

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

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FAO No.657 of 2017 (O & M)

Date of Decision:03.02.2017

M/s Ajay Machine Tools

....appellant

Versus

M/s Kumar Paints & Insulate Industries and another

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

Present: Mr.J.S.Hooda, Advocate
for the appellant

ARUN PALLI, J. (ORAL):

FAO No.657 of 2017(O & M)

Claim of the respondent-claimant under Section 18(3) of the Micro, Small and Medium Enterprises Development Act, 2006, (for short, 'the Act') was allowed by the Arbitrator, vide arbitral award dated 06.08.2015. Section 19 of the Act postulates pre-deposit of 75% of the awarded amount to prefer and maintain an application/appeal against such an award. The appellant filed objections under Section 34 of the Arbitration and Conciliation Act, 1996, but failed to meet the requirement envisaged under Section 19 of the Act. Resultantly, the District Judge, Panchkula, in reference to the decision of the Hon'ble Supreme Court in **“Goodyear India Limited versus Norton Intech Rubbers Private Limited and another” (2012) 6 Supreme Court Cases 345**, dismissed the objections, being not maintainable.

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

The position of law is settled that the amount that is required

to be pre-deposited can neither be waived nor reduced. The limited discretion, the Court has, is to extend the period, to deposit the requisite amount, by a specified time. Even the said option has been exhausted by the appellant, for, learned District Judge, Panchkula, had afforded due opportunity to the appellant to deposit the amount, but to no avail. Not just that, the objections preferred by the appellant were dismissed in the presence of its counsel on 11.12.2015. The said order was not questioned any further. And, now, when the execution proceedings are at an advanced stage, the appellant has chosen to prefer this appeal, after almost an year, which is barred by time. Ex facie, institution of this appeal is an afterthought to explore yet another opportunity to delay the execution.

That being so, the Court is choiceless but to dismiss the appeal.

Dismissed.

CM No.2062-CII of 2017

Since, I have heard learned counsel for the appellant in the main appeal, itself, on merits, and the same has been dismissed, no formal orders are required to be passed in this application.

February 03, 2017

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(ARUN PALLI)
JUDGE

Whether speaking/reasoned

Yes/No.

Whether reportable-

Yes/No