

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

FAO No.5184 of 2013 (O&M)

Date of decision : 12.04.2016

Punjab State Civil Supplies Corporation Ltd.

...Appellant

Versus

M/s Vaishno Rice Mills Ferozepur

...Respondent

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. Anil Kumar Sharma, Advocate for the appellant.

Mr. Vinod Khunger, Advocate for the respondent.

AMIT RAWAL, J. (Oral)

The PUNSUP is aggrieved of the allowing of the objection petition filed under Section 34 of the Arbitration and Conciliation Act at the instance of the Miller on the ground that claim of 1 ½ economic times was falling within the purview of the Managing Director, therefore, Objecting Court ought not to have referred the matter to the Managing Director. At the best it could set aside the award.

In support of the contention, Mr. Sharma, has relied upon judgment dated 07.09.2015 rendered by Hon'ble Supreme Court in *Civil Appeal No.6887 of 2015 titled as M/s Kisan Rice Trading Company*

through its partner Parmod Gupta Vs. Punjab State Civil Supplies Corporation Ltd. and another, while interpreting the Clause 6(i) of the terms and conditions of the agreement. In the aforementioned matter, Hon'ble Supreme Court formed an opinion that Clause 6(i) pertained to the quality of stock. However, in the instant case, claim of 1 ½ economic cost qua balance paddy is as per Clause 6(iii) and 17 of the agreement which is different than the one mentioned in the judgment referred above. Decision of the same is within the realm of Managing Director thus dispute was not arbitrable.

I am in agreement with Mr. Sharma, that the Objecting Court in view of the ratio decidendi culled out by Hon'ble Bombay High Court in *Geojit Financial Services Ltd. Vs. Kritika Nagpal* has no power to remand back the matter to the Managing Director. At the best it could either accept the objection under Section 34 or dismissed it. Once claim for the arbitration has held not to arbitrary it could have only set aside the award, therefore, findings rendered by the Objecting Court vis-a-vis the direction to the Managing Director to decide the issue is hereby expunged/modified.

With the aforementioned modification, rest of the finding rendered by the Objecting Court is affirmed.

Appeal stands disposed of.

12.04.2016

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**(AMIT RAWAL)
JUDGE**