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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-5402-2014 (O&M)
Date of decision : 01.09.2016

Punjab State Civil Supplies Corporation Ltd.
... Appellant
Versus

M/s Mahesh Rice & General Mills and others
... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Deepak Sabherwal, Advocate
for the appellant.

Mr. Saurabh Goyal, Advocate
for the respondents.

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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)

CM-15064-CII-2014

For the reasons stated in the application which is duly supported by an affidavit, the delay of 278 days in filing the appeal is condoned.

CM stands disposed of.

FAO-5402-2014

The appellant-Punjab State Civil Supplies Corporation Ltd. (for short 'the Corporation) is aggrieved of the impugned order dated 15.03.2013, whereby the objections under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter called 'the 1996 Act') for setting aside the Award dated 27.03.2008 have been dismissed being barred by law of limitation.

Mr. Deepak Sabherwal, learned counsel appearing on behalf of the appellant-Corporation submits that against the Award dated 27.03.2008, the objections under Section 34 of the 1996 Act before Principal Court at Chandigarh were filed on 16.07.2008, though the limitation period expired on 28.06.2008, but there were summer vacations, so, it was treated within a period of 90 days, but ordered to be returned vide order dated 08.12.2008 owing to lack of territorial jurisdiction. Over and above the objections at Principal Court, Ludhiana were filed on 04.02.2009, thus, were delayed by 47 days and therefore, the benefit of Section 14 (2) of the Limitation Act ought to have been granted as public money is at stake.

He further submits that the certified copy of the order of the Principal Court at Chandigarh was prepared on 23.12.2008 and in the District Court, Chandigarh, there were winter vacations and the next working day was 1st January 2009, therefore, the aforementioned period should have been excluded.

Per contra, Mr. Saurabh Goyal learned counsel appearing on behalf of the respondents submits that the provisions of Section 5 of the Limitation Act are not applicable, at the best the grace period of 30 days can be taken into consideration as 90 days had already been consumed at Principal Court, Chandigarh by adding grace period, limitation expired on 07.01.2009, whereas, the objections as noticed above were filed on 04.02.2009, thus, urges this Court for dismissal of the present revision petition with exemplary cost.

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

Shorn of the facts as noticed above, the fact remains that even if the benefit of the period i.e. from the date of preparation and receipt of the certified copy of the order, is taken and then the objections were barred by 3 days, though, no evidence has come on record whether 24th December, 2008 and 1st & 2nd January, 2009 were non-working days or not. Be that as it may, the provisions of Section 5 of the Limitation Act do not apply to the proceedings under the 1996 Act as owing to the exclusion clause. The petition has to be filed within 90 days + grace period of 30 days, but in case of filing within 30 days of grace period, it had to be accompanied by an application for condonation of delay. In my view, no explanation in not filing the objections after obtaining the certified copy of the order on 23.12.2008 till 04.02.2009 has come forth and rightly so, the objections have been dismissed being barred by law of limitation.

For the foregoing reasons, I do not intend to differ with the findings under challenge and no ground is made out for interference and accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

01.09.2016
yogesh

Whether speaking/reasoned **[✓ Yes]/ No**

Whether Reportable **Yes/ [✓ No]**