

**HEADING OF DECISION IN CIVIL SUITS
IN THE COURT OF 1st ADDL.SENIOR CIVIL JUDGE, BHUBANESWAR**

***Present :- Pranab Kumar Routray,
1st Addl. Senior Civil Judge,
Bhubaneswar***

M.S. No.171/2005

M/s. P.K. Panda & Associates Pvt. Ltd.,
A private Limited Company registered under
Companies Act 1956, Being represented by its
Managing Director Sri Pratap Kishore Panda
aged about 34 years, S/o Sri Rama Chandra
Panda Plot No.2867, Nageswar Tangi, Near
Lewis Road, Bhubaneswar-2, Dist.Khurda.

... **Plaintiff**

-Versus-

1. The State of Odisha
Represented through Engineer-in-Chief-cum-
Secretary to Government, Works Department,
Odisha Secretariat Building, (Sachivalaya) Orissa,
Bhubaneswar.
2. Chief Engineer, Buildings, Odisha,
Office of the Engineer-in-Chief (Civil)
Nirman Soudh, Unit-V, Bhubaneswar.
3. Executive Engineer, Keonjhar (R & B) Division
At/P.O.- Keonjhar, Dist.Keonjhar.
4. Executive Engineer, General Electrical Division No.III
At/P.O.- Sambalpur, Dist.Sambalpur.
5. Executive Engineer, General Public Health Division-II
At/P.O.- Sambalpur, Dist.Sambalpur.

... **Defendants**

COUNSEL APPEARED

For Plaintiff : Sri H.N. Routray and associates

For Defendants : Sri Rudra Prasad Nanda, Government Pleader

Date Of Conclusion Of Argument : **18-05-2015**

Date Of Judgment : **17-06-2015**
(After Summer vacation)

J U D G M E N T

This is a suit for realisation of money of Rs.36,64,698/- with interest @ 18% per annum and with cost.

2. Case of the plaintiff in brief is as follows :-

The plaintiff is a special class contractor who has subsequently registered their name as private limited company. The Chairman of the Committee of Chief Engineer-cum-Engineer-In-Chief, Civil, Odisha have renewed and registered the contractor's license on dtd.09-04-2003. The fact of change in the status of the firm was timely intimated to all the concerned including the defendants. Executive Engineer (R & B), Division, Keonjhar defendant no.3 in his Tender call notice no.1 of 2000-01 invited sealed composite pattern of tender (Civil, PH and Electrical) in confirmity with Detail Tender Call Notice (in short DTCN) for the work “ Construction of District Judge Court Building at Keonjhar ” hereinafter called the work at an appropriate cost of Rs.171.28 lakhs from eligible and registered contractors of special class and above. The estimated

cost of the work was exhibited at Rs.145.76 lakhs in the DTCN. In response to the tender call notice and in conformity with condition of DTCN the plaintiff submitted tender for the work before the Executive Engineer, Keonjhar (R & B) Division for Rs.2,14,77,320/-. Clause 4 of DTCN provides that the contract will be drawn in PWD F2 contract form and will constitute three parts i.e. (i) civil portion of works, (ii) electrical portion of works and part (iii) PH portion of works. The contract shall be drawn and signed by the Executive Engineer (R & B) Division, Keonjhar on behalf of Governor of Odisha. In response to letter of Executive Engineer dtd. 12-06-2000 and letter of Superintending Engineer dtd.11-07-2000 plaintiff negotiated his tendered rates and reduced his rate in some items covering all the three parts of the work. In response to letter dtd.15-01-2001 of Chief Engineer (Building), Odisha, plaintiff further negotiated his offer rate and reduced his rates in some items vide his letter dtd.15-01-2001. It is pleaded that the tender being composite in nature, the Executive Engineer, Keonjhar (R & B) Division was the only competent authority to negotiate with plaintiff to reduce the rate but not others. Government in Works Department vide letter no.3573 dtd.20-02-2001 approved the negotiated tender of plaintiff amounting to Rs.2,01,77,052/- which was accepted by Chief Engineer, Buildings, Odisha defendant no.2 by his letter dtd.23-02-2001. Accordingly, Executive Engineer (R & B) defendant no.3 in his letter dtd.08-03-2001 called upon the plaintiff to deposit required ISD towards execution of work under the said composite tender along with work programme and other relevant

documents for drawal of agreement which the plaintiff deposited. Defendant no.3 has concluded the agreement by his letter dtd.27-03-2001 with stipulation to complete the work i.e. Civil, Electrical and PH portion within 24 calendar months from 27-03-2001. In the said letter it was directed to the plaintiff to contact Executive Engineer GE Division no.II, Sambalpur defendant no.4 and GPH Division no.II, Sambalpur defendant no.5 for drawal of necessary contract for EI and PH portions respectively of the composite work for the supervision of work of Electrical and PH portion. As per Clause 4 (ii) of DTCN, the contract drawn and signed by Executive Engineer, Keonjhar on behalf of Governor of Odisha vide Agreement no.368F2 of 2000/01 is the main contract. The specifications and terms & conditions of execution of electrical and PH portion vide Agreement no.368F2 was drawn and signed by Executive Engineer (R & B) Division. In obedience to direction of defendant no.3 and in confirmity with Clause 4 (ii) of DTCN, the plaintiff drawn such contracts bearing no. 1F2 of 2002-03 and 3F2 of 2002-03 with Executive Engineer GPH Division II, Sambalpur and Executive Engineer GE Division no.II Sambalpur respectively. The plaintiff has completed the work satisfactorily within the entitled period i.e. by 24-09-2003 and handed over the building on 03-12-2003. Defendant no.3 issued completion certificate in Form no.81 by his memo dtd.03-12-2003. The said completed building was inaugurated by Hon'ble Chief Justice of Orissa High Court on 21-02-2004 and Office of District Judge, Keonjhar started functioning in the building since that date.

3. It is the further case of plaintiff that even though the building was completed in all respect by 24-09-2003 and the benefit out of the completion of the said building passed on to the concerned department since 21-02-2004 but defendant no.3 did not settle the final account of the works contract as required under Clause 4 of the DTCN and unlawfully retained an amount of Rs.35,80,061/- which includes unlawful retention for extra/substituted items actually executed, due towards reimbursement of income tax, sales tax arising out of extra/substituted items, bonafide expenses towards supervision, T & P interest on capital investment, amount due towards differential cost of iron pole in lieu of concrete pole, towards reimbursement of price escalation, amount due on release of withheld amount and amount deducting towards performance security. Plaintiff claims interest @18% per annum on the outstanding dues. Defendant no.3 has paid amount of Rs.10,00,000/- on 31-03-2005 after receipt of notice under Section 80 C.P.C. Calculating interest from 01-04-2005 on the due amount, plaintiff has filed this suit for realisation of Rs.36,64,698/- with pendentelite and future interest and with cost by furnishing a table in the plaint showing his claim on each head.

