

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

1. CR No.6892 of 2017 (O&M)
Date of decision : 11.10.2017

Equipment Conductors and Cables Ltd. ...Petitioner

Versus

Transmission Corporation of Andhra Pradesh Limited and another

...Respondents

2. CR No.6897 of 2017 (O&M)
Date of decision : 11.10.2017

Equipment Conductors and Cables Ltd. ...Petitioner

Versus

Transmission Corporation of Andhra Pradesh Limited and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dheeraj Gupta, Advocate with
Ms. Sanam Siddiqui, Advocate for the petitioner.

Mr. R.K. Sharma, Advocate for the respondents.

ANIL KSHETARPAL, J.

CM No.21833-CII of 2017

Allowed, as prayed for.

Main Case

By this order, I shall be disposing of Civil Revision Nos.6892
and 6897 of 2017 as common issue is involved between the same parties.

The petitioner has challenged the order passed by the Additional
District Judge, Chandigarh dated 04.09.2017.

The petitioner claims that there was delay in the payment of the

material supplied by the petitioner to the respondent No.1 i.e. Transmission Corporation of Andhra Pradesh Limited. The matter was referred to the Arbitration before the Haryana Micro and Small Enterprises Facilitation Council, Chandigarh. The award was announced on 21.06.2010. A careful reading of the award would show that the claim Nos.1 to 25 were found to be barred by time and hence rejected. Claim Nos.26 to 45 which were for grant of interest on delayed payment were accepted. In one case, Arbitration Council gave award of ₹24,50,046/- whereas in other case, the award was for ₹22,42,619/-. It may be noticed that the award was only with respect to the interest awarded for delayed payment. The payment of the goods supplied had admittedly been received, however there was some delay in the payment.

After the passing of the award, both the parties have filed objections before the Court of Additional District Judge, Chandigarh.

The dispute in the present case is whether in terms of Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006, 75% of the amount has been deposited or not. Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006 is extracted as under:-

“19. Application for setting aside decree, award or order.—

No application for setting aside any decree, award or other order made either by the Council itself or by any institution or centre providing alternate dispute resolution services to which a reference is made by the Council, shall be entertained by any court unless the appellant (not being a supplier) has deposited with it seventy-five per cent. of the amount in terms of the decree, award or, as the case may be, the other order in the manner directed by such court:

Provided that pending disposal of the application to set aside the decree, award or order, the court shall order that such

percentage of the amount deposited shall be paid to the supplier, as it considers reasonable under the circumstances of the case, subject to such conditions as it deems necessary to impose.”

Learned Additional District Judge has gone into the details and held that the amount awarded includes the interest. Thus, the Court has directed the respondent to deposit the deficit amount so as to make it 75% of the awarded amount.

Learned counsel for the respondents has informed this Court that initially the amount of ₹16,81,964/- was deposited on 11.11.2010 and thereafter further amount of ₹1,35,203/- was deposited and remaining deficit amount will be deposited.

Learned counsel for the petitioner has very vehemently argued that interest upto date has not been calculated. As per the provisions of Micro, Small and Medium Enterprises Development Act, 2006, compound interest was required to be calculated on the amount awarded upto the year 2017 and thereafter directions should have been issued to make up the deficient payment.

It may be noticed here that the objections were filed in the year 2010. The respondents had deposited the substantial amount in the year 2010. It is further significant to note here that the entire arbitration award is only with respect to the interest on delayed payment.

I have considered the submissions of the learned counsel.

It is a case where the Decree Holder rather than being interested in disposal of the case is more interested in prolonging it. The award was passed in June, 2010. More than 7 years has elapsed. However, the Court is

not allowed to adjudicate upon the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996. A reading of Section 19 clearly says that before entertaining the application for setting aside the award, the appellant shall be required to deposit 75% of the amount in terms of the award. In the present case, in terms of award, 75% of the amount has been directed to deposited. The Act does not provide that the amount is to be calculated till the deposit is complete by adding the compound interest on interest. Section 19 lays down a pre-condition for entertaining the application for setting aside the award. The Court at that stage is not to finally adjudicate upon as to what is the amount payable on that day.

As noticed earlier, even the original award only consists of component of interest payable on delayed payment. The payment for the various invoices had been cleared but there was some delay in clearing the payment. The Arbitration Council, therefore, passed a considered award.

In these circumstances, I do not find any good ground to interfere with the detailed order passed by the learned Additional District Judge, Chandigarh.

Both the revision petitions are dismissed with costs of ₹1,00,000/-.

All the pending miscellaneous applications are disposed of, in view of abovesaid judgment.

11.10.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No