IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.8886 of 2014 (O&M)
Date of decision : 28.11.2015

Punjab State Civil Supplies Corporation Ltd. and another

...Appellants

Versus

M/s Luxmi Trading Company 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. Sunny Saggar, Advocate for appellants.

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AMIT RAWAL, J. (Oral)

CM No.24187-CII of 2014

For the reasons stated in the application, which is duly supported by an affidavit, delay of 319 days in filing the appeal is condoned.

Application stands allowed.

CM No.24188-CII of 2014

For the reasons stated in the application, which is duly supported by an affidavit, delay of 142 days in re-filing the appeal is condoned.

Application stands allowed.

Main case

The appellant-PUNSUP is in appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter to be referred as 'the Act) against the order dated 25.09.2012, whereby the objections filed under Section 34 of the Act for setting aside of the award dated 09.03.2007, have been dismissed.

Mr. Sunny Saggar, learned counsel appearing on behalf of the PUNSUP submits, that Arbitrator has committed illegality and perversity in not granting any claim except a sum of ₹6.34 paise to be paid by the Miller. He further submits that number of documents placed on record would show that there was a shortage of custom milled rice vis-a-vis the quantity of paddy. He further submits that Miller has not been able to rebut the documentary evidence brought on record, much less, the documents brought on record. Yet the claim has been rejected. Even the Objecting Court has appreciated the aforementioned fact.

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

Impugned award reveals that Arbitrator has dealt with the claim/rival case of the parties in extenso.

It would be apt to reproduce the relevant paragraph of the award, which reads thus:-

> *"The perusal of the records attached with claim petition, submitted during arbitration proceedings and submitted/stated in the arguments by both the counsel, and have seen that in the revised claim petition the claimants have not given any advantage of sale of paddy to the*

respondent miller and has calculated the cost of paddy at economic cost minus sale rate. Whereas, while selling the unmilled paddy the claimants had issued all R.Os for entire paddy and have given the benefit of permissible driage for that particular crop. As such, the benefit once given/advanced to the buyer-respondent miller cannot be taken back/retrieved. Therefore, I am of the firm opinion that once the ROs issued for sale of entire paddy cannot be revived at a later date. Therefore, the position emerged as under:-

	BAGS	***GROSS WT***	***NET WEIGHT***
Paddy stored	34263	22270.95.000	21825.53.000
Rice due			14623.10.500
Less Rice delivered	4625		4387.82.500
Balance rice			10235.28.000
	--07--		
Paddy stored	34263	22270.95.000	21825.53.000
Paddy milled	10281	6682.65.000	6548.99.000
Paddy sold	23982	15586.30.000	15276.54.000
Balance paddy	NIL	NIL	NIL

Details of paddy sold and amount deposited by party

Quantity	***Sold***		***Rate***	***Amt Due***	***Deposited***	***Less***
Bags	Weigh	Net Wt				
22712	14762.80	14467.55	422.00+ 1.50 ST	6127007.00	6126893.00	
1270	825.50	808.99	375.00+ 1.50 ST	304585.00	304585.00	
23982	15588.30	15276.54		6431592.00	6431478.00	114.00
						Less

Settlement of Accounts:-

SN	***Particulars***	***Debit***	***Credit***
1	Milling Charges		58940.91
2	Stitching charges		5781.25

SN	***Particulars***	***Debit***	***Credit***
3	Cost of Bardana retained @ 13.41	75846.96	
4	Sales tax @ 4.4%	3337.26	
5.	TDS	26529.00	
6	Quality Cuts	1488.60	
7	Amount deposited by party of bardana		2600.00
8	Security		40000.00
9	Less Deposit of cost of paddy sold	114.00	
10	Excess deposited in sales of paddy	6.34	
	Total	107322.16	107322.16
	Net amount payable to the party	6.34	

I have allowed the adjustment of Rs.40,000/- as security deposited by the respondents as it was not accounted for by the claimants in its claim petition.

As such, in view of the foregoing facts, going through the documents submitted/filed produced by both the claimants and respondents and hearing the arguments of both the counsels, I hereby dis-allow the claim petition of PUNSUP as per terms of the state government guidelines of 06.06.2000. Rs.6/34 Ps is payable to the respondent rice miller."

The objections filed on behalf of appellants were not within the provisions/parameters of under Section 34 of the Act and rightly so, the same have been dismissed.

It is now a settled law that as to under what circumstances the award has to be interfered with. The question which has now been 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 or for want of reasons as statutorily prescribed under Section 31 (3) 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 substitution in its own 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 award read as a whole is just, fair and reasonable. It is now a settled law that the Arbitrator or Committee is the sole judge of quality and quantity of the evidence before him and decide on the basis of the available evidence.

In my view, no error of law arise from the award as well as order impugned. The award is perfect and justified.

There is no merit in the aforementioned appeal.

Accordingly, appeal is dismissed.

28.11.2015 **(AMIT RAWAL)**
pawan **JUDGE**