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

FAO-3993-2013

Date of decision : 20.05.2016

M/s A.K. Precast Concrete Pipe Corporation

... Appellant

Versus

The Director Supplies and Disposals, Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Aman Bahri, Advocate
for the appellant.

Mr. D.K. Mittal, DAG, Haryana.

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-Contractor 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 with regard to non-grant of claim qua refund of the security amount of ₹ 2,12,000/- along with some interest.

Mr. Aman Bahri, learned counsel appearing on behalf of the appellant submits that certain tenders were invited for supplying of RCC pipes, however, certain terms and conditions were imposed by the Department and having disagreement with the same, the appellant-Contractor gave his own conditions, but in view of the impasse, no concluded agreement was been entered into. In the meantime, the Department

purchased the RCC pipes from other Contractor and allegedly invoked clause of risk and cost factors contained in the agreement (un-executed). Before the Arbitrator, prayer with regard to the refund of the security amount of ₹ 2,12,000/- along with interest @ 18% was also made, but the Arbitrator failed to address any reason, though declined the claims of the parties. Both the parties being aggrieved of the aforementioned findings, filed objections and the objections have been dismissed not only of the State, but also of the claimant on the ground that there is very little scope of interference under Section 34 of the 1996 Act.

Mr. D.K. Mittal, DAG, Haryana submits that in case, the Arbitrator has failed to address issue with regard to the refund of the security amount, therefore, the matter is required to be remanded back. In support of his contentions, he relies upon the judgment of this Court in **FAO No.5643 of 2012** tilted as “**Avtar Singh V/s District Food and Supply Controller, Ambala and others**”, decided on 28.03.2016.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the order relied upon by Mr. D.K. Mittal, does not apply to the instant case. The appellant categorically pleaded the deposit of security amount. Once, the Arbitrator arrived at finding that there was no concluded contract, therefore, the claim was wholly misconceived, then, in such circumstances, ought to have ordered for refund of the security amount.

It is a matter of record that the security amount of ₹ 2,12,000/- is lying deposited since 1995. In my view, the Objecting Court was required to ponder upon such objections, instead of limiting its scope of

Act. The deposit of the security amount is not disputed. It would be a total futile and farcical exercise in remitting back the matter to the Arbitrator, at this stage, noticing the fact that the security amount had been deposited way back in the year 1995.

For the foregoing reasons, the impugned order, under challenge is hereby set aside and the Award of the Arbitrator qua the non-grant of the relief of refund of the security amount is hereby modified. It is directed that the appellant is entitled to the refund of the security amount of ₹ 2,12,000/- along with interest @ 9% per annum.

With the aforesaid observations, the appeal stands disposed of.

20.05.2016
yogesh

(AMIT RAWAL)
JUDGE