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IN THE HIGH COURT OF DELHI AT NEW DELHI*Judgment reserved on: 07.08.2026**Judgment pronounced on: 14.08.2026**Judgment uploaded on: 14.08.2026*

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W.P.(C) 12270/2024**PAHARPUR COOLING TOWERS LIMITED**Appellant

Through: Mr. Mukul Rohatgi, Sr. Adv. &
Mr. Sandeep Sethi, Sr. Adv.
with Mr. Nikhil Rohatgi, Ms.
Vindhya Mehra and Mr.
Tanishq Kashyap, Mr.
Divyakant Lahoti, Mr. Kartik
Lahoti, Ms. Shubheksha
Dwivedi, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Viplav Acharya, SPC for
UOI along with Mr. Akash
Gupta, GP.
Mr. Amit Tiwari, CGSC with
Ms. Ayushi Srivastava and Mr.
Kushagra Malik, Advs. for
UOI.
Mr. V.N. Koura, Ms. Paramjeet
Benipal, Mr. Aditya Sharma
and Mr. Shaurya Dahiya, Advs.
for R-2/IOCL.
Mr. Saurabh Kirpal, Sr. Adv.
with Mr. Sajid Mohammad, Mr.
Sanjeev Kumar Singh, Mr.
Rohit Kumar Singh, Mr.
Bhishm Pratap Singh, Mr.
Ankur Kashyap, Mr. Devansh
Shekhar, Mr. Paras Sharma,
Advs. for R-4.

CORAM:**HON'BLE MR. JUSTICE ANIL KSHETARPAL****HON'BLE MR. JUSTICE AMIT MAHAJAN**



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J U D G M E N T

ANIL KSHETARPAL, J.:

CM APPL. 47181/2026*[For condonation of delay in filing REV.PET.327/2026]*

1. The present application has been filed by the Petitioner seeking condonation of delay of 60 days in filing REV.PET. 327/2026.
2. For the reasons as stated in the application, the same is allowed. The delay is condoned.
3. The application stands disposed of.

REV.PET. 327/2026 and CM APPL. 47180/2026*[For interim relief]*

4. The present Review Petition has been preferred by the Petitioner seeking review of the judgment dated 23.04.2026 passed by this Court in W.P.(C.) No. 12270/2024, whereby the writ petition preferred by the Petitioner challenging the declaration of Respondent No.4 as technically qualified and the L1 bidder in respect of the subject tender was dismissed.
5. Learned Senior Counsel appearing on behalf of the Petitioner has sought review of the judgment dated 23.04.2026 principally on three grounds.
 - 5.1. First, reliance has been placed upon the subsequent order dated 06.07.2026 passed by the learned Single Judge of the High Court of Bombay in Interim Application No.345/2026 in Commercial IP Suit No.7/2026, titled ***John Cockerill Hamon SA v. Hamon Cooling***



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Systems Private Limited & Anr., whereby an injunction has been granted against Respondent No.4 in relation to the use of the mark/name “Hamon”. It is contended that the said order has a direct bearing upon the controversy adjudicated by this Court in the judgment dated 23.04.2026.

5.2. Second, it was contended that this Court erred in paragraph 18 of the judgment dated 23.04.2026 in proceeding on the premise that the tender conditions did not require Respondent No.4 to demonstrate continued ownership of, or access to, proprietary technology or technical know-how in order to establish its eligibility.

5.3. Third, it was contended that this Court incorrectly distinguished the judgment of the Supreme Court in ***New Horizons Ltd. & Anr. v. Union of India & Anr.***¹ and that the principles laid down therein were applicable to the controversy arising in the present case.

6. Learned counsel appearing for the Respondents has opposed the present Review Petition and submitted that none of the grounds urged by the Petitioner constitutes a ground for review of the judgment dated 23.04.2026.

6.1. It was submitted that the subsequent order dated 06.07.2026 passed by the learned Single Judge of the High Court of Bombay cannot furnish any basis for review, particularly since the operation and effect of the said order have subsequently been kept in abeyance.

