

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
COMMERCIAL DIVISION
APPELLATE SIDE**

Present:

**The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Aryak Dutt**

**AO-COM 39 of 2026
with
IA No.: CAN 1 of 2018 (Old No.: CAN 6126 of 2018)**

**M/s Balmer Lawrie & Co. Ltd.
Vs.
Ruia Chemicals Pvt. Ltd. & Anr.**

For the Appellant : Ms. Sonal Shah, Advocate
Mr. Kushagra Shah, Advocate

Hearing & Judgment on : **September 2, 2026**

DEBANGSU BASAK, J.:-

1. Appeal is directed against the order dated May 8, 2018 passed by the learned 1st Court, South 24 Parganas, Alipore in Misc. Case No.317 of 2012.
2. By the impugned order, the learned Single Judge allowed an application under Section 34 of the Arbitration & Conciliation Act, 1996 directed against the Award dated May 11, 2012.
3. Learned Advocate appearing for the appellant draws the attention of the Court to the impugned order. She submits that, the Court exercising jurisdiction under Section 34 of the Act of 1996 proceeded to grant compound interest to the respondent No.1 herein. She submits that,

power of modification of an Award by the Court under Section 34 of the Act of 1996 does not permit such Court to award interest at the compound rate.

4. None appears for the respondents even in the second call.
5. A contract was awarded by the appellant herein to the respondent no.1 for construction. Disputes and differences arose between the appellant and the respondent no.1 which were referred to arbitration. The Arbitral Tribunal passed an Award dated May 11, 2012 allowing a portion of the claims of the respondent no.1.
6. Respondent no.1 being aggrieved by the Award filed a petition under Section 34 of the Act of 1996 resulting in the impugned order.
7. We find that, in the impugned order, the learned Trial Judge proceeded to modify the Award on the interest component awarded in the Award. In doing do, the learned Trial Judge took into account the provisions of the Micro, Small and Medium Enterprises Development Act, 2006 and the fact that, the respondent no.1 was an enterprise within the meaning of the MSMED Act, 2006.
8. Power of modification under Section 34 of the Act of 1996 is limited to any clerical mistake appearing on the face of the Award. Here, the learned Trial Judge, by the impugned order, proceeded to award a different rate of interest altogether. It entered into the merits of the matter in order to consider the rate of interest required to be awarded. A Court exercising jurisdiction under Section 34 of the Act of 1996 is not

required to reappreciate evidence and substitute the findings returned in the Award acting as a Court of Appeal.

9. As a Court exercising jurisdiction under Section 37 of the Act of 1996, we are required to evaluate as to whether the Court exercising powers under Section 34 of the Act of 1996 applied the correct parameters while considering the challenge to the Award.
10. In the facts and circumstances of the present case, we are of the view that the Court exercising powers under Section 34 of the Act of 1996 overstepped the parameters in modifying the Award and awarding interest at a new rate.
11. The interest awarded in the Award cannot be said to be containing error on the face of the Award permitting the Court exercising under Section 34 of the Act of 1996 to correct it.
12. In view of such discussions, the impugned order dated May 8, 2018 is set aside. The Award dated May 11, 2012 is upheld without any modification.
13. **AO-COM 39 of 2026** and **IA No.: CAN 1 of 2018 (Old No.: CAN 6126 of 2018)** are **disposed of** without any order as to costs.

(Debangsu Basak, J.)

14. I agree.

(Aryak Dutt, J.)