appeal under Section 37 of the Act cannot travel beyond the reasoning of the Arbitral Tribunal and the Section 34 Court, which had exercised the power under Section 34 of the Act. When Section 34 Court itself did not accept the plea of the appellant for setting aside the arbitral award, this Court in an appeal under Section 37 of the Act, which power is narrower than the power under Section 34 of the Act cannot take a different view on the factual findings.

21. The contention of the appellant that on account of short supply of the raw materials, it was open for the respondents/claimants to terminate the contract and accepted the orders in the open market is totally

unjustified and unacceptable. When the Company like HMT, which had an upper hand in the production and marketing of watches at relevant point in time has faced the serious competition in the market and could not compete with the new entrants, it is wholly unreasonable to expect the respondents who are small entrepreneurs would get the orders/job works in the open market. Moreover, respondents/claimants who were the erstwhile employees of the appellant-Company have taken the VRS with an intention to establish their own industry and by obtaining the financial assistance from the KSFC started manufacturing of the spare parts to meet the requirement of the appellant-Company. When the respondents were under the obligation of maintaining their families, so also had the obligation of discharging the loans availed from the KSFC, it cannot be expected from the respondents to terminate the contract on the ground of short supply and take the risk of committing default in discharge of loan resulting in sale of the assets, which have been offered as security to the loan availed from KSFC.

22. One of the defence raised by the appellant before the Arbitral Tribunal regarding Force Majeure Clause contained in the agreement was rejected by the Arbitral Tribunal holding that the shortage or non-availability of materials cannot be brought under Force Majeure Clause. While considering the said issue, the Arbitral Tribunal has observed as follows:

> *"In para 3 of the defence statement, it is pleaded that during 1990s private manufacturers started entering the field of watch manufacturing, as a result of which, the respondent faced competition. In para 11 the respondent once again stated the lapse to load the claimants was not deliberate, but was due to the inability of the respondent-Company to get working capital. The reduction in load given to the respective claimants was due to shortage of raw materials, which was beyond the control of the division"*

23. On a reading of the judgment of the District Court in the Arbitration Suit, it is seen that the grounds urged for setting aside the impugned arbitral award do not satisfy the rigour of section so as to interfere with the arbitral award. None of the parameters of Section 34(2)(a) of the Act were satisfied. Therefore, Section 34 Court has

refused to interfere with the arbitral award by a detailed consideration at paragraph No.33 of its judgment.

24. As noticed in the earlier part of this order, before the Section 34 Court, an application was filed under Section 9 of the Arbitration and Conciliation Act seeking direction to the appellants herein to deposit 75% of the amount awarded by the Arbitral Tribunal contending that the appellants could challenge the arbitral award, only by complying with Section 7 of the 1993, Act read with Section 7 of Act, 2006.

25. The learned Single Judge of this Court had accepted the said plea and directed the appellants to deposit 75% of the amount in terms of the award of the Arbitrator. The aforementioned two Acts were pressed into service only to make the appellants depositing 75% of the award of the Arbitral Tribunal. However, the question as to whether percentage of interest payable on the damages awarded by the Tribunal was not the question involved. Therefore, we are of the opinion that while considering the

present appeals, this Court can consider the contentions of the appellants as regards grant of interest at the rate of 20% per annum is legal or sustainable. In fact, the appellant had raised the contention regarding rate of interest awarded by the Learned Arbitrator which has been noted in paragraph 35 of the judgment of District Court.

26. It is necessary to extract the provisions of Sections 3, 4, 5 and 6 of the 1993 Act.

> ***"3. Liability of buyer to make payment.***-*Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day:*
>
> *[Provided that in no case the period agreed upon between the supplier and the buyer in writing shall exceed one hundred and twenty days from the day of acceptance or the day of deemed acceptance.]*
>
> ***4. Date from which and rate at which interest is payable***.-*Where any buyer fails to make payment of the amount to the supplier, as required under section 3, the buyer shall, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, be liable to pay interest to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at one-and-half time of*

Prime Lending Rate charged by the State Bank of India.

Explanation.-For the purposes of this section, "Prime Lending Rate" means the Prime Lending Rate of the State Bank of India which is available to the best borrowers of the bank.]

***5. Liability of buyer to pay compound interest**.-Notwithstanding anything contained in any agreement between a supplier and a buyer or in any law for the time being in force, the buyer shall be liable to pay compound interest (with monthly interests) at the rate mentioned in section 4 on the amount due to the supplier.*

***6. Recovery of amount due**.-(1) The amount due from a buyer, together with the amount of interest calculated in accordance with the provisions of sections 4 and 5, shall be recoverable by the supplier from the buyer by way of a suit or other proceeding under any law for the time being in force.*

(2) Notwithstanding anything contained in sub-section (1), any party to a dispute may make a reference to the Industry Facilitation Council for acting as an arbitrator or conciliator in respect of the matters referred to in that sub-section and the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to such dispute as if the arbitration or conciliation were pursuant to an arbitration agreement referred to in sub-section (1) of section 7 of that Act.]