4. Written statement is filed on behalf of defendants challenging the suit on its maintainability, cause of action, limitation, jurisdiction of this Court to try the suit and also refuted allegation of the plaintiff. The defendants have taken

their stand that the plaintiff is not entitled for realisation of the claimed amount with interest. It is their specific stand that as per Clause 52 of DTCN, plaintiff is not entitled for any interest in respect of execution of work in question. It is admitted that as per Clause 29 (a), (b), (c), (d), (e) and (f) of DTCN inter alia stipulates pre-condition that if during progress of work the price of materials, labour and POL increase or decrease the contractor is entitled to reimburse or liable to refund as the case may be but reimbursement is admissible only on the period beyond one year from the date of commencement and the differential amount is to be calculated as per the formula declared in the said clause of DTCN. It is denied that the tender being composite in nature and the Executive Engineer, Keonjhar (R & B) Division was the only competent authority to negotiate with the plaintiff to reduce the rate. It is submitted that separate contracts were drawn with Executive Engineers of GE Division no.II, Sambalpur and GPH Division no.II, Sambalpur for EI and PH work respectively. It is further submitted that as against the stipulated date of completion of the work by 26-03-2003 the plaintiff completed civil and PH works by 24-09-2003 and electrical work on 20-02-2004. In violation of Clause 4 of the agreement, the plaintiff contractor applied for extension of time in incomplete shape long after completion of work. The plaintiff has also not signed in the "No Claim Certificate" regarding not to claim any extra compensation on account of delay in completion of the work which is part of the extension of time (E.O.T) application form. Therefore, the plaintiff is responsible for non-finalisation of account. However, it is admitted that the

plaintiff contractor is to receive Rs.2,52,256/- only towards electrical portion of work and has already received payment for Civil works and PH works. Regarding alteration or addition to the original specifications, drawings and designs, it is submitted that as per Clause 10 of F2 agreement the Engineer-in-Charge have power to do so and the contractor is bound to carry out the work in accordance with any such instruction. If the additional work includes any special class of work has no rate as specified in the contract then such class of work shall be carried out at the rates entered in the sanction schedule of rates of the locality during the period when the work is being carried on. Accordingly, plaintiff contractor has executed extra quantities at the rates provided in the F2 agreement and the extra items at the latest schedule of rates prevailing during the period of work after entering into supplementary agreement in which he has agreed to the rates at which payments are to be made. Regarding deduction of income tax/ sales tax, it is stated that those are deducted as per Clause 51 of DTCN. The schedule of rates at which extra item has been executed includes sun-dries, T & P and over head charges (profit component of contract). It is specifically pleaded that the contractor is bound to prefer his escalation claim as per the terms and conditions of Clause 29(e) of DTCN but in violation to the said provision the plaintiff has preferred escalation bill for the work done within one year from the commencement of work and has taken Rs.20,93,246/- for civil work which includes excess amount of Rs.8,33,873/- which he is liable to refund and can be adjusted towards his other claims as per Clause 1 of the agreement. Regarding

escalation claim of plaintiff for EI and PH work, it is stated that the plaintiff has not preferred any claim towards this alongwith Books of Accounts and other documents before the respective divisions. So, no escalation due of the plaintiff is pending with defendant nos.4 and 5. Regarding due towards differential cost of iron pole in lieu of concrete pole, it is stated that the plaintiff contractor was to fix concrete pole and he has also done the same but besides concrete pole he supplied two numbers of extra iron pole whose cost including fixing charges is Rs.15,000/- and the same has been included in the final bill. So fixing of iron pole in place of concrete pole is false and fabricated and hence the differential cost as claimed for an amount of Rs.85,550/- does not arise. It is admitted that certain modifications were made on the suggestion of Hon'ble District Judge, Keonjhar and Deputy Registrar, Orissa High Court for completion of the work for which the contractor has also taken extra time. Since the contractor did not submit EOT application within time as specified in Clause 4 of the agreement, some amount was withheld from his bill pending sanction of the EOT by the competent authority. Defendants have admitted about withheld of Rs.4,18,238/- for civil part of work, out of Rs.42,922/- for PH work, an amount of Rs.20,922/- has already been paid and Rs.1,34,607/- has been withheld for EI portion of work for rectification and for sanction of deviation. So far as refund of security deposit is concerned, it shall be refunded only six months after date of completion of work provided the final bill has been paid and defects if any rectified. Due to late submission of EOT application in incomplete shape by the

plaintiff, the same could not be processed. So the plaintiff is also responsible for delay in passing of final bill. It is admitted that after payment, the plaintiff is to receive Rs.1,71,636/- towards security deposit. It is claimed that after adjusting the excess payment of Rs.8,33,873/- towards price escalation in civil portion of work, the plaintiff is to get only Rs.2,16,287/-. It is pleaded that as per clause 52 of D.T.C.N., no interest is chargeable.

5. With the aforesaid pleadings on record, the following issues have been settled :

ISSUES

- 1) Whether the suit is maintainable ?
- 2) Whether there is cause of action to bring the suit ?
- 3) Whether the suit is barred by law of limitation ?
- 4) Whether this Court has territorial jurisdiction to try the suit ?
- 5) Whether plaintiff is entitled for realization of the claimed amount amount with interest ?
- 6) To what other relief(s) the plaintiff is entitled ?

6. Plaintiff has examined himself as P.W.1 and brought documents into evidence vide Exts.1 to 27. On the other hand, defendant no.3 is examined as D.W.1, Defendant no.4 is examined as D.W.2 and Assistant Engineer, GPH,Sub- Division, Rourkela being authorized by defendant no.5 is examined as D.W.3. The documents exhibited from both the sides is appended at the foot of judgment.

FINDINGS

7. Issue no.5

This issue being the principal issue is taken up first for consideration. Plaintiff is claiming the unpaid amount on six heads such as : (i) unlawful retention ; (ii) extra expenses on substituted / extra item ; (iii) price escalation ; (iv) cost of iron pole ; (v) withheld amount and (vi) performance security deducted. On the other hand, defendants are denying the claim of the plaintiff and have taken the stand the excess amount paid to the plaintiff be adjusted and plaintiff can not claim interest as per clause 52 of DTCN.

