

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

FAO-1643-2014 (O&M)
Date of decision:- 18.09.2015

Sharvan Kumar Bhatia

...Appellant

Versus

DCM Textiles, Hisar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE

Present: Mr. Pankaj Jain, Senior Advocate,
with Mr. Divya Suri, Advocate,
Mr. Sachin Bhardwaj, Advocate,
Mr. Deepanshu Jain, Advocate,
Mr. Madhur Sharma, Advocate,
and Mr. Gaurav Mittal, Advocate,
for the appellant.

Mr. Atul Lakhanpal, Senior Advocate,
with Mr. Jasmeet Singh, Advocate,
for respondent No. 1.

* * * *

S.J. VAZIFDAR, A.C.J. (ORAL)

This is an appeal against an order dated 21.12.2013 passed by the learned Additional District Judge, Hisar rejecting the appellant's application under Section 34 of the Arbitration and Conciliation Act, 1996 for setting aside an award passed by the sole arbitrator directing the appellant to pay respondent No. 1 a sum of ₹ 13,75,001/- together with interest at 18% per annum from the date of the claim petition till realization. The award also directs that an amount of ₹ 50,000/- alongwith interest at 15% from 01.01.2007 be also credited in the account of the appellant.

2. Admittedly, a dealership agreement was entered into between the parties on 02.01.2001. Admittedly, several sales were effected by respondent No. 1 to the appellant pursuant to and in accordance with the said dealership agreement.

3. There is no dispute regarding the supplies having been made by respondent No. 1 to the appellant. The appellant, however, contended that some of the goods were of C-grade quality. As recorded in the award, there was no evidence produced by the appellant to establish the same. On the other hand, respondent No. 1's witnesses stated that respondent No. 1 does not manufacture C-grade goods. The learned arbitrator also noted that the grievance in this regard had never been raised in the communication between the parties. The last sales supply was effected on 18.03.2005 and even at that stage such a grievance was not raised.

4. Admittedly, the goods were not returned. Nor was there an offer to return the same.

5. In these circumstances, the finding of the learned arbitrator that the appellant had failed to establish that the quality of the goods was defective cannot be faulted.

6. The appellant pleaded an oral agreement to the effect that respondent No. 1 had agreed that the goods allegedly of C-grade quality could be sold at a reduced price. Whether the goods were sub-standard or otherwise was for the arbitrator to decide on the appreciation of the facts. There is no warrant for the Court interfering with this finding of fact in an application for setting aside an award.

7. In these circumstances, the appeal is dismissed.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

18.09.2015

Amodh