6.2. In this regard, reliance has been placed upon the order dated

¹ (1995) 1 SCC 478



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27.07.2026 passed by the Division Bench of the High Court of Bombay in Commercial Appeal (L) No.25111/2026, whereby the statement recorded in the order dated 06.07.2026, to the effect that the said order shall not be acted upon for a period of three weeks, was further extended until the next date of hearing. The relevant portion of the said order reads as under:

“ 1. List the Appeal for hearing on 19/08/2026.

2. In the meantime, the statement recorded in the impugned order to the effect that the same shall not be acted upon the applicant for a period of 3 weeks is further extended till the next date of hearing, as per the instructions received by the learned Senior Counsel, Mr. Jagtiani.”

7. This Court has considered the submissions advanced by learned counsel appearing for the parties and has perused the material placed on record.

8. At the outset, it is relevant to notice that, while dismissing the writ petition being W.P.(C.) No. 12270/2024 on 23.04.2026, this Court had taken into consideration, *inter alia*, the fact that a substantial portion of the work awarded to Respondent No.4 had already been completed. In particular, this Court had noted that approximately 80% of the awarded work had already been executed. The said position has not been disputed by the Petitioner even in the present proceedings.

9. The first and principal ground urged in the Review Petition is founded upon the order dated 06.07.2026 passed by the learned Single Judge of the High Court of Bombay in the proceedings instituted by John Cockerill Hamon SA against Respondent No.4. A careful reading of the said order shows that the proceedings before the High



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Court of Bombay arise out of a suit alleging, *inter alia*, passing off and infringement in relation to the use of the mark/name “Hamon”. The order dated 06.07.2026 was passed while considering an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, and an injunction was granted against Respondent No.4 in the said proceedings.

10. However, the nature and effect of the aforesaid order cannot be considered in isolation. The order dated 06.07.2026 itself contemplated that it would not be acted upon for a period of three weeks. The said position was thereafter further extended by the Division Bench of the High Court of Bombay by its order dated 27.07.2026 in Commercial Appeal (L) No.25111/2026. Consequently, as on date, the operation and effect of the injunction granted by the learned Single Judge have been kept in abeyance and the said injunction is not presently operative. The period of such extension has been stated to operate until 19.08.2026.

11. There is, therefore, no basis to proceed on the premise that the order dated 06.07.2026 has, as of today, resulted in an operative restraint against Respondent No.4 which can alter the position obtaining under the judgment dated 23.04.2026.

12. It is also material to notice that the order dated 06.07.2026 is an interlocutory order passed in proceedings arising out of the suit instituted by John Cockerill Hamon SA. The said order has been passed at an interlocutory stage and does not constitute a final adjudication of the rights and obligations of the parties in the suit.



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Moreover, the injunction granted therein is directed against Respondent No.4 in relation to the use, directly or indirectly, of the mark “Hamon”. The said injunction would become operative only upon the restraint on the operation of the order dated 06.07.2026 being vacated or otherwise ceasing to operate.

13. More importantly, the subsequent order passed by the High Court of Bombay does not alter the nature of the controversy which fell for consideration before this Court in the writ petition. The issue before this Court was whether Respondent No.4 had been wrongly declared technically qualified and as the L1 bidder under the subject tender, having regard to the eligibility criteria stipulated in the tender document.

14. The eligibility of Respondent No.4 was examined by this Court with reference to the terms and conditions of the subject tender. As noticed in the judgment dated 23.04.2026, the tender conditions permitted a bidder to rely upon past completed works of the stipulated nature and value within the prescribed qualifying period. The experience relied upon by Respondent No.4 included the experience gained in relation to the Mangalore Refinery Project, which had been executed by Respondent No.4 as part of a joint venture with Shriram EPC Limited.

15. The subsequent changes in the shareholding and, thereafter, the management of Respondent No.4, or the changes which may have taken place in the larger Hamon Group, do not, by themselves, efface the experience acquired by Respondent No.4 as an entity in execution



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of the said project. The eligibility criteria stipulated in the tender did not provide that the past experience of a bidder would cease to be available to it merely on account of a subsequent change in its shareholding or management.