8. The written statement discloses that defendants have admitted some claim amount. It is first required to decide whether plaintiff can raise these claims after accepting the full and final bill. It is forcefully contended by learned Government Pleader that plaintiff has accepted the final bill as reveals from Exts.C and C/1 and therefore he is debarred to raise any further claim except the amount which is not paid due to approval of Government as admitted in written statement. Firstly, on this point there is no pleadings that plaintiff is debarred to raise any claim after acceptance of final bill. Secondly, as a general principle, one who knowingly accepts the benefits of a contract or conveyance is estopped to deny the validity or binding effect on him of such contract or conveyance but this rule has to be applied to do equity and must not be applied in such a manner as to violate the principles of right and good conscience. The case between R.L. Palathia & Co. Co.-Vs.-State of Gujrat

reported in 2011 (1) CLR SC as relied by plaintiff may be pressed into service in which in response to the invitation of tender by the State Government for construction of a dam, the offer of the appellant firm carrying on business of roads, buildings, dams etc. was accepted with the clause that construction was to be completed within a period of 24 months. The said firm lodged a consolidated statement of their claims for the additional or altered works etc. to the Executive Engineer. Civil suit filed which was allowed but on appeal High Court dismissed the suit upholding that the plaintiff firm was estopped from claiming damages against the department as the final bill was accepted by the plaintiff. But Hon'ble Apex Court considering the factual details/claim of plaintiff's firm held that the impugned judgment of the High Court was not sustainable. However, in the said decision relying on decisions between Chairman and M.D NTPC Limited-Vs.-Reshmi Constructions, Builders and Contractors reported in 2004 (2)SCC 663, Ambika Construction-Vs.-Union of India (2006) 13 SCC 475 and National Insurance Company Ltd.-Vs.-Boghara Polyfab Pvt. Limited, 2009 (1) SCC 267 Hon'ble Apex Court emerged the following principles :-

(I) Merely because the contractor has issued "No Due Certificate", if there is acceptable claim, the Court can not reject the same on the ground of issuance of " No Due Certificate".

(ii) In as much as it is common that unless a discharge certificate is given in advance by the contractor, payment of bills are generally delayed, hence, such a clause in the contract would not be an absolute bar to a contractor raising claims

which are genuine at a later date even after submission of such “ No Claim Certificate”.

(iii) Even after execution of full and final discharge voucher/receipt by one of the parties, if the said party able to establish that he is entitled to further amount for which he is having adequate materials, is not barred from claiming such amount merely because of acceptance of the final bill by mentioning “without prejudice” or by issuing “ No Due Certificate”.

9. In view of the aforesaid guidelines of the Hon’ble Apex Court, in the case at hand, as because plaintiff-contractor has written on the final bill vide Ext.C that he accepted the final bill with settlement of all claims, he can not be debarred to raise any other genuine claim. Hence, now it is to be seen whether the claims raised by plaintiff in this suit are genuine or not.

10. Claim no.(i)- Unlawful retention

On this head, plaintiff claims an amount of Rs.5,04,737/-. Plaintiff in para 21 of the plaint has narrated about his claim. He has nothing to receive for civil portion and PH portion of work. He only claims Rs.5,04,737/- in Electrical portion of work claiming that he has worked for Rs.28,31,332/- whereas he has received an amount of Rs.23,26,595/-. Defendants have replied on this claim in para 19 of written statement and submitted that plaintiff has executed electrical work (part II) worth of Rs.26,50,485/- out of which he has been paid Rs.23,98,229/- and the balance amount due is

Rs.2,52,256/- only. So it is found that defendants have admitted that plaintiff is entitled to receive only Rs.2,52,256/- towards electrical part of work but the reason assigned is that the work was not completed on 24-09-2003 rather electrical part of work was completed on 20-02-2004. Ext.12, letter of Defendant no.3 dtd.07-10-2003 to plaintiff shows that the work was completed in all respect on 25-10-2003. So, the plea taken by the defendants is not true. Now it needs to look into the evidence in order to find out what was the real amount of work done in electrical part of work and what is the date of completion of the said work. Ext.A-4 is the revised estimate of electrical work which denotes the total tune of electrical work is Rs.33,47,770/-. D.W.2 is the Executive Engineer, General Electrical Division, No.III, Sambalpur who is defendant no.4 while cross examined by the plaintiff has admitted in para 4 of his cross examination that there was a revised estimate for the complete work and also a revised estimate for the electrical work. The original contract value of electrical work is Rs.10,73,734/- but as per the revised estimate vide Ext.A-4 excluding contingency of 1% and pro-rata charge of 16% it comes to Rs.33,47,770/-. It is deposed by him that out of Ext.A-4 item nos.59, 60 and 61 are yet to be executed by the plaintiff thereby the plaintiff has not executed work for the value of Rs.5,04,600/-. He has admitted that the plaintiff is to get a sum of Rs.3,23,890/- excluding security deposit and withheld amount.

10.(a). Defendants' claim that plaintiff executed electrical work to the tune of Rs.26,50,485/- is on the basis of MB Book

vide Exts.F and G. But it is found that these measurements was not done in presence of the plaintiff and the plea of the defendants is that inspite of letter issued dtd.29-10-2005 vide Ext.A-5 the plaintiff did not turn up on the date of measurement. D.W.2 in his examination- in-chief has deposed that final measurement was made on 05-11-2005 and it was asked the plaintiff through letter no.246 dtd.29-10-2005 i.e. Ext.A-5 to attend the final measurement to substantiate his such claim. He further deposed in the same para that there is entry in the register about sending of aforesaid letter. He has produced and proved the register of the said letter issued vide Ext.A-6 which reveals that the said letter was sent to the plaintiff on dtd.29-10-2005 and postage used was Rs.5/-. Ext.A-7 is the original service postage stamp register maintained at office of Assistant Engineer, GED, Sambalpur Division wherein Ext.A-7/a of dtd.29-10-2005 shows use of postage stamp of Rs.5/-. But this evidence of D.W.2 is beyond pleadings. The letter was not sent through registered post which D.W.2 also admitted in cross examination. When plaintiff is denying to have received such letter and when the aforesaid documents have been prepared after service of notice U/s.80 C.P.C and after institution of the suit, defendants are to bring sufficient materials in order to satisfy that plaintiff has worked for an amount of Rs.26,50,485/-. One interesting fact as noticed on perusal of Exts.F and G is that the said documents reveal that measurement was made on dtd.07-10-2005 i.e. prior to issuance of the aforesaid letter. Hence, the plea of defendants seems to be ridiculous because measurement was done prior to issuance

of letter whereas they claim that plaintiff did not turn up on the day of measurement. This apart, address of plaintiff mentioned in Ext.A-5 does not tally with his address mentioned in earlier letters sent to him by defendants. Considering evidence of D.W.2 that plaintiff has not worked item nos.59, 60 and 61 of the revised estimate vide Ext.A-4, it clearly reveals that plaintiff has worked rest part of the revised estimate. The work for item nos.59, 60 and 61 amounts to Rs.5,04,600/-. Hence, the demand of plaintiff towards actual work done to the tune of Rs.28,31,332/- is believable. Out of the said amount he has already received Rs.23,26,595/-. Hence, plaintiff is entitled to receive the rest amount of **Rs.5,04,737/-** from defendants towards unlawful retention of money in electrical portion of work.

