IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). OF 2026
[@ SLP (C) NO. 32253-32254 OF 2025]

KUNAL BSBK JOINT VENTURE LTD. **Appellant(s)**

VERSUS

CHHATTISGARH HOUSING BOARD **Respondent(s)**

O R D E R

1. Leave granted.

2. The appellant approached the High Court by filing a Writ Petition, being W.P. (C) No. 6197 of 2024 under Article 226 of the Constitution of India, for enforcement of the contractual rights relating to refund of the Goods and Service Tax (GST) element that the appellant has already paid. This claim is based on Clause 2.14.A of the contract, which notes that service tax will not be applicable in this contract, and states that any such tax, if applicable, shall be reimbursed. The text of the provision reads as follows:

> **"2.14.A Taxes: The rate quoted by the Contractor shall be deemed to be inclusive of the sales and other levies, duties, royalties & cess, toll, taxes of Central and State Governments, local bodies and authorities that the Contractor will have to pay for the**

performance of this Contract. The Chhattisgarh Housing Board will perform such duties in regard to the deduction of such taxes at source as per applicable law. Any payment claimed by the Contractor due to any change(s) in the existing tax structure shall not be entertained by the Chhattisgarh Housing Board.

Note:- Service Tax will not be applicable in this tender. if applicable then same will be reimbursed by the C.G.H.B.”

3. The contract had an arbitration clause as well

“1.21 ARBITRATION CLAUSE:
Except as otherwise provided in this contract, all questions and disputes relating to the meaning of the specifications, designs, drawings and instructions, herein before mentioned as to thing whatsoever, in any way, arising out of or relating to the contract, designs, drawings, specifications, estimates, concerning the works, or the execution or failure to execute the same, whether arising during the progress of the work or after the completion or abandonment thereof, shall be referred to the Dy. Housing Commissioner in writing for his decision within a period of thirty days of such occurrence. Thereupon, the Dy. Housing Commissioner shall give his written instructions and/or decision within a period of sixty days of such written request. This period can be extended by mutual consent of the parties.”

4. The High Court examined the arbitration clause and came to the following conclusion:

"17. One of the grounds raised by the learned counsel for the petitioner is that Section 142(10) of the CGST Act 2017 specifically addresses contracts entered into prior to the implementation of GST, providing those supplies made (supply of services) post GST shall be taxed under the new regime. Further, the saving provision under Section 174 of the CGST Act safeguards rights and obligations accruing under the erstwhile regime. Therefore, narrow

interpretation cannot be adopted to deny the petitioner its statutory right to recover GST in respect of supplies made (supply of services) after the introduction of GST.

18. There is no dispute that clause 2.14.A of the agreement is in relation to the taxes and "Note" appended thereto clearly states that service tax will not be applicable in this tender and if applicable, then the same will be reimbursed by the CGHB.

19. Mr. Das has drawn attention to clause 11.2 of the agreement which states that all duties taxes and other levies payable by the contractor under the contract or for any other cause, shall be included in the total tender price submitted by the tenderer and any variation during execution in above duties/taxes/other levies not be considered. As such, it is for the petitioner to bear any taxes and the petitioner cannot claim that the respondent since has availed input tax credit, hence, the same should be reimbursed to the petitioner. The claim whatsoever the petitioner is making, arises out of the terms of the contract and any dispute with respect to the same could be resolved under clause 1.21 which provides for arbitration clause, however, the same is disputed by the learned counsel for the petitioner stating that the dispute with relation to tax cannot be adjudicated through arbitration.

20. According to Mr. Rastogi, the dispute is public law in nature and not a private contractual claim. We are in complete disagreement with the said submission as the dispute itself arises out of a contract between the petitioner and the respondent-CGHB and any contract between two parties are restricted to them only and not applicable universally to all. Any financial strain or consequential losses to any party due to withholding of any dues by another party cannot be a ground for bypassing the alternate remedy available to it.

