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

**FAO-2637-2009 (O&M)
Date of decision : 12.01.2016**

The Punjab State Cooperative Supp. & Makt. Fed. Ltd.

...Appellant

Versus

M/s Radha Cotton Factory and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Deepali Puri, Advocate
for the appellant.

Mr. S.K. Singla, Advocate
for respondent No.1.

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?

AMIT RAWAL, J. (ORAL)

The appellant is aggrieved against the impugned order dated 03.12.2008, whereby the objection filed under Section 34 of the Arbitration and Conciliation Act 1996 on behalf of Miller-respondent No.1 against the Award, has been accepted.

Ms. Deepali Puri, learned counsel appearing on behalf of the appellant-Markfed submits that the Objecting Court has committed illegality and perversity in setting aside the well

reasoned award, in essence held that the claim of the Markfed to be falling within the excepted clause whereas, the revised claim filed later totally been ignored, in fact, the Arbitrator only entertained the revised claim and has not awarded either one and half times economic cost or 20/31 % interest, therefore the order is not sustainable in the eyes of law.

Mr. S.K. Singla, learned counsel appearing on behalf of respondent No.1-Millar submits that there is no illegality and perversity in the order passed by the Objecting Court. The objections were within the realm of provisions of Section 34 of the Act, rightly so, the provisions of Section 34 has been exercised while setting aside the Award. The revised claim included amount which falls within the excepted clause, therefore, the Arbitrator did not have jurisdiction to try and adjudicate *lis* between the parties.

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

The operative part of the order dealing with the revised claim of the Markfed reads as under:

"Accordingly the claimant amended their initial claim of ₹ 47,37,659/- along with interest and submitted the supplementary claim of ₹ 83,54,380 in terms of agreement as per detailed calculation shown in A-34 annexed with the affidavit of Shri T.R. Chaudhary and in the statement at page 252 annexed with the application for filing the supplementary claim which was allowed to

be filed by my predecessor vide his order dated 30.04.1997.

In the circumstances, the revised/reduced claim of ₹44,97,286/- is under consideration and adjudication."

The Arbitrator ultimately granted the relief which is in consonance with the the revised claim and not as per the original claim. In my view, the Objecting Court has exceeded its jurisdiction in accepting the objections which did not fall within the realm of Section 34 of the Act as none of the revised claim fell within the excepted clause. The Objecting Court has erroneously referred to the terms and conditions of the agreement and found that the Arbitrator did not have any jurisdiction, but failed to notice, much less, the contents of revised claim.

In view of what has been noticed above, the impugned order dated 03.12.2008 is not sustainable is hereby set aside and the Award of the Arbitrator is accordingly upheld.

Accordingly, the appeal stands allowed.

12.01.2016
yogesh

(AMIT RAWAL)
JUDGE