# BEFORE THE ARBITRAL TRIBUNAL COMPRISING OF HON'BLE MR. JUSTICE KALYAN JYOTI SENGUPTA RETD. (SOLE ARBITRATOR)

## (FORMER CHIEF JUSTICE FOR THE STATE OF TELENGANA AND STATE OF ANDHRA PRADESH AT HYDERABAD)

#### IN THE MATTER OF DISPUTE BETWEEN:

### M/S AANUJ INFRAPROJECTS PVT. LTD.

(Formerly Aanuj Constructions) F-10, Nand- Jyot Industrial Estate, Andheri, Kurla Road, Safed Pool, Andheri (E), Mumbai-400 072

....CLAIMANT

#### **AND**

#### UNION OF INDIA

Through Director General Border Roads Seema Sadak Bhawan, Ring Road, Delhi Cantt., New Delhi.

....RESPONDENT

### **VOLUME-IV**

# DOCUMENTS IN SUPPORT OF CLAIMANT'S CLAIMS [C-1 to C-185]

Submitted by:

Parekh & Co. (Counsel for the Claimant)

Place: New Delhi Dated: 31.05.2023

# BEFORE THE ARBITRAL TRIBUNAL COMPRISING OF HON'BLE MR. JUSTICE KALYAN JYOTI SENGUPTA RETD. (SOLE ARBITRATOR)

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Regd / AD 107 Road Constr Coy (GREF) Pin Code - 930 107 C/O 99 APO

0 g Jun 2018

8049/Vol-II/ \\8 /E8

M/s Aanuj Infraprojects Pvt Ltd F-10, Nandjyot Industrial Estate, Andheri - Kurla Road, Andheri (E), Mumbai - 400072

DESIGN AND CONSTRUCTION INCLUDING SUB SOIL INVESTIGATION OF 180 MTR LONG MAJOR PERMANENT BRIDGE WITH PSC CONTINUOUS CANTILEVER SUPER STRUCTURE/CABLE SUSPENSION BRIDGE AND ABUTMENT ON OPEN/WELL FOUNDATION OVER RIVER TEESTA AT KM 0.00 ON ROAD SANKLANG-TOONG UNDER PROJECT SWASTIK IN SIKKIM STATE. CA NO: CE (P) SWTK / 13 / 2015-16

Dear Sir.

- Please refer our letter mentioned below:-1.
  - (a) Letter No. 8049/63/E8 dated 30 Jan 2018.
  - (b) Letter No. 8049/73/E8 dated 15 Feb 2018.
  - (c) Letter No. 8049/Vol-II/111/E8 dated 24 May 2018.
- The requisite details/documents not yet submitted by your office till date. Hence once again you are requested to submit the details/documents to this office at the earliest for our record and further submission to higher HQ.
- The protection work of Mangan-Sankalang road is very slow, it may cause major damage to road and as well as human being and property, therefore you are directed to accelerate the protection work of M-S road.
- Considering the monsoon season is on the peak, the cutting edge of P2 pier is laying in river bed and the work at P2 pier still pending since long, after numerous reminders to you. In this regard you are advised to proper protection/anchorage to P2 pier cutting edge should provide at site to avoid any mis-happening, otherwise Dept. will not be responsible for that. Once again you are advised to put proper concentration on the subject issue and protect it
- The pace of work progress is slow, hence you are directed to expedite the work progress to complete the work within stipulated time of completion.
- 4. Please acknowledge receipt.

Yours faithfully,

(Vinayak Kumar) EE (Civ) OC Contract

Copy to:-

HQ 758 BRTF Pin: 930758 C/O 99 APO

For info please.