11. Claim no.(ii) (Extra expenses on substituted/extra item)

Plaintiff claims an amount of Rs.6,44,489/- towards extra expenses on substituted/extra items. His claim is that he has worked the extra/substituted items valuing Rs.15,16,533/- as per the agreement rate and Rs.40,28,057/- as per schedule rate. It is claimed that had those extra/substituted items valuing Rs.40,28,057/- at departmental estimated rate being included in the amount put to tender he could offer the rate of 34.49% extra as has been accepted by defendants as the tender premium. Out of the total claimed amount of Rs. 6,44,489/- plaintiff claims Rs.2,41,683/- towards expenditure incurred for statutory dues of Government i.e. Income tax @ 2% and Sales tax @4% which

has been deducted from his due but the statutory dues were not included in the extra/ substituted items of work of Rs. 40,28,057/- which was done as per the schedule rate. On this point, the defendants stand available at para 20 of W.S. is that as per Clause 10 of the agreement, the contractor has to execute the extra/substituted items at current schedule of rates prevailing during the period of execution. The plaintiff contractor executed the extra / substituted item of work without any objection or protest after being aware of the rates on which payments for those items will be made and also entered into the supplementary agreement. Income tax and Sales tax are deducted as per the rules of Government and Clause 51 of DTCN and the concerned authorities have assessed the said taxes basing on the net income of the contractor. On perusal of Clause 51 of DTCN it is found that it is clearly mentioned that Central and Provincial taxes like income tax and sales tax etc. shall be deducted from the bills at the prevailing rates as per the statutory instructions received from time to time. Hence, the income tax and sales tax @ 2% and 4% respectively is to be deducted on the extra item of work to the tune of Rs. 40,28,057/-. But question arises whether the amount of Rs. 40,28,057/- includes profit of the contractor and the statutory dues by sales tax, income tax etc. Admittedly this work has been executed by virtue of supplementary agreement and also as per the schedule of rate prevailing during the period of execution. D.W.1 has admitted in his cross examination in para 7 that they have deducted 2% for income tax and 4% for sales tax on the extra and additional work. In para 8 of his cross

examination he has stated that for extra item of work the payment rate is as per government schedule of rate. D.W.2 in his cross examination in para 7 has admitted that income tax and sales tax deductions are not taken into account during preparation of schedule of rate. It is found that clause 51 of DTCN says that taxes will be paid on the bills. So, taxes have been paid rightly. But question arises if the said tax amount is not included in K2 agreement, then certainly plaintiff contractor has suffered loss of the said amount for which he is entitled to recover the same from the defendants. Accordingly, claim of plaintiff for **Rs. 2,41,683/-** towards the taxes deducted from his due is allowed and he is entitled to get the same amount from the defendants.

12. So far as claim of Rs. 4,02,806/- towards bonafide expenses incurred by plaintiff towards supervision, depreciation of T & P interest on capital investment etc. in execution of the extra/substituted items of Rs. 40,28,057/- which is assessed by the plaintiff as 10% of the estimated cost of the work, it is pleaded by the defendants that the schedule of rates at which extra items have been executed include sun-dries, T & P and overhead charges (Profit component of contractor). Plaintiff's evidence is silent on the pleadings that T & P has not been included in the extra item of work executed through K2 agreement. Whereas K2 agreement shows that T & P has been included. When pleadings of the defendants is that T & P is included in the schedule of rates at which extra items has been executed, plaintiff should have brought sufficient materials to

substantiate his claim. In absence of this, plaintiff is not entitled to get the amount. This apart, plaintiff also fails to prove that as to how he calculated that he is entitled to 10% of the estimated cost of the additional work towards this claim. Hence, it is held that plaintiff is not entitled to get this claim amount of Rs. 4,02,806/-.

13. Claim no.(iii)

Plaintiff claims Rs. 24,81,941/- towards price escalation and admitted that out of this amount he has received Rs.20,07,334/- towards civil portion of work. So, he claims Rs.4,76,617/- is due on the defendants. The stand of the defendants is that no escalation can be claimed as per the terms and conditions of contract if the work is completed within one year. It is further submitted that P.H portion of work and electrical portion of work have been completed within one year from the date of contract and also from the date of commencement and therefore plaintiff is not entitled to get any amount towards price escalation for the said portions of work. It is further claimed that as per Clause 29(e) of the DTCN, reimbursement / refund on variation in price of materials, labour, POL is admissible only for the period beyond one year from the date of commencement of the work. But in variation to the above provision of DTCN plaintiff has preferred escalation bill for the work done within one year from the date of commencement of work and has taken excess amount of Rs. 5,52,982/- against civil work which he is liable to refund and can be adjusted as per Clause 1 of the agreement. It is also

taken the stand that payment of extra/substituted items is made at current schedule of rates prevailing during the period of execution and since enhanced cost of materials, POL and labour are included in the current schedule of rates there is no question of variation of price of materials, labour and POL and therefore no imbursement is admissible but the plaintiff has taken Rs.2,80,891/- towards escalation for extra/substituted items against civil work which he is liable to refund. Hence, it is claimed that the plaintiff is liable to refund Rs.8,33,873/- in total.

13.(a). Now the moot question to be decided is whether plaintiff is entitled for escalation from the date of commencement of work or beyond one year of commencement. In order to decide this question, it is required to examine whether the contract is a composite and negotiated contract. On perusal of DTCN vide Ext. 21 it is found that in Clause 4 (i) of the said document it is clearly mentioned that the contract is to be drawn in PWD F2 contract form and will constitute three parts i.e. Civil, PH and Electrical. It is further mentioned in the said clause that contract shall be drawn and signed by Executive Engineer (R & B) on behalf of Governor of Odisha. Clause 4 (ii) of DTCN reveals that Executive Engineer (R & B), Executive Engineer, GPH and Executive Engineer, GED will supervise, measure and check measure the schedule of quantities of their respective items of works of the agreement. It is further mentioned therein that in the interest of expeditious execution of work, payment of interim bills

(running A/C bills) shall be made by Executive Engineers of General Electrical Division and GPH Division in respect of electrical and public health works respectively and nil final bill shall be sent to concerned Executive Engineer (R&B) for final adjustment and compilation of accounts. It is also mentioned in the said clause 4 (ii) that the General Electrical Division and GPH Division concerned shall be responsible for proper and timely execution of their respective items of works and implementation of the terms and conditions of the contract and the contractor shall be bound to receive and act as well according to the direction of the Engineer-in-Charge for General Electrical /General Public Health Authority. Clause 7 of the DTCN shows that the work is to be completed in all respects within 24 calendar months from the date of issue of work order. It is mentioned therein that the tenderer should submit a programme of work including EI & PH work. Ext.6, tender call notice published in newspaper and Ext.6/a, tender call notice also speak that tender was invited for composite work. Hence, considering these materials it is safely held that composite tender was invited for composite work. The agreement vide Ext. E / Ext. 21 executed on dtd. 27-03-2001 is accompanied with work programme and the work programme was submitted for Civil, Electrical and PH portion of work. D.W.1 in para 2 of his cross examination admitted that the tender was a composite tender consists of three parts like Civil portion, Electrical portion and PH portion. In para 3, he has admitted that the Executive Engineer (R & B) has received security money deposit (EMD) for all three parts of the

composite contract. D.W.2, Executive Engineer, Electrical in para 3 of his cross-examination admitted that there was no separate tender invited for execution of electrical work. Considering the DTCN, agreement, work programme, tender invitation notice and the admission of the witnesses from the side of defendants irresistible conclusion is drawn that the work is a composite work and the contract is a composite contract.

