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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1719 of 1999
Date of Decision: 11.01.2017

UNION OF INDIA ***.. Appellant***
V/S
RASHTRIYA ISPAT NIGAM LTD. ***...Respondent***

FAO-1720-1999
UNION OF INDIA ***.. Appellant***
V/S
RASHTRIYA ISPAT NIGAM LTD. ***..Respondent***

FAO-1721-1999
UNION OF INDIA ***.. Appellant***
V/S
RASHTRIYA ISPAT NIGAM LTD. ***...Respondent***

FAO-1723-1999
UNION OF INDIA ***...Appellant***
V/S
...Respondent

FAO-1724-1999
UNION OF INDIA ***.. Appellant***
V/S
STEEL AUTHORITY OF INDIA LTD. ***...Respondent***

FAO-1725-1999
UNION OF INDIA ***.. Appellant***
V/S
STEEL AUTHORITY OF INDIA ***...Respondent***

FAO-1727-1999
UNION OF INDIA ***... Appellant***
V/S
STEEL AUTHORITY OF INDIA ***...Respondent***

FAO-2214-1999
UNION OF INDIA ***..Appellant***
V/S
STEEL AUTHORITY OF INDIA LTD. ***..Respondent***

FAO-3133-1999
UNION OF INDIA ***.. Appellant***
V/S
RASHTRIYA ISPAT NIGAM LTD. ***...Respondent***

FAO No. 1719 of 1999 and other connected 9 cases

FAO-3423-1999

UNION OF INDIA ***….Appellant***

V/S

STEEL AUTHORITY OF INDIA ***...Respondent***

CORAM: ***HON'BLE MR. JUSTICE KULDIP SINGH.***

Present: Mr. Puneet Jindal, Advocate,
with Ms. N.A. Mahajan, Advocate,
for the appellant(s)-Union of India.

None for the respondent(s)

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KULDIP SINGH, J (ORAL)

This order will dispose of above mentioned ten appeals arising out of the similar facts. For the purpose of brevity, the facts have been extracted from *FAO No.1719 of 1999*.

The short facts are that the respondent(s) had sent a consignment of pig iron wire rod through Railway ex. Visakhapatnam to Faridabad, Jalandhar and Batala at Railway's risk. The consignment was accepted by the Union of India which agreed to carry the same and deliver it to the respondents at the destination. When the consignment was received, it was received in pilfered condition and beyond the normal transit period. On the demand of the respondent(s), the Railways issued a shortage certificate. Thereafter, the respondent(s) had filed an application for recovery for the loss caused to it.

I have heard learned counsel for both the parties and carefully gone through the case file.

It comes out that before the Tribunal that the Railways had not disputed the shortage certificate issued by them rather raised the plea that

10% be deducted towards marginal profit and 2% towards the scale variation is not payable. The Tribunal deducted 10% of the marginal profit from the invoice value. However, it is held that 2% scale variation can be on the either side. Therefore, Tribunal refused to deduct the said 2% scale variation. The Railways has objected to the said part of the judgement dated 05.03.1999 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh.

After hearing learned counsel for the appellant and after examining the file, I am of the view that there is no illegality and infirmity in the impugned judgement. Since, the shortage certificate was issued by the Railways, therefore, the Railways are liable to pay for the loss caused to the respondents. 10% marginal profit has already been deducted from the invoice value. However, the scale variation can be on either side. Therefore, there is no in illegality and infirmity in the view taken by the Tribunal and that the said 2% of scale variation is not to be deducted from the invoice value.

It being so, I do not find any merit in the present appeals. Hence, all the appeals are dismissed.

January 11, 2017 **(KULDIP SINGH)**
Suresh Kumar **JUDGE**

Whether speaking / reasoned	**:**	***Yes*** ✓ **/** ***No***
Whether Reportable	**:**	***Yes*** **/** ***No*** ✓