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RegistChed/AD 107 Road Constr Coy (GREF) Pin Code — 930 107 C/O 99 APO

8049/Vol-II/ 120 /E8

( Jun 2018

**HQ 758 BRTF (GREF)** C/O 99 APO Pin- 930758

DESIGN AND CONSTRUCTION INCLUDING SUB SOIL INVESTIGATION OF 180 MTR LONG MAJOR PERMANENT BRIDGE WITH PSC CONTINUOUS CANTILEVER SUPER STRUCTURE/CABLE SUSPENSION BRIDGE AND ABUTMENT ON OPENWELL FOUNDATION OVER RIVER TEESTA AT KM 0.00 ON ROAD SANKLANG-TOONG UNDER PROJECT SWASTIK IN SIKKIM STATE. CA NO: CE (P) SWTK / 13 / 2015-16

- 1. Please refer your letter No. 8193/60/E8 dated 31 May 2018.
- 2. The details furnished by the contractor M/S Aanuj Infraprojects Pvt Ltd, vide his letter No. AIPL/DGBR/SWTK/2018/64 dated 10 May 2018 at Para-02 is not correct. On verification of subject work site during my visit on 08<sup>th</sup> Jun 2018 only one engineer found at site. The details of engineer available at site as under:-
  - (a) Mr. Deepak Singh Yadav
- 3. The bar chart produced by the contractor, scrutinized at this unit level and observed some points mentioned below:-
  - (a) Activity wise/date wise details like cutting, bending, placing and binding of steel including shuttering and concreting work not defined in the bar chart.
  - (b) Lift wise/date wise details of concreting not found in bar chart.
  - (c) All activity related to bridge work for subject CA not endorsed in bar chart.
- 4. For info please.

(Vinayak Kumar) EE (Civ) OC Contract

Copy to:-

Regd / AD

M/s Aanuj Infraprojects Pvt Ltd F-10, Nandjyot Industrial Estate, Andheri – Kurla Road, Andheri (E), Mumbai - 400072

- You are requested to expedite the work and furnish the requisite detail.

CSIGN &

Regd / AD 107 Road Constr Coy (GREF) Pin Code – 930 107

C/O 99 APO

8049/Vol-11/ +23 /E8

M/s Aanuj Infraprojects Pvt Ltd F-10, Nandjyot Industrial Estate, Andheri – Kurla Road, Andheri (E), Mumbai - 400072

DESIGN AND CONSTRUCTION INCLUDING SUB SOIL INVESTIGATION OF 180 MTR LONG MAJOR PERMANENT BRIDGE WITH PSC CONTINUOUS CANTILEVER SUPER STRUCTURE/CABLE SUSPENSION BRIDGE AND ABUTMENT ON OPENWELL FOUNDATION OVER RIVER TEESTA AT KM 0.00 ON ROAD SANKLANG-TOONG UNDER PROJECT SWASTIK IN SIKKIM STATE. CA NO: CE (P) SWTK / 13 / 2015-16

Dear Sir,

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- 1. Please refer your letter AIPL/DGBR/SWTK/2018/65 dated 14 May 2018 and HQ 758 BRTF letter No. 8193/CA-13/66/E8 dated 31 May 2018.
- 2. You are requested to submit details asked vide above cited letter of HQ 758 BRTF, to this HQ for our further necessary action please
- 3. Please acknowledge receipt.

Yours faithfully,

(Vinayak Kumar) EE (Civ) OC Contract

Copy to:-

HQ 758 BRTF Pin: 930758

C/O 99-APO

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For info please.



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AIPL/DGBR/SWTK/2018/66

18th June, 2018

To,
EE (Civ) NFSG,
Offg Commander,
Headquarters,
758 Border Roads Task Force,
C/o. 99 APO,
Pin - 930758.

Dear Sir,

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Sub.: Design & Construction including Sub Soil Investigation of 180 Mtr. Long Major Permanent Bridge with PSC Continuous Cantilever Super Structure/Cable Suspension Bridge and Abutment on Open / Well Foundation over river Teesta at Km. 0.0 on road Sanklang – Toong under project Swastik in Sikkim State.

Ref.: 1. Your Letter No. 8193/CA-13/58/E8 dated 29/05/2018 received on 05/06/2018.

