

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO No.5058 of 2013 (O&M)

Date of Decision : 13.03.2018

M/s Krishna Rice Mills

..... Appellant

Versus

Punjab State Civil Supplies Corporation Ltd. & ors.

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Mukand Gupta, Advocate
for the appellant.

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

AJAY TEWARI, J. (Oral)

On 29.10.2013 the following order was passed :-

“This appeal is directed against the order dated August 16, 2013 passed by Additional District Judge, Chandigarh, whereby, application under Section 34 of the Arbitration and Conciliation Act, 1996 filed by the Punjab State Civil Supplies Corporation Limited (for short ‘the Corporation’) was accepted and the Award dated June 12, 2007 passed by the Arbitrator, was set aside. The Managing Director of the Corporation was granted liberty to proceed further afresh, in accordance with law.

Learned counsel for the appellant has urged that application was allowed, mainly on the ground that the Arbitrator had no jurisdiction to pass the Award. It was not so challenged by the respondent before the Arbitrator or the

*Additional District Judge, and as such, the application filed by the respondent could not have been accepted by the impugned order. Reliance has been placed on **M/s Gupta Rice Mill(P) Limited vs. The Punjab State Co-operative Supply and Marketing Federation Ltd. and another**, Vol.CLXI-(2011-1) The Punjab Law Reporter 626.*

It was also urged by learned counsel that the Arbitrator was appointed by the parties and in paragraph No.12 of the Award, it was held as under:-

“12. In view of the foregoing discussion, it is held that the accounts stood already settled between the parties on or before 21.10.1995 and nothing was due to the claimant, whereas, a sum of Rs.3394.22 paise was payable to the miller due to excess deposit as admitted by the claimant witness. Resultantly, the claim/ revised claim preferred by the claimant stands dismissed while leaving the parties to bear their own costs. The claimant is directed to make the payment of Rs.3394.22 paise to the respondent on receipt of the copy of the Award.”

Notice of motion for 16.4.2014.

Meanwhile, implementation of the order, under challenge, is stayed.”

Learned counsel for respondent No.1 has not been able to deny that no challenge was made to the appointment of the arbitrator at the appropriate time and the ground was not taken even in the application under Section 34 of the Act but still the lower Court accepted this objection.

In the circumstances, it is clear that the case is covered by the decision of the judgment in **M/s Gupta Rice Mill (P) Ltd.'s case supra** and consequently the appeal is allowed. The impugned order is set aside and the award is upheld.

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

(AJAY TEWARI)
JUDGE

13.03.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No