14. The DTCN reveals that the tender was invited in prescribed form for the work and the amount estimated was approximately Rs.145.76 lakhs. It is evidence on record that tender was submitted by the plaintiff at Rs.214.77 lakhs and on negotiation the tender was accepted at Rs.2,01,77,052/-. This proves the fact that tender was accepted on negotiation. Ext.2 is the letter of Executive Engineer (R & B) dtd.12-06-2000 to the plaintiff contractor which says that the tender rates were high for which the plaintiff was asked to intimate minimum rates acceptable to him. Ext.3 is the letter of plaintiff contractor to the Executive Engineer wherein plaintiff has intimated about the negotiated rate. Ext.4 is the letter of Superintending Engineer, Keonjhar (R & B) Circle which clearly says that the plaintiff was requested to attend his office on 18-07-2000 for negotiation of his tender rates. In reply to Ext.4 plaintiff has written a letter to the Superintending Engineer vide Ext.5 mentioning his willingness to negotiate and he has mentioned about the negotiated rates for the items. Ext.8 is letter of Executive Engineer (R & B) dtd.08-03-2001 wherein it was intimated to the plaintiff that his tender has been accepted at his negotiated

rates. Considering these letters it is held that tender was finalised after negotiation. Tender was accepted at Rs.2,01,823/-. But there is evidence that plaintiff had worked to the tune of Rs.2,57,21,642/-. DTCN vide Ext.21 in its page 174, reveals that the Committee after due deliberation recommended for approval of the lowest negotiated offer of the plaintiff contractor amounting to Rs. 2,01,77,052/- being 34.99% excess over the corresponding estimated cost of Rs. 1,49,46,158/-. It is also found from record that plaintiff has worked extra work worth of Rs. 55,44,590/-. Hence, it is held that the contract was a negotiated contract.

15. Clause 29(e) of the DTCN speaks that reimbursement is admissible only for the period beyond one year from the date of commencement of work whereas Clause 33(e) of the agreement speaks that reimbursement/refund on variation in price of materials, labour and POL shall be applicable only in respect of contract of one year or more provided that the work has been carried out within the stipulated time or extension thereof as are not attributable to contractor. Hence, it is found that there is ambiguity between Clause 29(e) of DTCN and Clause 33(e) of the agreement. Clause 82 of DTCN speaks that in case of ambiguity between Clause of DTCN and the F-2 contract form, the relevant clause of the F-2 contract form shall prevail over the DTCN. In view of this, Clause 33(e) of the contract will prevail and therefore escalation is to be allowed in respect of contract of one year or more. The present contract was first executed to complete the

work within 24 months. Hence, it is a contract beyond period of one year. Much extra work has been done than the original contract. So, proportionate time should be given to the contractor. Ext.12, the completion certificate shows that the plaintiff contractor has completed the work in all respects on 25-10-2003. Initially the plaintiff contractor was asked to complete the work within 24 months from 27-03-2001 and the negotiated contract amount was Rs.2,01,77,052/- whereas extra work of Rs.55,44,590/- was done within a further period of seven months. Ext.12 further reveals that the contractor has completed the work as per the stipulation in the contract. Therefore, it is held that the plaintiff contractor has carried out the work within the stipulated time. Hence, as per Clause 33(e) of the agreement he is entitled for escalation for the first year. This apart, two letters of Government in Works Department which are marked as Exts. 26 and 27 in course of argument in consideration to the petition of the plaintiff dtd.28-01-2009 reveal that the letter bearing no. M-23/89-14379 dtd.22-06-1991 vide Ext.26 that escalation charges are admissible only for the remaining period which is to be reckoned from one year and onwards till the stipulated date of completion whereas Ext.27, letter no.22874 dtd.24-10-1992 speaks that earlier letter vide Ext.26 was withdrawn and issue of payment on escalation charges should be decided strictly in terms of the relevant provision of the individual works contract. Hence, in view of the aforesaid letters of the Government and considering Clause 33(e) of the present contract and in view of the fact that the present contract is a composite contract for all the three

works i.e. Civil, PH and Electrical, the plaintiff contractor is entitled for escalation charges for all portions of work from day one of commencement of work till its completion. Learned Government Pleader forcefully argued that date of commencement of electrical portion of work is on 24-06-2002 as reveals from Ext. E/ Ext.23 and the contract in respect of PH work vide Ext.L/Ext.22 was executed on 24-06-2002 and therefore the plaintiff is not entitled to the escalation charges for these two portions of work. However, on perusal of Ext.L//Ext.22 i.e. contract for PH work, it is found that the date of commencement of work is not mentioned whereas date of commencement of work for electrical work is 24-06-2002 as per Ext.E/Ext.23. It is already held that this is a composite contract. P.W.2 in para 4 has deposed that he is not authorised to execute separate agreement and date of commencement of work in the contract executed for PH portion of work is not mentioned. The work programme submitted by the plaintiff contractor reveals that Electrical and PH work was to be started from seven month onwards and the same has been accepted. Ext.9, letter dtd.27-03-2001 of defendant no.3 says that plaintiff was requested to complete the whole work i.e. Civil, Electrical and PH within 24 months from 27-03-2001. This being a composite contract, defendant nos.4 and 5 do not have the authority to execute any contract and therefore the date of commencement of the work as claimed by the defendants in respect of PH and civil portion of work is not actual the date of commencement of work for the said portion of works. In view of the aforesaid discussion the plaintiff is entitled for price escalation in respect

of P.H and Electrical portion of work besides the rest unpaid amount for Civil work. Hence, he is entitled to the rest amount i.e. for **Rs.4,76,611/-**.

16. Claim no.(iv)

Plaintiff has claimed that there was no contract for installation of iron pole but he has installed two numbers of iron poles. There was contract to install concrete poles. He claims the differential amount of Rs. 85,550/- towards installation of iron pole instead of concrete poles. Defendants have admitted that plaintiff contractor fixed concrete poles and has also supplied two numbers of extra iron poles which cost including fixing charges is Rs. 15,000/- which has been included in the final bill. It is also claimed by the defendants that the claim of plaintiff for Rs. 85,550/- is false and fabricated. D.W.2 in para 7 of his cross examination admitted that plaintiff contractor has installed two numbers of iron poles which is extra item of the work. But he denied to the suggestion that cost of installation of two iron poles is Rs.85,000/- as per market value. Plaintiff in para 40 of his examination-in-chief has deposed that the differential cost involved in this subsidiary item is Rs. 85,550/-. On perusal of his cross examination, interestingly it is noticed that he has not been cross examined on this particular point.

