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

**FAO-2555-2012 (O&M)
Date of decision : 05.05.2016**

Union of India

... Appellant

Versus

UHBVN and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. A.K. Bansal, Advocate
for the appellant.

Mr. R.K. Hooda, Advocate for
Mr. Partap Singh, 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-Union of India is aggrieved of the dismissal of the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter called 'the 1996 Act') seeking setting aside of the Award dated 22.07.2009.

Mr. A.K. Bansal, learned counsel appearing on behalf of the appellant-Union of India submits that for the purpose of supply of electricity to the Ambala Cantonment area. Two Electricity Meters were installed, one at the Ambala Cantonment area and other at Sub Station Babyal, Ambala. Both the meters, aforesaid, were regularly checked. On 20.05.2005, the meter

installed at the Ambala Cantonment area was found to be defective and on request of the appellant, the same was rectified in the month of July, 2007. The meter installed at Sub Station Babyal, Ambala was jointly inspected and reading was done on 14.09.2005. On 16.06.2006, again meter was checked and on examination, it was found running slow by 21.05% and thus, there was no fault on the part of the Union of India and since, dispute arose on raising of demand, the matter was taken to the Arbitration in view of the Arbitration Clause. The Arbitrator was required to take into consideration the average consumption and not the actual consumption, having failed to do so, the Award of the Arbitrator is against the public policy. The same was objected to, but the objections have also been dismissed, thus, urges this Court for setting aside of the order seeking demand and an appropriate direction to the respondent(s) for accepting the consumption on the basis of the average consumption.

Mr. R.K. Hooda, Advocate for Mr. Partap Singh, learned counsel appearing on behalf of the respondent No.1 submits that appellant's Officer intentionally refused to sign alleged inspection on 16.06.2006, but they did not make any request for rectification of the meter installed at the Sub Station. The average consumption was not accepted by the Arbitrator nor any expert, but this Court cannot re-appreciate the evidence and substitute the finding of the Arbitrator by issuing direction for awarding the amount on the basis of the average consumption, thus, urges this Court for dismissal of the appeal.

I have heard the learned counsel for the parties and appraised the paper book and of the view that once, the Officer of the appellant had refused to append the signatures at the time of the inspection of the meter on 16.06.2006, as it was found running slow, rightly so, the demand of amount

due has been raised. This Court while sitting in appeal under Section 37 of the 1996 Act cannot re-appreciate the evidence, even if, a different opinion is to be formed. The Arbitrator was an Expert person, who after examining the evidence decided the claim or rival claim duly supported by the documents. The demand raised by the respondent No.1 was justified, therefore, this Court cannot interfere with such finding, until and unless the Award of the Arbitrator is found to be not in consonance with the parameters/provisions of Section 34 of the 1996 Act.

Keeping in view the aforesaid facts and circumstances of the case, no ground is made for interference in the impugned order, under challenge and accordingly, the appeal is dismissed.

05.05.2016
yogesh

(AMIT RAWAL)
JUDGE