

F.A.O.No.6136 of 2013 (O&M)

{ 1 }

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

Date of Decision: August 02, 2016

1. **F.A.O.No.6136 of 2013 (O&M)**

Union of India, New Delhi & another

...Appellants

Versus

M/s Bharat Enterprises, 1144, Sector 12-A, Panchkula & another

...Respondents

1. **F.A.O.No.6062 of 2013 (O&M)**

Union of India, New Delhi & another

...Appellants

Versus

M/s Bharat Enterprises, 1144, Sector 12-A, Panchkula & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

**Present: Mr.Ashwinie Kumar Bansal, Advocate,
for the appellants in both the appeals.**

**Mr.Manohar Lal, Advocate,
for respondent No.1 in both the appeals.**

AMIT RAWAL, J.

No.6062 and 6136 of 2013 as the common question of law and fact is involved in both the appeals.

Mr.Ashwinie Kumar Bansal, learned counsel for the appellant-Union of India has confined his prayer with regard to awarding of Claim No.4 by the Arbitrator. In this regard, he has referred to Clause 2.2.2 of the General Specification for Electrical Works Part-I-Internal 1994 to submit that Claim No.4 for extra charges of steel conduit was not maintainable and, thus, urges this Court for setting-aside of the findings of the Arbitrator qua Claim No.4 and as well as the order under challenge.

Mr.Manohar Lal, learned counsel for respondent No.1 submits that the parameters for interference in the appeal under Section 37 of the Arbitration and Conciliation Act, 1996 are limited. This Court cannot sit as Court of appeal, much less on the arm chair of the Arbitrator to re-appreciate that two views are possible. It is also settled law that the Arbitrator can always interpret the terms and conditions of the agreement/contract and, therefore, the award, while interpreting the terms and conditions, does not suffer from any illegality and perversity, much less the objections were not falling with the realm of Section 34 of 1996 Act and, thus, urges this Court for affirming the findings under challenge.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is force in the submission of Mr.Bansal. For the sake of brevity, relevant clause of the agreement reads thus:-

“2.2. POINT WIRING

2.2.1 Definition

A point (other than socket outlet point) shall include all work necessary in complete wiring to the following outlets from the controlling switch or MCB. The scope of wiring for a point shall, however, include the wiring work necessary in tapping from another point in the same distribution circuit.

(a) Ceiling rose or connector (in the case of points for ceiling/exhaust fan points, prewired light fittings, and call bells).

(b) Ceiling rose (in the case of pendants except stiff pendants).

(c) Back plate (in the case of stiff pendants).

(d) Lamp holder (in the case of goose neck type wall brackets, batten, holders and fittings which are not prewired).

Note:- *In the case of call bell points, the words “from the controlling switch or MCB” shall be read as “from the ceiling rose meant for connection to bell push”.*

2.2.2 Scope

Following shall be deemed to be included in point wiring.

(a) Conduit/casing and capping/batten as the case may

be accessories for the same and wiring cables between the switch box and the point outlet. (See also (j) below).

(b) All fixing accessories such as clips, nails, screws, philplug, rawl plug etc. as required.”

On plain and simple language of the contract, it is evident that head “point writing” includes the conduit/casing and capping/batten. The contractor lodged Claim No.4 for ₹2,94,800/- for payment of steel conduit, including fixing. The Arbitrator while interpreting the aforementioned clause, gave the following findings:-

“From descriptions of items 1 to 5 sub head 1 of Schedule of work, it is evident that the wiring was to be done in Steel conduits but the cost of supplying and fixing steel conduits is not included in the rates quoted by the claimants for these items. Since the conduits were also supplied and fixed by the claimants, payment for the same is admissible to the claimants. Learned Arbitrator is therefore requested to award an amount of Rs.2,94,000.00 to be claimants on this account as per details of claim below:-

Conduit 20 mm dia= 5360 RM @ 45.00/RM= 2,41,200-00

Conduit 25 mm dia=1072 RM @ 50.00/RM= 53,600-00

Amount of claim= Rs. 2,94,800-00

”

On juxtaposition of the provisions of law on the terms and conditions of the contract and the findings by the Arbitrator, no reasoning has been assigned to form a different opinion on the terms and conditions of the contract. The contractor does not claim extra cost for payment of steel conduit once the point “wiring” envisage conduit itself.

I am of the view that the Arbitrator has misinterpreted the terms and conditions of the contract/agreement, therefore, finding qua Claim No.4 is hereby set-aside. Consequently, findings qua Claim Nos.7 in FAO No.6136 of 2013 and Claim No.8 in FAO No.6062 of 2013, which are interconnected to Claim No.4, are also rejected.

Both the appeals are disposed of in the aforementioned terms.

August 02, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No