16.(a). From the pleadings and evidence on record, there is no dispute that the plaintiff contractor has installed two numbers of iron poles in place of concrete poles and this work is an extra item of work. Now it is to be seen whether

the differential cost of this extra item of work is Rs.85,550/- or not and whether plaintiff has been paid the differential cost by the defendants. On perusal of the final bill vide Ext.G it is found that cost of the extra item is Rs.15,000/- mentioned in the bill though the measurement was done ex parte. Learned counsel for the plaintiff argued that since there is no cross examination or suggestion of the plaintiff by the defendants on this differential cost, the claim of the plaintiff needs no further proof and should be granted. But the plaintiff is to first prove that the differential cost is Rs.85,550/-. There is no evidence that as to how plaintiff could come to the conclusion that the differential cost is Rs.85,550/-. In absence of such proof and when cost of these two numbers of iron poles is included in the final bill though disputed by plaintiff and since he has already been awarded to get **Rs. 5,04,737/-** towards electrical portion of work on the head of “ Unlawful Retention ”, he is not entitled for this amount.

17. Claim no.(v)

Plaintiff has claims that Rs. 4,18,238/-, Rs.42,922/- and Rs.1,34,610/- in Civil, PH and EI portion of work respectively i.e. in total Rs.5,95,767/- have been withheld due to want of approval of rates, sanction of deviation, sanction of extra time and for rectification of work. It is admitted by the defendants in their pleadings that certain modifications were made on the suggestion of Hon'ble District Judge, Keonjhar and Deputy Registrar, Orissa High Court, Cuttack which was also carried out for which contractor has also taken extra time for

completion of work but the contractor did not submit EOT application within time for which some amount has been withheld from his bill pending sanction of EOT by the competent authority as per para 3.5.30 of Odisha Public Works Department (O.P.W.D) Code Volume I . It is further admitted that due to execution of extra works, original estimate has been revised and it requires revised approval by the Home Department as per OPWD Code which is under process and after approval of the same, deviation statement including rates for extra items will be sanctioned by the competent authority. It is admitted that out of Rs.42,922/- withheld for PH work, an amount of Rs.20,922/- has already been released. It is further admitted that Rs.4,18,238/- and Rs.1,34,607/- has been withheld for civil part and electrical part of work.

17(a). Learned counsel for the plaintiff forcefully argued that E.O.T application is not at all required as per Clause 10 of the contract and it is impliedly allowed. On perusal of clause 10 of the contract, it is clearly mentioned in the said clause that the time for completion of the work shall be extended in proportion that the additional work bears to the original contract work and the certificate of the Engineer-in-Charge shall be conclusive as to such proportion. The original contract value was Rs. 2,01,77,052/- and was scheduled to be completed within 24 months. Plaintiff executed extra work for value of Rs. 55,44,590/-. The completion certificate dtd. 07-12-2003 vide Ext.12 shows that the work was completed in all respect on dtd. 25-10-2003. Hence, in view of Clause 10

of the contract and completion certificate issued it is held that EOT application is not required. Now coming to evidence of the witnesses, D.W.1, the Executive Engineer of (R & B) in para 8 of his cross examination has admitted that they have withheld Rs.4,18,238/- for civil portion of work. He has further admitted that the work has been completed as per revised estimate. It is further admitted that the delay is due to non sanction of the revised estimate and not due to laches of the contractor and the delay is an administrative delay. The evidence on record clearly says that the construction of all parts of work was completed on 25-10-2003. The building was inaugurated by Hon'ble Chief Justice of Orissa High Court on 21-02-2004 and since that date Court and Office of District Judge, Keonjhar started functioning in that building. So there is no reason to keep pending the claimed amount of the plaintiff contractor for sanction. In view of available material on record and particularly admission of D.W.1 it is safely held that the plaintiff contractor is entitled to get the withheld amount of Rs.4,18,238/- in respect of civil portion of work.

17(b). So far as the withheld amount in respect of PH portion of work is concerned, it is admitted by defendants that an amount of Rs. 20,922/- has already been released by defendant no.5 and the rest amount is kept in miscellaneous deposit for PH work. Hence, the same may be released in favour of plaintiff. So far as amount of Rs. 1,34,607/- withheld for electrical portion of work it is submitted by defendants that out of the said amount Rs. 31,665/- is pending for rectification and

Rs.1,02,294/- for sanction of deviation. Though the building has been completed more than 11 years back and started functioning since then yet the aforesaid withheld amount is pending for administrative sanction. Hence, plaintiff is entitled for the said withheld amount. The claim of defendants to adjust the withheld amount in the excess payment of Rs.8,33,873/- towards escalation price is not sustainable in view of findings that plaintiff is entitled for escalation for the entire period of work. In the result, the plaintiff is entitled for an amount of **Rs.5,74,845/-** in total towards withheld amount for Civil, PH and Electrical portion of work.

18. Claim no.(vi)

This claim relates to deduction of performance security amount. Plaintiff claims that 5% of the gross amount of each running account bill have been deducted towards performance security as per the memorandum of contract. It is claimed that Rs. 10,55,307/- has been deducted towards Civil part, Rs. 1,01,271/- towards PH part and Rs. 1,16,329/- towards EI part i.e. in total Rs. 12,72,907/- has been deducted towards performance security. Written statement shows that Rs. 10,00,000/- has been refunded to plaintiff for civil works in March, 2005 which plaintiff admits. Similarly an amount of Rs. 1,01,271/- has been paid to plaintiff by the Executive Engineer, GPH, Division No.II, Sambalpur i.e. defendant no.5 vide Bank draft no. 405924 dtd. 28-10-2005 vide Ext.A-9 which plaintiff also admits. So plaintiff's claim is now Rs.55,307/- towards civil part and Rs. 1,16,329/- towards

electrical part of work. It is the stand of the defendants that due to late submission of EOT application in incomplete shape by the plaintiff contractor, his due for Rs.1,71,636/- towards security deposit could not be processed for which he is responsible for delay in passing the final bill. It is already held that work has been completed within time and as per Clause 10 of the contract EOT application is not required. This apart, Clause 2(iv) of the contract stipulates that security deposit shall be refundable within six months from the date of completion of work whereas after expiry of such long period defendants have kept pending the aforesaid amount on the plea of administrative approval. Hence, plaintiff is entitled to get **Rs. 1,71,636/-** from the defendants towards security deposit.

19. Interest on outstanding

Plaintiff claims that he is entitled for pre suit, pendente lite and future interest @ 18% per annum on the outstanding amount. On the other hand, defendants are claiming since the beginning that as per Clause 52 of the DTCN, plaintiff is not entitled for interest under any circumstances.

