

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

**FAO 5216/2017(O&M)  
Date of decision:10.08.2017**

Amartex Industries Ltd.

.....Appellant

v.

M/s Aruz Enterprises

.....Respondent

**Coram: Hon'ble Mr.Justice Jaswant Singh**

**Present:-** Mr.Babbar Bhan,Advocate for the appellant.

**Jaswant Singh,J,(Oral).**

Appellant/objector-M/s Amartex Industries Limited is in appeal against the order dated 30.5.2017 passed by Additional District Judge-I,Panchkula whereby its objection petition under Section 34 of the Arbitration and Conciliation Act,1996 has been dismissed.

Appellant-Amartex Industries Limited and respondent-M/s Aruz Enterprises entered into an agreement dated 9.1.2007. In case of any dispute arising out of the said agreement the same was to be referred to three Arbitrators,one each to be appointed by both parties and third to be appointed by two so appointed arbitrators. A dispute arose between the parties and they having failed to appoint Arbitrators, respondent approached this Court and this Court vide order dated

4.10.2013 passed in Arbitration Case NO.55/2013 appointed Sh.PC

Singal,D&SJ(Retired)as sole Arbitrator to enter into reference and adjudicate the dispute. On receipt of notice of his appointment, the Arbitrator entered into reference and both parties appeared before him. The dispute was adjudicated by the Arbitrator and award dated 17.3.2015 was announced. Aggrieved against the award dated 17.3.2015, M/s Amartex Industries Ltd.,appellant herein, filed objections under Section 34 of the Act alleging therein that it had not been given any notice by the Arbitrator to participate in the arbitral proceedings after their counsel, Sh.VK Tripathi,Advocate failed to appear before him. Thus objection raised by the appellant-M/s Amartex Industries Limited was that after Sh.VK Tripathi,Advocate had failed to appear before the Arbitrator, the latter was required to inform the objector to appoint another Advocate. Objections were also raised regarding legality of the agreement between the parties.

Upon notice of the objection petition, M/s Aruz Enterprises controverted the averments of the objector on various grounds, besides the objection petition being barred by period of limitation.

The learned Additional District Judge,Panchkula,after hearing both sides and perusing the material available on record, dismissed the objection petition vide order dated 30.5.2017, which is subject matter of the present appeal.

Heard learned counsel for the appellant and perused the paperbook with his able assistance.

At the time of hearing, it is not disputed that the

objector/appellant was represented initially by Sh.Gurjinder Bhalla, authorised representative and then by Sh.VK Tripathi, Advocate. Thus, the objector was having knowledge of the arbitral proceedings pending before the Arbitrator appointed by this Court. It is also not disputed that the award was announced on 17.3.2015 and on the same day, a copy of the same was sent to the objector through registered post. However, the objector wrote letter dated 30.7.2015 to the Arbitrator about the fate of the arbitral proceedings. The learned Additional District Judge, on the basis of material available on record has found that on entering into reference by the Arbitrator, the objector received notice and vide its resolution dated 5.12.2013 passed by its Board of Directors authorised Sh.Gurjinder Bhalla to defend the arbitral proceedings. On 24.3.2014 the counsel for the objector namely Yogender Verma, Advocate was present. Thereafter on 21.5.2014 proceedings were adjourned to 2.7.2014 on which date the objector was represented by Sh.VK Tripathi, Advocate. On 2.7.2014 the proceedings were adjourned to 21.7.2014 on which date neither the authorised representative/nor any counsel put in appearance on behalf of the objector and was proceeded against ex parte and proceedings adjourned to 7.8.2014 for ex parte evidence of the claimant/respondent. No explanation has been put forth by the objector as to why it failed to appear before the Arbitrator on 21.7.2014 and even thereafter. It has rightly been held by the court below that there is no requirement under the law that when on a particular day the party before the Arbitrator fails to appear, then the

Arbitrator is required to give notice to the defaulting party. The objector firstly failed to appear on 21.7.2014 and even thereafter did not bother to know the status of arbitral proceedings and for the first time on 30.7.2015 wrote a letter to the Arbitrator to know about the fate of the arbitral proceedings whereas ex parte award was announced on 17.3.2015 and a copy thereof sent to the objector on the same day. Thus, it can safely be inferred that despite proved knowledge of the pendency of the arbitral proceedings appellant/objector willingly chose to stay away from the arbitral proceedings w.e.f. 21.7.2014 and once the ex parte award was announced on 17.3.2015 against it, for the first time it wrote letter dated 30.7.2015 to the Arbitrator to know about the status of the proceedings. Thus, no fault can be found either with the ex parte award dated 17.3.2015 nor the order dated 30.5.2017 dismissing the objection petition of the appellant.

For the reasons stated above, finding no merit in this appeal the same is hereby dismissed.

**10.08.2017**  
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**(Jaswant Singh)**  
**Judge**

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| <b>Whether Speaking/reasoned</b> | <b>Yes/No</b> |
| <b>Whether Reportable</b>        | <b>Yes/No</b> |