

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No.5587 of 2002
Date of decision : 16.11.2015

M/s N.V. Engineers

...Appellant

Versus

Union of India and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Puneet Jindal, Sr. Advocate with
Ms. Sakshi, Advocate for the appellant.

Ms. Deepali Puri, Advocate &
Mr. Ashwinie Kr. Bansal, Advocate for the respondents.

AMIT RAWAL, J. (Oral)

Challenge in the present appeal is to the order dated 08.08.2002, whereby objections vis-a-vis the claim No.7 at the instance of the Union of India had been allowed, whereas against the claim No.4, the same have been upheld.

Mr. Puneet Jindal, learned Sr. Advocate assisted by Ms. Sakshi, Advocate for the appellant submits, that the Objecting Court has mis-interpreted the contract as Union of India has determined number of unit as

450 instead of 600 and fixed the price of the unit as 9.48, whereas contract envisaged the figure which was arrived at by the Arbitrator. He has relied upon judgment of Hon'ble Supreme Court in *West Bengal State Electricity Board Vs. Patel Engineering Co. Ltd. and ors., 2001(2) SCC 451* to submit that once there is typographical mistake, the same cannot be rectified in the objection petition filed under Section 34, at the best, the application should have been filed under Section 33(7) i.e. within a period of one month from the date of the passing of the award.

Ms. Deepali Puri, learned counsel appearing on behalf of Union of India submits, that there is no illegality and perversity in the order under challenge as 9.48 cannot be units. It is 450 units and for that purpose price has been fixed as 9.48 and rightly so objected and rectified the mistake and upheld the award vis-a-vis the claim No.7.

I have heard learned counsel for parties and appraised the paper book as well as case law cited above.

I have gone through the copy of the contract handed over to me during the course of arguments & as per the contract under claim No.4, it reflects the rate of unit is mentioned as 600.00 kg and the number of unit required which is mentioned as under:-

<u>Rate Unit</u>	<u>No. of Units required</u>	<u>Amount Rs.</u>
600.00 Kg	9.48	Rs.5688.00

The Arbitrator while taking into consideration the aforementioned figures awarded a compensation of ₹4,05,173.47 paise vis-a-vis claim No.4 and partly allowed the claim No.7. The Objecting Court without going into the terms and conditions of the contract modified the

terms and conditions on its own which is not permissible in law. The ratio decidendi culled out by Hon'ble Supreme Court of India in West Bengal's case (Supra) is squarely applicable to the facts and circumstances of the case wherein it has been mentioned that the mistakes and errors in question cannot be corrected until and unless by a corrigendum. The Union of India had never sought correction of the contract and invited the award by accepting the terms and conditions.

In view of what has been noticed above, impugned order in my view is not sustainable as rate of unit has rightly been taken as 600 and number of unit as 9.48 and the amount as Rs.5688.00.

Accordingly, the impugned order is set aside.

Award of the Arbitration is set aside.

Appeal is allowed.

16.11.2015

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**(AMIT RAWAL)
JUDGE**