Clause 52 reads as follows :- “ It must be clearly understood that under no circumstances any interest is chargeable for the dues or additional dues if any payable for the work executed and final bill pending disposal due to any reason whatsoever.” So, Clause 52 of the DTCN clearly says that under no circumstances plaintiff is entitled for interest.

19(a). Learned counsel for the plaintiff relying on decision reported in 2005 (1) Civil Court Cases 540 (Punjab and Harayana High Court) submitted that once suit is filed, relationship of party ceases to be governed by contract between the parties and comes to be governed by Section 34 of C.P.C. and therefore plaintiff is entitled to interest in terms of Section 34 of C.P.C. Relying on a decision reported in AIR 1996 S.C. 2852 learned counsel submitted that in the said decision Hon'ble Apex Court have held that even if there is prohibition clause contained in contract against claiming payment of interest on delayed payment to contractors, discretion of arbitrator would not be stifled by terms of contract. Another decision reported in 2009 (10) Supreme Court Cases 354 was also pressed into service and it is submitted that it is held by Hon'ble Apex Court that after issuance of full and final discharge/settlement voucher/no due certificate, the contractor's claim for further compensation can also be looked into by Arbitrator or Court.

19(b). From the aforesaid decisions it is clear that the relationship of parties ceases to be governed by contract between the parties and comes to be governed by Section 34 of Civil Procedure Code. In the case reported in 2005 (1) Civil Court Cases 540 while dealing with the matter whether interest can be given when there is contract between the parties that interest is not payable, referring to some decisions of Hon'ble Apex Court, it is held that in express agreement of no payment of interest, the plaintiff is not entitled to pre-suit

interest under the substantive law as contained in Interest Act, 1978 but is entitled to pendente lite and future interest. Learned counsel for the plaintiff argued that as per the agreement, if there is no defect noticed within six months of completion of work then the amount should be settled and as the defendants did not settle the amount beyond six months the plaintiff is entitled for interest after six months of completion of work. Though his argument seems to be sound but in view of the aforesaid decisions the plaintiff is not entitled for interest for the pre-suit period. To sum up, the plaintiff is entitled for pendentelite and future interest on the outstanding dues. The outstanding amount of the plaintiff contractor is withheld for quite a long period i.e. for more than 11 years. So it will be just and proper if plaintiff gets interest @ 12% per annum on the outstanding amount from the defendants.

20. From the aforesaid findings it is held that plaintiff is entitled for Rs. 5,04,737/- towards unlawful retention of money in respect of electrical portion of work ; Rs.2,41,683/- towards expenditure incurred towards statutory dues of Government i.e. Income Tax and Sales Tax which has been deducted; Rs.4,76,611/- towards price escalation ; Rs.5,74,845/- towards withheld amount which is pending before Government for approval of rates, sanction of deviation, rectification of works etc. and Rs.1,71,636/- towards performance security. Hence, in total he is entitled to get Rs.19,69,512/- with pendentelite and future interest @12% per annum.

This issue is answered accordingly.

21. Issue nos.1,2,3,4 and 6

It is the claim of the defendants that this Court has no jurisdiction to take cognizance of the suit on the ground that work agreement was executed at Keonjhar and construction of work was also executed at Keonjhar. Defendant no.1 is State of Odisha represented through Engineer-in-Chief-cum-Secretary to Govt. in Works Department and Defendant no.2 is Chief Engineer, Buildings, Odisha who are the competent persons to disburse the amount due to the plaintiff and their offices are located at Bhubaneswar which is within the jurisdiction of this Court. This apart, it is the Chief Engineer, Buildings, Odisha who has also negotiated with the plaintiff contractor with the tender price. It is evidence on record that he is the authority who has approved the price escalation bills. Hence, this Court has territorial jurisdiction to try the suit. The pleadings of defendants that the suit is barred by law of limitation is an evasive plea. The suit is filed well within the period of limitation. In view of pleadings and in view of findings under issue no.4 there is cause of action to file the suit and the suit so filed is maintainable. The plaintiff is not entitled for any other relief except the relief granted above.

These issues are answered accordingly.

Hence, it is ordered.

ORDER

The suit be and the same is decreed in part on contest against the defendants. The plaintiff is entitled to realise an amount of Rs.19,69,512/- with interest @12% per annum from the date of institution of suit i.e. from 12-09-2005 till its realisation. Defendants are directed to make payment of the aforesaid amount within two months hence failing which the plaintiff is at liberty to realise the same through process of Court.

***1st. Addl. Senior Civil Judge,
Bhubaneswar.***

The judgment is typed to my dictation by the typist attached to this Court directly on the computer provided under E-Court Project and corrected by me during summer vacation and pronounced in the open Court today on the reopening day i.e. on this 17th day of June, 2015 under my seal and signature.

***1st. Addl. Senior Civil Judge,
Bhubaneswar.***

List of Witnesses examined for the Plaintiff:

P.W.1: Sri Pratap Kishore Panda, Plaintiff

List of Witnesses examined for the Defendants :

D.W.1: Sri Bimal Chandra Dash, Executive Engineer (R& B)
Division, Keonjhar ;

D.W.2: Sri Sarat Kumar Sahu, Executive Engineer, General Electrical Division no.3, Sambalpur ;

D.W.3: Sri Sushil Kumar Topno, Assistant Engineer, G.P.H. Sub-Division, Rourkela.

List of Documents marked as Exhibits for the Plaintiff:

- Ext.1: Letter No.4890 dt.24-06-2002 ;
- Ext.2: Letter No.3735 dt.12-06-2000 ;
- Ext.3: Letter No.PKP & S/1/DJE(b) KJR dt.20-06-2000 (negotiated Tender) ;
- Ext.4: Letter No.6285 dt.11-07-2000 ;
- Ext.5: Letter No.PKP & S/1/DJE (b) KJR dt.17-07-2000 ;
- Ext.6: Tender Call Notice ;
- Ext.6/a: Composite Tender Call Notice No.1 of 2000-01 ;
- Ext.7: Money Receipt No.920515 dt.05-06-2000 ;
- Ext.8: Letter No.1924 dt.08-03-2001 ;
- Ext.9: Letter No.2530 dt.27-03-2001 ;
- Ext.10: Letter dt.27-03-2001 ;
- Ext.11: Letter No.BVC-32/99 (P + 1) dt.17-04-2004 ;
- Ext.12: Completion letter dt.07-10-2003 issued by Tarakanta Mohapatra (Civil Engineer) ;
- Ext.13: Legal Notice U/S-80 CPC dt.13-09-2004 issued by the plaintiff ;
- Exts.13/a & 13/b: Postal A/D ;
- Ext.14: Evidence Affidavit of P.W.1 ;
- Ext.14/a: Signature of P.W.1 ;
- Ext.15: Certificate of Incorporation ;
- Ext.16: Letter dt.15-01-2001 issued by the plaintiff ;
- Ext.17: Letter No.BVC-37/99/3183 dt.15-01-2001 of Chief Engineer ;
- Ext.18: Letter dt.31-07-2004 ;
- Exts.18/a & 18/b: Postal Receipts ;
- Ext.19: Letter dt.31-07-2004 ;
- Ext.19/a: Postal ;
- Ext.20: Letter dt.31-07-2004 ;
- Ext.20/a: Postal Receipt ;
- Ext.21: Agreement No.368 F2 of 2000-2001 ;
- Ext.22: Agreement No. 1 F2 of 2002-2003 ;

