

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

F.A.O.No.2960 of 2006

Date of Decision: October 28th, 2015

M/s Master Industries, Mamdot

...Appellant

Versus

The Punjab State Civil Supplies Corporation Limited, Chandigarh &
another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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

Present: None for the appellant.

Mr.R.S.Dadwal, Advocate for
Mr.Aman Chaudhary, Advocate,
for the respondent-PUNSUP.

AMIT RAWAL, J. (Oral)

The Miller is in appeal against the order dated 17.9.2005 passed by the District Judge, Ferozepur, whereby the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short "1996 Act") against the award dated 25.9.2001 and the rectified order dated 6.11.2001, whereby a sum of ₹28,462/- has been awarded besides penalty of ₹82846/-, have been dismissed.

There is no representation on behalf of the appellant. The appeal is of the year 2006. I proceed to decide the appeal on merits.

As per the grounds of appeal, it is being averred that the rectified award could not have been passed as PUNSUP failed to show the

proof of payment of ₹82,846/-. The application was filed beyond thirty days and, therefore, the arbitrator could not have rectified the award.

The award in question was against the public policy, much less, non-speaking and has been passed in utter haste. As per the provisions of Section 33 of 1996 Act, the award can be corrected and interpreted within the parameters of the claim of the respondents, if there was some ambiguity. However, from sub-clause (4) of additional award, it is evident that PUNSUP had made a claim of ₹82,846/-, which was left out in the arbitral award because of lack of evidence and the evidence collected by the PUNSUP was after passing of the award, therefore, the arbitrator could not have imposed the penalty of ₹82,846/-.

Mr.R.S.Dadwal, Advocate appearing for Mr.Aman Chaudhary, Advocate for PUNSUP submits that the counsel representing the appellant admitted regarding receipt of payment of ₹82,846/- and the earlier denial was on account of the non-availability of the details of the cheque, thus, in my view, the plea that the arbitrator could not have entertained the application for rectification as in the originally filed claim PUNSUP had sought the claim of the aforementioned amount, was rejected for the reason that there was no request either to waive or reduce the penalty.

I do not find any illegality and perversity in the findings rendered by the Objecting Court in dismissing the objections on the ground that it was an intentional attempt to misguide and misrepresent the respondent.

It is now a settled law that in what circumstances the award has to be interfered with. The question, which is now raised in the

aforementioned appeal, has already been answered by the Hon'ble Supreme Court in catena of judgments, wherein it has been laid down that until and unless the award suffers from illegality as statutorily prescribed under Section 34 of the Act, the same cannot be interfered with. In this context I intend to refer the judgments of Hon'ble Supreme Court in **Associate Builders Vs. Delhi Development Authority (2015) 3 SCC 49** and **Navodaya Mass Entertainment Ltd. Vs. J. M. Combines (2015) 5 SCC 698**. In the aforementioned judgment, the Hon'ble Supreme Court had culled out the ratio decidendi by holding that until and unless there is error apparent on the face of record or the arbitrator has not followed statutory legal position, it is only in these circumstances, it would be justified interfering with the award. The High Court should not act as a Court of appeal and reappraise the material/evidence and embarked on a path by substituting its own view in support of the Arbitrator's view. It is not the case of the appellant that the award is against the public policy or has violated the principles of judicial approach, much less against the statute and other provisions of Section 34 of the Act. The Arbitrator has dealt with the dispute which was contemplated and was within its scope. The parties to the *lis* had participated in the proceedings and were given proper notice not only with regard to the appointment of the Arbitrator but vis-a-vis proceedings. In my view, the award of the Arbitrator does not suffer from any illegality in as much as the Arbitrator who is expert has dealt with the matter and decided the claim of respective claimants to the parties to the *lis*.

In my view, the award read as a whole is just, fair and

reasonable. It is now a settled law that the Arbitrator is the sole judge of quality and quantity of the evidence before him and decide on the basis of the available evidence.

The appeal is accordingly dismissed.

October 28th , 2015
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(AMIT RAWAL)
JUDGE