IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1722 of 1999
Date of Decision: 17.01.2017

UNION OF INDIA AND OTHERS .. Appellants

V/S

RASHTRIYA ISPAT NIGAM LTD. ...Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. Puneet Jindal, Advocate,
with Ms. Sakshi, Advocate,
for the appellants-Union of India.

None for the respondent(s)

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KULDIP SINGH, J (ORAL)

This is an appeal against the judgement dated 18.12.1998 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh whereby the application filed by the applicant-respondent was allowed and compensation was allowed to the applicant-respondent.

I have heard learned counsel for appellant 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 18.12.1998 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh.

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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 appeal. Hence, the appeal is dismissed.

January 17, 2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

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