Ext.23: Agreement No.03 F of 2002-2003 ;
 Ext.24: Legal Notice U/S-80 CPC dt.06-07-2005 issued
 By the plaintiff ;
 Ext.24/a: Postal Receipt ;
 Ext.25: Letter No.37824 dt.31-07-2002 ;
 Ext.26: Letter no.M-23/89-14379 dtd.22-06-1991 ;
 Ext.27: Letter no.22874 dtd.24-10-1992

List of Documents marked as Exhibits for the Defendants:

Ext.A: Agreement No.368 F2 of 2000-2001 (Ext.21) ;
 Ext.A/1: Supplement Agreement dt.17-08-2002 ;
 Exts.A/2 to A/5: Signatures of P.W.1 in Ext.A/1 ;
 Ext.B: Measurement Book No.4001 at page 113 ;
 Ext.B/1: Endorsement in Ext.B ;
 Ext.B/2: Signature of P.W.1 in Ext.B/1 ;
 Ext.C: Final Bill of Civil Work ;
 Ext.C/1: Endorsement in Ext.C ;
 Ext.D: Statement showing recovery of sale tax with
 TDS certificate ;
 Ext.E: Original Agreement for Electrical Work (Ext.23) ;
 Ext.E/1: Signature of P.W.1 in Ext.E ;
 Ext.F: 1st Running Bill measurement Book No.861 at page-14
 Ext.F/1: Signature with endorsement in Ext.F ;
 Ext.G: 2nd Running Bill measurement Book No.861 at page 33;
 Ext.G/1: Signature of P.W.1 in Ext.G ;
 Ext.H: 1st Running Bill ;
 Ext.J: 2nd Running Bill ;
 Ext.K: Xerox copies of challan deposited before authority
 towards sale tax ;
 Ext.L: Original agreement for G.P.H. Work (Ext.22)
 (relevant page- 18 & 19) ;
 Ext.L/1: Signature of P.W.1 in Ext.1 ;
 Ext.M: 1st Running Bill measurement Book No.1810
 at page 78 ;
 Ext.M/1: Signature of P.W.1 in Ext.M ;
 Ext.N: 2nd Running Bill measurement Book No.1821
 at page 23 ;
 Ext.N/1: Signature & endorsement of P.W.1 in Ext.N ;

- Ext.P: 3rd Running Bill measurement Book No.1821
at page 47 ;
- Ext.P/1: Signature of P.W.1 in Ext.P ;
- Ext.Q: Final Bill measurement Book No.1767 at page 62 ;
- Ext.Q/1: Signature & endorsement of P.W.1 in Ext.Q ;
- Ext.R: 4th Running Bill-Cum-Final Bill ;
- Ext.R/1: Signature of P.W.1 in Ext.R ;
- Ext.S: Refund of security deposit vide voucher No.77
dt.31-03-2005 ;
- Ext.T: Refund of security deposit vide voucher No.78
dt.31-03-2005 ;
- Ext.U: Sale Tax deposited vide voucher No.28 dt.11-10-2001 ;
- Ext.V: Sale Tax deposited vide voucher No.59
dt.17-08-2001 ;
- Ext.W: Sale Tax deposited vide voucher No.03
Dt.10-11-2001 ;
- Ext.X: Sale Tax deposited vide voucher No.09
Dt.07-01-2002 ;
- Ext.Y: Sale Tax deposited vide voucher No.11
Dt.15-03-2002 ;
- Ext.Z: Sale Tax deposited vide voucher No.47 Dt.30-03-2002 ;
- Ext.A-1: Sale Tax deposited vide voucher No.156
Dt.22-10-2002 ;
- Ext.A-2: Letter No.4798 dt.27-12-2002 ;
- Ext.A-3: Final Bill of Electrical Work dt.09-11-2006 ;
- Ext.A-3/a: Signature of P.W.1 in Ext.A-3 ;
- Ext.A-4: Revised Estimate for E.I. ;
- Ext.A-4/a: Signature of P.W.1 in Ext.4 ;
- Ext.A-5: Letter No.246 dt.29-10-2005 ;
- Ext.A-5/a: Signature of P.W.1 in Ext.A-5 ;
- Ext.A-6: Original Issue Register ;
- Ext.A-6/a: Entry No.246 at page 82 ;
- Ext.A-7: Original Service Postage Stamp register ;
- Ext.A-7/a: Entry at page 54 of Ext.A-7 dt.29-10-2005 ;
- Exts.A-8 to A-8/22: K2 agreements ;
- Ext.A-9: Voucher No.66 dt.28-10-2005 ;
- Ext.A-10: Sale Tax deposit voucher No.17 dt.11-01-2003 ;
- Ext.A-11: Sale Tax deposit voucher No.16 dt.14-02-2003 ;
- Ext.A-12: Sale Tax deposit couvher No.27 dt.29-12-2003 ;
- Ext.A-13: Refund of withheld amount vide Voucher No.06 ;
Dt.11-01-2003 ;

- Ext.A-14: Voucher No.11 dt.19-10-2005 ;
Ext.B-1: Deposit of Sale Tax vide voucher No.157
Dt.22-10-2002 ;
Ext.C-1: Deposit of Sale Tax vide voucher No.158
Dt.22-10-2002 ;
Ext.D-1: Deposit of Sale Tax vide voucher No.48
Dt.17-01-2003 ;
Ext.E-1: Deposit of Sale Tax vide voucher No.75
Dt.17-03-2003 ;
Ext.F-1: Deposit of Sale Tax vide voucher No.93
Dt.23-10-2003 ;
Ext.G-1: Deposit of Sale Tax vide voucher No.68
Dt.20-03-2004 ;
Ext.H-1: Certificate of deduction for Tax
in the year 2001-2002 ;
Ext.J-1: Certificate of deduction for Tax
in the year 2002-2003 ;
Ext.K-1: Certificate of deduction for Tax
in the year 2002-2003 ;
Ext.L-1: Certificate of deduction for Tax
in the year 2003-2004 ;
Ext.M-1: Receipt of sale Tax voucher No.157
Dt.27-03-2004 ;
Ext.N-1: Receipt of sale Tax voucher No.02
Dt.04-01-2003.

***1st. Addl. Senior Civil Judge,
Bhubaneswar***

