

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

216

FAO No.3638 of 2013 (O&M)

Date of Decision : 26.03.2018

M/s Jai Durga Rice Mills and others

..... Appellants

Versus

Punjab State Civil Supplies Corporation Ltd.
and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. S.K.Singla, Advocate
for the appellants.

Mr. S.S.Brar, Advocate
for respondent No.1.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment and order dated 17.01.2013 passed by the Additional District Judge, Chandigarh under Section 34 of the Arbitration and Conciliation Act, 1996 (for short the 'Act') whereby he set aside the award and remitted the matter regarding liability to pay interest back to the Managing Director, PUNSUP on the ground that it was agreed between the parties to do so.

Learned counsel for the appellants has argued that under Section 34 of the Act the Court can not set aside the entire award and remit the matter back to the Managing Director for fresh decision though it can send a limited issue back to the Arbitrator.

Learned counsel for the respondent No.1 has argued that this argument would not lie in the mouth of the appellants because this was an agreed order. Moreover as per learned counsel for the respondent No.1, Section 34 of the Act may not permit the Court to set aside an award and remit the matter back to the Arbitrator but here the matter has not been referred back to the Arbitrator.

Learned counsel for the appellants has relied upon two judgments of this Court passed in *M/s Moga Roller Flour Mills Pvt. Ltd. Vs. Punjab State Civil Supplies Corporation Ltd & ors. decided on 22.01.2016* and *M/s Pathela Rice Mills and others Vs. Punjab State Civil Supplies Corporation Ltd. and others decided on 11.04.2016* to contend that in both those cases similar orders were set aside by this Court. A perusal of those cases does not reveal that any agreed order had been passed in those cases whereas in this case an agreed order has been passed.

Moreover a perusal of these judgments reveal that reliance was placed on a Division Bench of the Bombay High Court in *Geojit Financial Services Ltd. Vs. Kritika Nagpal, decided on 25.06.2013*. That judgment specifically dealt with the power of the Court to remit the matter back to the Arbitrator and, not in the present case to the Managing Director, PUNSUP.

In my considered opinion that judgment would not apply to the facts of this case, since in the present case it was an agreed order.

I find no merit in the appeal and dismiss the same.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

26.03.2018

Pooja sharma-I

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned - *Yes/No*

Whether reportable - *Yes/No*