16. The subsequent order dated 06.07.2026 passed by the High Court of Bombay, even if taken into consideration, does not alter the aforesaid position for the purposes of the present Review Petition. The proceedings before the High Court of Bombay concern the entitlement of Respondent No.4 to use the mark/name “Hamon” and the allegations of passing off and infringement arising therefrom. The question adjudicated by this Court was whether Respondent No.4 satisfied the eligibility criteria stipulated in the subject tender and whether the decision of Respondent No.2 in declaring Respondent No.4 technically qualified and as the L1 bidder warranted interference in exercise of jurisdiction under Article 226 of the Constitution of India.

17. The two controversies, therefore, cannot be treated as identical merely because they may involve overlapping factual circumstances concerning Respondent No.4 and its historical association with the Hamon Group. The subsequent interlocutory order of the High Court of Bombay does not, in itself, establish that the decision of Respondent No.2 in evaluating Respondent No.4’s bid was contrary to the tender conditions or that the findings recorded by this Court in the judgment dated 23.04.2026 suffer from an error apparent on the face of the record.



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18. The second contention urged on behalf of the Petitioner is that this Court erred in observing, in paragraph 18 of the judgment dated 23.04.2026, that the tender conditions did not require the bidder to demonstrate continued ownership of any particular intellectual property, proprietary technology or technical collaboration. According to the Petitioner, Respondent No.4 was required to establish continued access to the technology and technical know-how which had formed the basis of its earlier experience.

19. This contention, however, seeks to reopen an issue which was specifically considered by this Court while adjudicating the writ petition. The judgment dated 23.04.2026 examined the relevant eligibility clause and found that the tender conditions did not stipulate continuity of ownership, shareholding, management or proprietary technology as a condition for relying upon past experience. The Petitioner has not been able to demonstrate that the aforesaid finding proceeds from a patent misreading of the tender document or suffers from an error apparent on the face of the record.

20. The submission that Respondent No.4 ought additionally to have demonstrated continued ownership of, or access to, proprietary technology essentially seeks a reconsideration of the interpretation placed by this Court upon the tender conditions. Such reconsideration would amount to re-appreciation of the matter on merits and cannot be undertaken in exercise of the limited jurisdiction available in review.

21. The third ground urged by the Petitioner concerns the judgment of the Supreme Court in ***New Horizons Ltd.*** (*supra*). This Court had



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considered the said judgment in paragraphs 35 to 37 of the judgment dated 23.04.2026 and had distinguished the same after examining the nature of the controversy arising in the present case.

22. In ***New Horizons Ltd.*** (*supra*), the Supreme Court was concerned with the manner in which the experience of constituent entities of a joint venture/consortium was required to be considered for the purposes of determining eligibility. The controversy in the present case, however, was materially different. The issue before this Court was whether Respondent No.4, as a corporate entity, could rely upon experience of works executed by it during the relevant qualifying period notwithstanding subsequent changes in its shareholding and management.

23. This Court had, therefore, consciously distinguished the judgment in ***New Horizons Ltd.*** (*supra*) on the basis of the factual and legal context in which the said judgment had been rendered. The Petitioner has not demonstrated that the distinction drawn by this Court in paragraphs nos.35 to 37 of the judgment dated 23.04.2026 suffers from any error apparent on the face of the record. Merely because a party takes a different view of the applicability of a precedent does not constitute an error apparent on the face of the record warranting exercise of review jurisdiction.

24. It is also relevant to reiterate that the present proceedings arise out of a tender relating to an ongoing public project. As noticed in the judgment dated 23.04.2026, approximately 80% of the awarded work had already been completed by Respondent No.4. This position



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remains undisputed. The subsequent development relied upon by the Petitioner, therefore, cannot be considered in a manner which would unsettle the findings recorded in the judgment dated 23.04.2026 in the absence of any demonstrable error warranting review.

25. In substance, the grounds urged in the present Review Petition seek reconsideration of conclusions which were arrived at by this Court after examining the tender conditions, the rival submissions and the material placed on record. The jurisdiction of review cannot be invoked merely because the Petitioner seeks a different appreciation of the same material or seeks to rely upon a subsequent interlocutory order which, in any event, is presently not operative.

26. In view of the aforesaid discussion, this Court finds no error apparent on the face of the record, nor any other ground warranting review of the judgment dated 23.04.2026.

27. The present Review Petition is accordingly dismissed. The Pending application also stands disposed of.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

AUGUST 14, 2026

jai/pal