

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

1. FAO No.4150 of 2013 (O&M)
Date of decision : 29.09.2015

Punjab State Civil Supplies Corporation Ltd. (PUNSUP)

...Appellant

Versus

M/s Pirdhan Sham Lal Rice Mills and ors.

...Respondents

2. FAO No.3620 of 2013 (O&M)
Date of decision : 29.09.2015

M/s Pirdhan Sham Lal Rice Mills

...Appellant

Versus

Punjab State Civil Supplies Corporation Ltd. (PUNSUP) & ors.

...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. Deepak Sabharwal, Advocate for the appellant
(In FAO No.4150 of 2013) &
for respondent No.1 (In FAO No.3620 of 2013)

Mr. S.K. Singla, Advocate for the appellant
(In FAO No.3620 of 2013) &
for respondent No.1 (In FAO No.4150 of 2013)

AMIT RAWAL, J. (Oral)

CM No.16765-CII of 2013

This is an application u/s 5 of the Limitation Act seeking condonation of delay of 48 days in filing the appeal.

For the reasons stated in the application, which is supported by an affidavit, delay of 48 days in filing the appeal is condoned.

The application stands disposed of.

Main Case

This order of mine shall dispose of two FAOs bearing No.4150 of 2013 titled as PUNSUP Vs. M/s Pirdhan Sham Lal Rice Mills and ors. and FAO No.3620 of 2013, titled as M/s Pirdhan Sham Lal Rice Mills Vs. PUNSUP & ors.

In pursuance to the dispute, arisen, out of the agreement, executed, between the Miller and PUNSUP, the matter was referred to the Arbitrator. The Arbitrator vide award dated 20.04.2006, partly accepted the revised claim of PUNSUP by awarding compensation of ₹14,080/-, which included element of interest at the rate of 18% for 10 years and 9 months i.e. upto 31.03.2006 with future interest of 9% till realization or passing of decree, whichever is earlier. The PUNSUP assailed the aforementioned order by filing the objections. The objections, have been disposed of vide order dated 17.01.2013, whereby the matter has been relegated to the Managing Director on the premise that claim of the PUNSUP, falls within the Excepted Clause of the agreement.

Mr. Deepak Sabharwal, learned counsel appearing on behalf of PUNSUP submits that prior to filing of revised claim, the PUNSUP had claimed ½ times of economic cost plus 21% and 31% interest. Since the aforementioned claim fell within the excepted clause, therefore, the

Arbitrator did not have the jurisdiction to decide this fact and accordingly revised claim omitting the aforementioned claim was filed and, the Arbitrator adjudicated the dispute but did not allow entire revised claims.

Mr. S.K. Singla, learned counsel appearing on behalf of appellant in FAO No.3620 of 2013 and respondent No.1 in FAO No.4150 of 2013 submits that the order dated 17.01.2013 of the Objecting Court relegating the matter to the Managing Director, for adjudication, is fallacious, much less, capricious on the premise that matter did not fall within the excepted clause, owing to the submission of the revised claim, and the award of arbitrator qua awarding revised claim is, thus, not sustainable.

I have heard learned counsel for parties and appraised the paper book.

It is a matter of record that PUNSUP in view of instruction dated 18/22.10.2002 (Annexure A-1) had filed the revised claim and, therefore, the Arbitrator had the jurisdiction to adjudicate the dispute.

The finding rendered by the Objecting Court that the matter squarely fell within the Excepted Clause, in my view, is erroneous as it seems to have taken into consideration unrevised claim, wherein the PUNSUP had sought the compensation, which squarely fell within the realm of Excepted Clause.

Keeping in view the aforementioned facts, I do not find any illegality and perversity in the award awarding the amount of compensation as per revised claim, as noticed above in favour of the PUNSUP and against the Miller. However, the findings rendered by the Objecting Court vis-a-vis

granting the liberty to the PUNSUP to approach the Managing Director for adjudication of the dispute, is hereby set aside and award dated 20.04.2006 is accordingly upheld, thus claim of PUNSUP asking for modification of award is declined, but vis-a-vis remitting the matter to Managing Director is accepted.

Accordingly, FAO No.4150 of 2013 is partly accepted and FAO No.3620 of 2013 of Miller, seeking setting aside of finding by Objecting Court referring the matter to Managing Director is also accepted, thus, it is allowed.

29.09.2015

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**(AMIT RAWAL)
JUDGE**