IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O.No.2820 of 2010 (O&M)
Date of Decision: February 25, 2016

M/s Sangrur Rice Mills, Sangrur

...Appellant

Versus

Punjab State Co-operative Supply and Marketing Federation Ltd. (Markfed), Sangrur & 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: Mr.L.S.Sidhu, Advocate, for the appellant.

Mr.Vikas Singh, Advocate, for respondent No.1.

*****

AMIT RAWAL, J. (Oral)

CM No.13285-CII of 2010

The deficiency in the court fees has been made good.

CM stands disposed of.

CM Nos.13286-CII &13287-CII of 2010

For the reasons mentioned in the applications, which are supported by affidavits, delay of 11 days in filing and 1042 days in re-filing the appeal is condoned.

Applications stand disposed of.

FAO No.2820 of 2010

On the oral request of learned counsel for the appellant, the memo of parties is corrected and the respondent shall be read as "Punjab

State Co-operative Supply and Marketing Federation Ltd. (Markfed)" instead of "The Punjab State Civil Supplies Corporation Ltd. (PUNSUP)". Registry is directed to carry out the necessary correction in this regard.

The appellant-miller is aggrieved of the dismissal of the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short "1996 Act") for setting-aside of the award dated 23.4.2004, whereby a compensation to the tune of ₹2,32,067/- has been awarded in favour of the Markfed along with future interest at average rate of 15% per annum.

Mr.L.S.Sidhu, learned counsel appearing on behalf of the appellant submits that the miller was supplied paddy in the gunny bags. The Markfed could not claim the price of the gunny bags as the price of the paddy contained the element of gunny bags also. The interest awarded by the Arbitrator is highly exaggerated and ought not to have been granted and, therefore, should be reduced to nominal rate of interest, i.e., 6% per annum. The aforementioned facts were seriously objected to by filing the objections, but the same have been declined and, therefore, there is illegality and perversity in the impugned order.

Mr.Vikas Singh, learned counsel appearing on behalf of respondent No.1 submits that there is no illegality and perversity in the order under challenge. The objections were not falling within the parameters of Section 34 of 1996 Act and prays for dismissal of the appeal.

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

It would be apt to reproduce the operative part of the award of the Arbitrator, which reads thus:-

"*After considering all the facts I therefore find that the revised claim reducing the claim from Rs.23,43,464/- to Rs.3,39,749/- is very genuine and is fully established from the evidence put in by the claimant and duly supported by the documents placed on record. There is no effective rebuttal of the same by the respondent except the reply filed to the revised claim petition, which has been discussed above. Therefore, the revised claim minus Rs.1,07,682/- by way of interest included in this amount which has been wrongly compounded is allowed as on 30.6.95. The net amount awarded and payable is therefore to the extent of Rs.2,32,067/-. This amount shall be payable as on 30.6.95 with further interest at average bank rate of 15% p.a. simple rate of interest w.e.f. 1.7.95 till the date of realization. This amount shall be payable by the respondent and its partners who shall be liable to pay the same jointly and severally.*

This award has been made and signed by me today 23.4.04. One signed copy of the award be sent to the respondent, firm under Registered AD and the original award be sent to the Markfed/Chairman alongwith the arbitration file after completion."

On going through the contents of the award, it is evident that the Arbitrator has taken out the element of interest included in the original claim and instead ordered for recovery of ₹3,39,749/- (which was supplementary claim before the Markfed), entitling it to ₹2,32,067/- along with interest at the average bank rate of 15% per annum and simple rate of interest w.e.f. 1.7.1995 till the date of realisation. The aforementioned part of the award, in my view, does not fall within the provisions of Section 34 of 1996 Act and rightly so, the objections have been dismissed.

There is no merit in the appeal. The same is accordingly dismissed.

February 25, 2016 **(AMIT RAWAL)**
ramesh **JUDGE**