27. Section 4 of 1993, Act, contemplates that the buyer of the goods is liable to pay interest for the delayed payment at one and half times of prime lending rate charged by the State Bank of India. The explanation to

Section 4 defines the Prime Lending Rate means "Prime Lending Rate of State Bank of India, which is available to the best borrowers of the bank". Therefore, percentage of interest is not stipulated in Section 4. To ascertain the rate of interest payable for the delayed payment, one has to look at the notified prime lending rate of the State Bank of India at the relevant point in time.

28. We have also noticed the provisions of 2006, Act, more particularly, Section 15 and 16 which reads as follows:

> ***15. Liability of buyer to make payment.***— *Where any supplier, supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day:*
>
> *Provided that in no case the period agreed upon between the supplier and the buyer in writing shall exceed forty-five days from the day of acceptance or the day of deemed acceptance.*
>
> **16. Date from which and rate at which interest is payable.—** *Where any buyer fails to make payment of the amount to the supplier, as required under section 15, the buyer shall, notwithstanding anything contained in any*

> *agreement between the buyer and the supplier or in any law for the time being in force, be liable to pay compound interest with monthly rests to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at three times of the bank rate notified by the Reserve Bank*.

29. On a reading of Section 16 of 2006, Act, it is seen that the liability of payment of interest is on the buyer to the supplier in the event of non-payment of the amount for the supplied goods, on the date agreed to be paid, the interest at three times the Bank rate notified by the Reserve Bank shall be paid from the date immediately following the date agreed upon. In the present case, what is awarded by the Arbitral Tribunal is the damages for short supply of the materials and the calculation of damages is a presumptive loss and not actual loss. The basis for such assessment is that in the event of sufficient workload having been provided to the claimants, the claimants would have supplied the finished parts. Consequently, they would have earned profit of the supply made. Thus, this is not a case of supply of material to the

appellants and delaying payment of the value of the goods supplied. Therefore, the provisions of the aforementioned two Acts, though applicable for the purpose of imposing the condition to deposit 75% of the awarded amount, in case of challenge to the award or decree of the Court, however, the provisions of the aforesaid two enactments cannot be pressed into service to determine the percentage of interest payable on the damages/compensation granted by the Arbitral Tribunal for the short supply of the raw materials/work load. The Arbitral Tribunal has not relied upon the aforesaid two Acts for awarding Interest @ 20% p.a., however, the Tribunal has held that, since the KSFC has charged interest at 19.5% on the loan granted, the claimants are also entitle for the same percentage of interest.

30. We are conscious of the fact that the jurisdiction conferred on Courts under Section 34 of the Arbitration Act is fairly narrow, when it comes to the scope of an appeal under Section 37 of the Arbitration Act, the

jurisdiction of the Appellate Court in examining an order, setting aside or refusing to set aside an award, is all the more circumscribed. The scope of interference by this Court while exercising power under Section 37 of the Act is very limited. The appellate power of Section 37 of the Act is limited within the domain of Section 34 of the Act. It is exercisable only to find out if the Court exercising power under Section 34 of the Act has acted within its limits as prescribed there under or has exceeded or failed to exercise the power so conferred. The Appellate Court has no authority of law to consider the matter in dispute before the Arbitral Tribunal on merits so as to find out as to whether the decision of the Arbitral Tribunal is right or wrong upon reappraisal of evidence as if it is sitting in an ordinary court of appeal. It is only where the Court exercising power under Section 34 has failed to exercise its jurisdiction vested in it by Section 34 or has travelled beyond its jurisdiction that the Appellate Court can step in and set aside the order passed under Section 34 of the Act. The power of this Court is more akin to that of superintendence as is vested in Civil Courts while exercising revisionary powers. The arbitral award is not liable to be interfered unless a case for interference is made out.

31. Though, the award of the Arbitral Tribunal and judgment of the District Court cannot be found fault with insofar as consideration of the claim of the claimants/respondents for damages for the loss sustained by them on account of shortage of assured workload, however, there is a patent illegality, which is apparent in the arbitral award insofar as grant of interest at the rate of 20% per annum from 28.02.2000 (date of claim statement) till the payment. According to us it is a patent illegality and against the public policy, which requires interference and modification. Because, though, it is the case of the claimants/respondents that for the purpose of carrying out the business, they have all availed the financial assistance from the KSFC by mortgaging their properties. The details of the loan availed, the date on

which the loans were cleared and the date on which the properties of some of the claimants were brought to sale are not placed on record. The grant of interest at 20% per annum by the Tribunal is only on the basis that on the loan availed by the claimants, they have paid interest at the rate of 19.5% and additional penal interest of 2.5% per annum and therefore, the claimants are entitled for interest at the rate of 20% per annum.