2. OC Contract Letter No.: 8049/117/E8 dated 08/06/2018 received on 15/06/2018.

3. Our Letter No.: AIPL/DGBR/SWTK/2018/63 dated 10/05/2018.

Vide letter under reference no. 3, we have narrated the detailed situation at site of work under the project subjected above. However, we were deeply shocked to find the letter under reference no. 1 from your end which is in contrary to the actual situation at site of work which you will also appreciate.

However, in response we would like to give you parawise comments to your remarks.

Para 1: Delay in Land Acquisition:-

Please refer to our letter no. AIPL/DGBR/SWTK/2016/07 dated 27/01/2016 wherein we have clearly stated that the said work order dated 23/12/2015 was received by us only on 25/01/2016 and hence date of work order should be reckoned as 25/01/2016 instead of 23/12/2015. Hence it is not at all after thought and it is factual situation which you had not refused till your this letter under reference no. 1 dated 29/05/2018.

Naturally the work order has to be sent by the Department to Postal address only. Further, after receiving the work order only we are supposed to take over the site and hence we have followed correct technical and legal steps. Hence no question arises of inspecting the site before accepting work order. Hence we strongly object your

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statement "You wanted to manage all the things from your address place without inspecting the site before accepting such important contract document".

As regard to Land Acquisition issue, we submit here that the Land Acquisition process done by the Department earlier was not accepted by the Land Owners and hence the Department thereafter acquired the land beside the original acquired land to find way out. Hence, after acquiring this other land, the alignment of the bridge was changed than the original alignment at the tender stage.

As regard to forest land, acquisition, the Department had paid dues to the Forest Department but Department had not completed on paper formalities of handing over of Land. Till then, the forest staff were not allowing to work till 'NOC' from their side is issued. Hence, question of bad liaison with local people does not arise.

The Chief Engineer had taken meeting in his office on 5<sup>th</sup> July, 2016 and Director (Contracts) alongwith OC Contract and Engineer In-charge had inspected the site on 24<sup>th</sup> August, 2016 as regard to handing over of full site to us. Hence our stand is factual and it is correct as the actual site was handed over to us on 31/08/2016 is totally correct. Hence Sir, we request you not to deny the factual situation at site of work. As such, we had deployed Men & Machinery at site since then as before that it had no work.

As regard to Alignment of the bridge please refer to your Department Letter No. 8049/41/E8 dated 17/06/2016. It is also to inform that Toong Side was not acquired till 31/08/2016. Further Drawings of Alignment of the bridge shown as accompaniment to letter dated 17/06/2016 is also changed now due to shifting of acquisition of land. Thus on what grounds Department can take stand that everything was handed over on date of work order is absolutely wrong and not acceptable to us.

Thus we would like to highlight here that the Department wants to hide the issue of Delay in handing over of site for the reasons well known to the Department.

### Para 2: Delay in Approval of Structural Designs by Department:

It is to bring to your kind notice that after acquisition of land by the Department i.e. 31/08/2016, we have naturally started the work of trial bores as till then the owners of the land were not allowing us to enter into their land. This fact Department is well aware of and you will surely appreciate it.

However, it is to highlight here that GAD approval was delayed by the Department and was approved on 27/04/2017.

### Para 3: Delay in Approval of Type of Foundation:

It is again to stress upon the fact that the actual depth of foundation is around 26m which can well be verified at site of work. Hence please do not refuse the actual and

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factual conditions at site of work only with intension of refusing the facts somehow. We get very much disturbed by this attitude of the Department.

After carrying out SSI initially we had given proposal of open foundation because as regard to SSI, we had taken trial bore but we came across probably the big boulders and hence we treated it is rocky foundation. However during actual excavation we found that it is mixed with boulders and not rocky. Hence we changed over to well foundation alternative which Department had refused without giving any technical & legal base. Thus we had ascertained our problems and given the proposal of Well Foundation only.

