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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 16.05.2016

1. FAO-510-2014 (O&M)

M/s Equipment Conductors and Cables Ltd.

... Appellant

Versus

Grid Corporation of Orrisa Ltd. now Orissa Power Transmission Corporation
and another

... Respondents

2. FAO-511-2014 (O&M)

M/s Equipment Conductors and Cables Ltd.

... Appellant

Versus

Grid Corporation of Orrisa Ltd. now Orissa Power Transmission Corporation
and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Paras Money Goyal, Advocate
for the appellant(s) in both the appeals.

Mr. R.K. Mehta Advocate with
Mr. Gagneshwar Walia, Advocate
for respondent No.1 in both the appeals.

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)

This order of mine shall dispose of two appeals bearing **FAO**

No.510 of 2014 titled as **“M/s Equipment Conductors and Cables Ltd. V/s**

Grid Corporation of Orrisa Ltd. now Orissa Power Transmission Corporation and another and *FAO No.511 of 2014* tiled as *“M/s Equipment Conductors and Cables Ltd. V/s Grid Corporation of Orrisa Ltd. now Orissa Power Transmission Corporation and another”* filed at the instance of of the appellant-Contractor/Supplier, who in pursuance to the agreement to sell having been entered between the parties supplied the certain goods. On account of non-payment of the amount, the appellant filed a claim petition before the Arbitrator i.e. Haryana Micro & Small Enterprises Facilitation Council on 06.08.2001. All the five out of six issues though have been decided in favour of the appellant(s), but the claim was held to be time-barred.

Aggrieved of the aforementioned finding of the Arbitrator, the objections were filed before the Objecting Court, but also met with the same fate.

Mr. Paras Money Goyal, learned counsel appearing on behalf of the appellant(s)-Contractor submits that in the year 1996 a writ petition was filed in the Orissa High Court, but the same was dismissed in the year 2001 and therefore, the claim cannot be said to be time-barred by law of limitation.

Though, the Micro Small and Medium Enterprises Development Act, 2006 (hereinafter called 'the MSMED Act 2006') does not specifically excludes the applicability of the Limitation Act and the Act being a separate Code, the Limitation Act should not come in way in lodging the claim as the appellant-Contractor had admitted on record that the respondent(s) did not pay the payment of the goods supplied.

Mr. R.K. Mehta Advocate with Mr. Gagneshwar Walia, learned counsel appearing on behalf of respondent No.1 submits that the same

controversy arose before this Court in the appeal bearing FAO No.1979 of 2015 titled as 'M/s Equipment Conductors & Cables Ltd. Gurgaon V/s Chief Engineer, M/s Transmission Corporation of Andhra Pradesh Ltd., Hyderabad and another' decided on 30.09.2015 and this Court while adjudicating the similar questions dismissed the appeal and prays for dismissal of the appeal(s).

I have heard the learned counsel for the parties and appraised the paper book and of the view that even if the MSMED Act 2006 does not exclude the applicability of the Limitation Act, as per the provisions of Section 43 of the 1996 Act, therefore provisions of the Limitation Act are applicable to the arbitration proceedings. The agreement envisages the resolution of dispute through arbitration, the appellant(s) failed to lodge the claim within time prescribed, rightly, so, it has been held to be time-barred by law of limitation, thus, Arbitrator being expert though examined entire claim threadbare, but rejected on the ground of limitation.

In view of the aforementioned observations and as well as the judgment cited supra, no ground is made out for interference in the findings under challenge, much less, the objections were not falling within the realm of Section 34 of the 1996 Act and accordingly, the appeal(s) are dismissed.

16.05.2016
yogesh

(AMIT RAWAL)
JUDGE