32. The present case is one where the claimants have sought for awarding of damages for the loss of expected profit in the event of the appellant supplying the required amount of workload. The calculation of damages is only presumptive loss and not at mathematical exactitude. However, the Arbitral Tribunal has assessed the damages based on the assured workload, which was required to be provided by the appellant to the claimants. There is no exact amount that could be called as loss to the claimants and it is not a case of recovery of a determined amount, which was due from the appellant.

33. Therefore, on the quantum of damages awarded, the awarding of interest at the rate of 20% per annum from 28.01.2000 till the date of payment cannot be called as just and reasonable. The grant of interest at the rate of 20% per annum could be held reasonable only for the period during which the respondents/claimants have repaid the loan amount to the KSFC. Once the financial liability of KSFC is discharged, there was no liability of the claimants to pay interest on the loan amount. Therefore, for the period during which there was no liability of payment of interest on the loan amount to the KSFC, the interest awarded at the rate of 20% p.a., is totally unjustified. Therefore, we are of the opinion that the interest payable to the claimants on the assessed damages could be in the following formula:

(i) Interest at the rate of 20% per annum on the damages awarded only for the duration(number of years) in which the claimants were repaying the loan amount to KSFC i.e from the date of sanction of the loan till the date of repayment/discharge of the loan subject to proof.

(iv) Interest at the rate of 12% per annum on the damages awarded for the remainder period during which there was no liability of the respondents/claimants of repayment of the loan to the KSFC. Awarding of interest @ 12% is in accordance with Section 31(7)(b) of the Arbitration and Conciliation Act, 1996.

34. We have come to such a conclusion taking note of the fact that the Arbitral Tribunal has awarded interest from the year 2000 till the date of payment and during the entire period of 26 years, the appellant would be liable to pay interest at 20% p.a. The appellant is also a Company owned by the Central Government, which is a custodian of the public money and therefore, the award of the learned Arbitrator needs to be interfered with. The modification of the arbitral award to the extent of reduction of the rate of interest is supported by the observation of the Hon'ble

Supreme Court in the case of ***Gayatri Balaswamy Vs. M/s ISG Novasoft Technologies Ltd.,*** reported in ***(2025) 7 SCC 1,*** which reads as under:

> *"Our reasoning is bolstered when considering the practical aspect. The Arbitral Tribunals when determining the post award interest, cannot foresee future issues that may arise. The post award interest is inherently future oriented and depends on facts and circumstances that unfold after the award is issued. Since, the future is unpredictable and unknown to the Arbitrator at the time of the award, it would be unreasonable to suggest that the Arbitrator as a soothsayer, could have anticipated or predicted future events with certainty. Therefore, it is appropriate for Section 34 Court to have the authority to intervene and modify the post award interest, if the facts and circumstances justify such change"*

35. We have noticed that pursuant to the order passed by the Hon'ble Supreme Court in SLP(C)Nos.4534-4541/2015, the respondents/claimants have sought for release of the amount deposited before this Court and the same has been disbursed. Therefore, while calculating the entitlement of the respondents/claimants in terms of the award of the Arbitral Tribunal, which is modified by this

judgment, the amount already deposited by the appellant and disbursed in favour of the respondents/claimants will have to be taken into consideration. The appellant is required to calculate the entitlement of each of the respondents/claimants in terms of the award of the learned Arbitrator, which is modified by this judgment and also taking into consideration the amounts, which have been deposited before this Court pursuant to the orders of the Hon'ble Supreme Court and necessary action to pay the balance of amount payable to the respondents/claimants in a time bound manner.

36. In the result:

(i) All the Miscellaneous First Appeals are ***disposed of***;

(ii) The award dated 29.07.2002 passed by the learned Arbitrator and the judgment and decree dated 09.08.2018 in A.S.Nos.70, 63, 64, 65, 69, 70, 71, 81 and 82 /2002 passed by XV Addl. City Civil & Sessions Judge, Bangalore City (CCH-3) are confirmed except to the extent of modification of the award insofar as rate of interest at 20% per annum is concerned.

(iii) It is held that the respondents/claimants are entitled for interest at the rate of 20% per annum on the damages awarded only for the period in which the claimants were repaying the loan amount to KSFC i.e., from the date of sanction of the loan till the date of repayment/discharge of the loan subject to submission of proof to the appellant.

(iv) The respondents/claimants are entitle for interest at the rate of 12% per annum on the damages awarded by the learned Arbitrator for the remainder period during which there was no liability on the respondents/claimants of repayment of the loan to the KSFC.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(T.P.VIVEKANANDA)
JUDGE

PB