As pointed out by you, that in normal way it is not possible to provide sheeting and bracing to take care of depth of excavation more than 20m to 26m. As the Department pressing hard to go in open foundation, we had to take consultancy of the technical expert who has designed the technically sound mechanism but it is incurring cost very much. However, we are going ahead with it for the safety of structure and the Department will reimburse the extra cost incurred by us. The details will be furnished to the Department on priority.

The reason of delaying such open foundation work was due to consultancy involvement to safeguard the structure and activity and to avoid accidents.

### Para 4: Clearance of Land from Forest Department:

The Department might have paid the land acquisition cost to Forest Department. However, the Forest Department Staff was constantly pointing out to us that the formalities and technicalities of handing over had not been completed by Department. Hence till then Forest Staff was not allowing to work in their land. It is again requested to give copy of NOC from Forest Department to us so that we can show it to Forest officials/Staff.

### Para 5: Shortage of Blasting Material:-

The Department had issued the Blasting Material which was not producing the desired results at site of work. Hence, we requested Department to allow us to purchase the blasting material from outside. Under this background only Department had allowed us to purchase it from outside. You will definitely appreciate that otherwise the Department would never had allowed us to purchase it from outside.

Thus the cost difference is to be paid to us without any doubt.

### Para 6: Gorkha Land Agitation in West Bengal:-

(a) We agree for actual strike period.

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(b) Actual cost of Retaining Cross Slope has to be paid to us as it is more than the normal Cross Slope generally executed on works of similar nature.

This involves cost of consulting expert and the method of maintaining Cross-Slope and from safety angles too.

Hence, we maintain our stand in our letter no. AIPL/DGBR/SWTK/2018/63 dated 10/05/2018.

Thanking you,

Yours sincerely, FOR AANUJ INFRAPROJECTS PVT. LTD.,

**Managing Director** 

Copy to: 1. The Chief Engineer (P) Swastik, HQ, C/o. 99 APO, Pin - 931717.

2. The OC Contract, 107 Road Constr Coy (GREF), C/o. 99 APO, Pin – 930107.





AIPL/DGBR/SWTK/2018/67

18th June, 2018

To,
EE (Civ) NFSG,
Offg Commander,
Headquarters,
758 Border Roads Task Force,
C/o. 99 APO,
Pin – 930758.

Dear Sir,

Sub.: Design & Construction including Sub Soil Investigation of 180 Mtr. Long Major Permanent Bridge with PSC Continuous Cantilever Super Structure/Cable Suspension Bridge and Abutment on Open / Well Foundation over river Teesta at Km. 0.0 on road Sanklang – Toong under project Swastik in Sikkim State.

Ref. : 1. Your Letter No. 8193/CA-13/64/E8 dated 31/05/2018 received on 06/06/2018.

2. Our Letter No.: AIPL/DGBR/SWTK/2018/58 dated 25/01/2018.

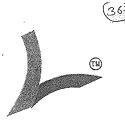
Para 1 : It is to highlight here & point out that at the time of tendering, we go as per the details enclosed with the tender documents. We are not allowed to take SSI before Work Order.

Hence we have to depend and rely on the data supplied to us alongwith the tender documents. It is therefore not secret that we have considered the cost of Open Foundation as normal Open Foundation work, which you will surely appreciate.

Para 2 & 3 : It is not question of SBC of Strata but the Strata as a whole is not suitable for open foundation unless & until it is taken care of through technical experts and advice to make it stable as foundation and safe. The Strata mixed with boulders had this issue. The SBC could have been safe for the same Strata but the collapsing of sides is a problem and road in operation cannot be put into danger by such collapsing sides.

We had not considered the specialized work for open foundation and it is very expensive affair. Had it been visualized earlier at the time of tendering, definitely our offer would have been different, no doubt.

Page 1 of 2



Hence please consider these vital facts.

3. : It is out of question now as Department has refused the proposal of Well Foundation.

This is for your kind consideration please.