21. It is no longer res integra that disputed question of fact cannot be decided in a writ petition. It is needless to say that every action of State or its instrumentality, which

> **is illegal, in contravention of the prescribed procedure, unreasonable, irrational or malafide is open to judicial review. Every executive or administrative action of the State or other statutory or public bodies, legally treated to be authority, which is violative of fundamental rights or any statute, is open to judicial review. However, a disputed question of fact relating to ownership of particular plot of land, a private dispute between two persons relating to violation of contractual agreement, or the terms of contract by one party do not come under the scope of judicial review.**
>
> **22. On careful reading of the arbitration clause, it clearly provides that 'arising out of or relating to contract' and the claim of the petitioner for reimbursement of the service tax also arises out of contract and as such, the said dispute could be resolved through arbitration mechanism. The claim of the petitioner for reimbursement of the GST amount is frivolous and not based on any sound reasons. The contractual dispute which essentially is a money dispute and the since the claim made by the petitioner herein is being disputed by the respondent-CGHB, the same cannot be adjudicated by this Court as it is well settled that a writ court would not come for rescue of a party if the petition involves disputed questions of facts. The petitioner has the remedy to approach the competent jurisdictional civil court for realisation of any amount which arises out of the contractual obligations. The petitioner has not pursued diligently the alternative remedy that is available to it.**
>
> **23. As a result, this petition being devoid of merit, is accordingly dismissed."**

5. Even the review petition filed by the appellant got dismissed by order dated 06.10.2025.

6. Heard Mr. Mukul Rohatgi, learned senior counsel appearing for the appellant and Mr. Apoorv Kurup, learned senior counsel appearing for the respondent.

7. Having considered the matter in detail, we are of the opinion that the dispute relating to refund on the basis of the Clause 2.14.A would not fall within the purview of the Arbitration Clause in the Contract dated 05.02.2016. We are of the opinion that the High Court was not justified in dismissing the Writ Petition on the ground that there is an existing arbitration agreement between the parties.

8. Mr. Apoorv Kurup, learned senior counsel for the respondent submits that Clause 2.14.A is to be interpreted in a different manner. Mr. Apoorv Kurup, has submitted that the judgments of the High Court in Writ Petition (C) No. 3339 of 2023 dated 29.04.2024, as upheld by the Division Bench of the High Court in Writ Appeal No. 350 of 2024 dated 24.06.2024, have no application to the facts and circumstances of the case.

9. Without expressing any opinion on the rival submissions of Mr. Mukul Rohatgi and Mr. Apoorv Kurup, learned senior counsels, on the merits of the case, we permit the parties to raise all questions of law and fact before the High Court. It is for the High Court to consider the submissions and decide the case in accordance with law, keeping in view the scope of judicial review. It is also clarified that we have not expressed any opinion on the merits of the matter.

10. In view of the above, judgment and order(s) passed by the High Court in Writ Petition (C) No. 6197 of 2024 as well as REVP No. 320 of 2025 are set aside and the petitions are restored to their original number for further hearing on merits.

11. Accordingly, the appeals stand allowed to the extent indicated above.

……J.
[PAMIDIGHANTAM SRI NARASIMHA]

……J.
[ALOK ARADHE]

NEW DELHI;
OCTOBER 01, 2026

ITEM NO.37 COURT NO.4 SECTION IV-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 32253-32254/2025

[Arising out of impugned final judgment and order dated 11-08-2025 in WPC No. 6197/2025 06-10-2025 in REVP No. 320/2025 passed by the High Court of Chhattisgarh at Bilaspur]

KUNAL BSBK JOINT VENTURE LTD. Petitioner(s)

VERSUS

CHHATTISGARH HOUSING BOARD Respondent(s)

IA No. 284751/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 284750/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

Date : 01-10-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ALOK ARADHE

For Petitioner(s) :Mr. Mukul Rohtagi, Sr. Adv.
Mr. Abhishek Rastogi, Adv.
Ms. Sanya Sud- 3634, AOR
Mr. Jay Sharma, Adv.
Mr. Keshav Sehgal, Adv.

For Respondent(s) :Mr. Apoorv Kurup, Sr. Adv.
Mr. Suyash Pande, Adv.
Ms. Nikita Capoor, Adv.
Mr. Vishwajeet Pandey, Adv.
Ms. Isha Singh, Adv.
Mr. Deep Kumar, Adv.
Mr. Dharam Pal Choudhary, Adv.
Mr. Jaydip Pati- 3796, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.

2. The Civil Appeals stand allowed in terms of the Signed Order.

www.taxcode.in

3. Pending application(s), if any, shall stand disposed of.

(KAPIL TANDON) **(NIDHI WASON)**
ASTT. REGISTRAR-cum-PS **ASSISTANT REGISTRAR**
(Signed Order is placed on the file)