

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

FAO No.7734 of 2014

Date of Decision : 24.01.2017.

M/s Oberoi Construction Corporation

.....Appellant

Versus

Punjab State Industries & Export Corporation Ltd. and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. P.S.Rana, Advocate for the appellant.

Mr. Anil Kshetarpal, Sr. Advocate with
Mr. Rohit Nagpal, Advocate for the respondents.

ARUN PALLI, J. (Oral)

This is an appeal against the arbitral award dated 6.12.2006 (Annexure A-2) as also the judgment dated 22.03.2014, rendered by the Additional District Judge, Chandigarh, vide which, the objections preferred by the appellant under Section 34 of the Arbitration and Conciliation Act, 1996, (for short 'the Act') were dismissed.

The Arbitrator, vide arbitral award, dated 6.12.2006, declined the claim of the appellant, for, it was found to be time barred. The appellant, being aggrieved against the said award, filed a revision petition before this Court i.e. Civil Revision No. 629 of 2007, on 1.2.2007, which he later withdrew on 9.7.2008, to file objections under Section 34 of the Act. Appellant filed objections on 21.07.2008, and also moved an application under Section 14 of the Limitation Act to exclude the time period that was consumed while pursuing the revision petition before this Court. However,

the Additional District Judge, Chandigarh dismissed the objections being time barred. And, that is how, as indicated above, the appellant is before this Court.

All what has been urged by learned counsel for the appellant is that the provisions of Section 14 of the Limitation Act applies even to the proceedings envisaged under Section 34 of the Arbitration and Conciliation Act, 1996, and, therefore, the Court ought to have excluded the time, while his revision petition remained pending before this Court. Reliance is placed upon the decision of the Hon'ble Supreme Court in the case of **M/s. Shakti Tubes Ltd. Tr. Director Vs. State of Bihar and others 2009(1) RCR (Civil) 513**.

Learned Senior counsel for the respondents does not dispute the factual position as set out above, and rather fairly submits that the provisions of Section 14 of the Limitation Act shall also apply to the proceeding under Section 34 of the Arbitration and Conciliation Act, 1996. However, he points out that the Court below had even rejected the claim of the appellant on merits, for, it was time barred.

I have heard learned counsel for the parties and perused the records.

Concededly, if the time period that was consumed while the appellant was pursuing his revision petition, filed in this Court, in good faith, is excluded, his objections would be within limitation. The Hon'ble Supreme Court in the case of **M/s Shakti Tubes Ltd. (supra)** held:-

25. "Provisions of Section 14 of the Limitation Act have been held to be applicable even in a proceeding

arising under Section 34 of the Arbitration and Conciliation Act, 1996 [See Gulbarga University v. Mallikarjun S. Kodagali & Anr., 2008(4) RCR(Civil) 116: 2008(5) RAJ 162 : (2008) 11 SCALE 79].

26. We, therefore, have no hesitation in holding that the provisions of Section 14 of the Limitation Act, 1963 were applicable to the fact of the present case”.

Thus, in the wake of the above, the Court below ought to have excluded the period between 1.02.2007 to 9.7.2008, while the appellant was *bonafidely* pursuing his cause before this Court. And, needless to assert, that once the Court had rejected the objections filed by the appellant being time barred, it lacked jurisdiction to still comment upon the merits of his claim, and dismiss the same.

In conspectus of the above position, the appeal is allowed, and the judgment, dated 22.03.2014, is set aside. The matter is remitted for re-decision on merits, and in accordance with law. Parties are directed to appear before the District Judge, Chandigarh on 6.2.2017, and it shall be purely his prerogative to decide the matter himself or assign the same to any other Court of competent jurisdiction.

24.01.2017

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No