Thanking you,

Yours sincerely, FOR AANUJ INFRAPROJECTS PVT. LTD.,

Managing Director

Copy to: The Chief Engineer (P) Swastik, HQ, C/o. 99 APO, Pin - 931717.

Regd AD

Headquarters 758 Border Roads Task Force Pin: 930 758 C/O 99 APO

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M/s Aanuj Infraproject Pvt Ltd F-10, Nandjyot Industrial estate, Andheri - Kurla Road, Safed Pool Andheri (E), Mumbai-400072

DESIGN AND CONSTRUCTION INCLUDING SUB SOIL INVESTIGATION OF 180M LONG MAJOR PERMANENT BRIDGE WITH PSC CONTINUOUS CANTILEVER SUPER STRUCTURE/CABLE SUSPENSION BRIDGE AND ABUTMENT ON OPEN/WELLFOUNDATION OVER TEESTA RIVER AT KM 0.00 ON ROAD SANKLANG TOONG UNDER PROJECT SWASTIK IN SIKKIM STATE: CE (P) SWTK/13/2015-16

Dear Sir.

- 1. The review meeting has been fixed to be held on 26 Jun 2018 at 1000 Hrs at HQ CE (P) Swastik for discussion the progress of subject bridge.
- 2. It is requested to attend the meeting in due time at the venue mentioned at para 1 above without fail.

Yours faithfully

(AK Singh) EE (Civ) NFSG SW

For Commander

Copy to:-

OC Contract 107 RCC C/O 99 APO

Please attend the meeting.



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AIPL/DGBR/SWTK/2018/68

20th June, 2018

To, The OC Contract, 107 Road Constr Coy (GREF), C/o. 99 APO, Pin – 930107

Dear Sir,

Sub.: Design & Construction including Sub Soil Investigation of 180 Mtr. Long Major Permanent Bridge with PSC Continuous Cantilever Super Structure / Cable Suspension Bridge and Abutment on Open /Well Foundation over river Teesta at Km. 0.0 on road Sanklang - Toong under project Swastik in Sikkim State.

Ref.: 1. Work Order No. 01 dated 23/12/2015.

2. Your Letter No.: 8049/63/E8 dated 30/01/2018 received on 07/02/2018.

3. Your Letter No.: 8049/Vol-II/111/E8 dated 24/05/2018 received on 01/06/2018.

4. Your Letter No.: 8049/Vol-II/118/E8 dated 08/06/2018 received on 15/06/2018.

With reference to the above said subject, we would like to inform your goodself that letter no. 8049/73/E8 dated 15/02/2018 which is mentioned in your letter under reference no. 4 is not received by us till date.

With regards to your letter under reference no. 3, kindly find parawise reply as per following:-

Para 1 : No reply needed.

Para 2 a) : Details already send to Commander, HQ, 758 BRTF vide our letter no. AIPL/DGBR/

SWTK/2018/64 dated 16/05/2018.

Para 2 b) : Kindly find enclosed herewith details of Vehicles, Equipments and Plants deployed

at site.

Para 2 c) : The Calibration Report of compression testing machine will be submitted to you shortly.

Para 2 d) : Details already send to Commander, HQ, 758 BRTF vide our letter no. AIPL/DGBR/

SWTK/2018/64 dated 16/05/2018.

Thanking you,

Yours sincerely, FOR AANUJ INFRAPROJECTS PVT. LTD.,

Managing Director

Encl.: As above.

Copy to: The Commander, Headquarters, 758 Border Roads Task Force (GREF), C/o. 99 APO, Pin – 930758.



### LIST OF VEHICLES, EQUIPMENTS & PLANTS DEPLOYED AT SITE.

Sr. No.	Name of Equipment	No. of Unit	Owned / Leased
1	Concrete Batching Plant - RM 800	1 No.	Owned
2	Mixer Machine with Hopper	1 No.	11
3	Crane for Well Sinking	2 Nos.	ET.
4	Hitachi	1 No.	Hire
5	Welding Machine	2 Nos.	Owned
6	Vice Machine	1 No.	ű
7	Weight Machine Digital (100 Kg.)	1 No.	
8	Drill Machine with Stand	1 No.	
9	Steel Cutter Machine	1 No.	"
10	Steel Bar Cutting Machine.	1 No.	14
11	Table Grinder	1 No.	tt.
12	Angle Grinder	1 No.	££
13	Hand Drill Machine	1 No.	"
14	Plate Bending Machine	· 1 No.	
15	Diesel Generator – 25 KVA	1 No.	4
16	Diesel Generator – 58 KVA	1 No.	4
17	Diesel Generator – 125 KVA	1 No.	II
18	Electric Vibrator	2 Nos.	44
19	Diesel Vibrators	1 No.	ıı
20	Gas Cutter Set	2 Nos.	н
21	Chain Block (5-Ton)	1 No.	a
22	Pipe Wrench (12")	1 No.	а
23	Pipe Wrench (24")	1 No.	и
24	Dewatering Pumps - 2 H.P.	1 No.	st .
25	Dewatering Pumps - 3 H.P.	3 Nos.	(t
26	Dewatering Pumps - 5 H.P.	3 Nos.	14
27	Dewatering Pumps - 10 H.P.	1 No.	
28	Dewatering Pumps - 25 H.P.	2 Nos.	• 11
29	Dumper	1 No.	u u
30	Bolero Camper	1 No.	tt.
31	Bike	1 No.	ıt t
32	Cube Mould (150 mm)	12 Nos.	t t
33	Auto Levels with Stand	1 No.	\$6
34	Cube Testing Machine	1 No.	u





Sr. No.	Name of Equipment	No. of Unit	Owned / Leased
35	Theodilite with Stand	1 No.	Owned
36	Slump Cone set	1 No.	и
37	Silt Jar	1 No	ı,
38	G.I. Sieve Set	3 Nos.	st st
39	Oven	1 No.	u
40	AIV Test Machine	1 No.	α
41	Environment Thermometer	1 No.	11
42	Vicat Apparatus for Cement	1 No.	11
43	Moisture Content Meter	1 No.	12
44	M.S. Shuttering Plates 1200 x 600	440 Nos.	u u
45	M.S. Shuttering Plates 1200 x 300	50 Nos.	st
46	M.S. Shuttering Plates Outer 1200 x 600	50 Nos.	55
47	M.S. Shuttering Plates Inner 1200 x 600	35 Nos.	Ľ.
48	Bracket (900x900)	110 Nos.	44
49	Bracket (900x600)	90 Nos.	cc



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Regd AD | F.mail
Headquarters

758 Border Roads Task Force

Pin: 930 758 C/O 99 APO

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9 | Jun 2018

M/s Aanuj Infraproject Pvt Ltd F-10, Nandjyot Industrial estate, Andheri - Kurla Road, Safed Pool Andheri (E), Mumbai-400072

DESIGN AND CONSTRUCTION INCLUDING SUB SOIL INVESTIGATION OF 180M LONG MAJOR PERMANENT BRIDGE WITH PSC CONTINUOUS CANTILEVER SUPER STRUCTURE/CABLE SUSPENSION BRIDGE AND ABUTMENT ON OPEN/WELLFOUNDATION OVER TEESTA RIVER AT KM 0.00 ON ROAD SANKLANG TOONG UNDER PROJECT SWASTIK IN SIKKIM STATE: CE (P) SWTK/13/2015-16

Dear Sir,

- 1. Further to this HQ letter No 8193/74/E8 dt 18 Jun 2018.
- 2. The review meeting fixed on 26 Jun 2018 has been postponed and same will be held on 03 Jul 2018 at 1000 Hrs at HQ CE (P) Swastik.
- 3. It is requested to attend the meeting in due time at the venue mentioned at para 2 above without fail.

Yours faithfully

(Vinay Singh EE (Civ)

SW

For Commander

Copy to:-

OC Contract 107 RCO

C/0 99-APO

Please attend the meeting.