

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

117 (2 cases)

Date of Decision : 18.05.2018

1) FAO-2761-2018 (O&M)

M/s Transmission Corporation of Andhra Pradesh Ltd. Appellant

Versus

M/s Equipment Conductors and Cables Ltd. and another Respondents

2) FAO-2764-2018 (O&M)

M/s Transmission Corporation of Andhra Pradesh Ltd. Appellant

Versus

M/s Equipment Conductors and Cables Ltd. and another Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. R.K. Sharma, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

Since issues involved in both the appeals are common, the appeals are decided by the common order.

These appeals have been filed against the orders dated 17.04.2018 passed by the Additional District Judge, Chandigarh dismissing the objections under Section 34 of the Arbitration and Conciliation Act, 1996.

Brief facts of the case are that the respondent No.1 had supplied 6400 KM All Aluminum Alloy Conductor to the appellant and had filed a claim before the Haryana Micro and Small Enterprises Facilitation Council-respondent No.2 on the ground that certain payments had been delayed and claiming interest thereon. Alongwith the claim, it had referred 82 items where there was delay and the necessary documents. The case of the appellant was that the claims were time barred and that the National Small Industries Corporation, New Delhi was a necessary party. They also submitted a statement showing the details of those claims which as per them were barred by Limitation Act and had conceded the claim qua Bills mentioned at Sr.No.58 to 82. As regards the ground that the National Small Industries Corporation, New Delhi should have been impleaded as party, the Council found that no documentary proof had been placed on record in support of their contentions. The respondent No.2-Council observed that the respondent No.1 filed claim of interest on delayed payment under the provisions of the interest on Delay payments to Small Scale and Ancillary Industrial Undertakings Act, 1993. This legislation was subsequently amended by the Interest on Delayed Payment to Small Scale and Ancillary Industrial Undertakings (Amendment) Act, 1998. Pursuant to the amendment in the Act, the State Government notified the Rules, namely, Haryana Industry Facilitation Council (Arbitration) Rules, 2001 dated 28.05.2001 and constituted the Industry Facilitation Council, Haryana for adjudication of the claim applications submitted before it. The said claim application was submitted by the supplier before this Council. Subsequently, the Government of India enacted the Micro, Small and Medium Enterprises Development Act, 2006, and Interest on Delayed

Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993 was repealed as per Section 32 of MSMED Act. In accordance with provisions of MSMED Act, the State Government notified the Haryana Micro and Small Enterprises Facilitation Council Rules, 2007 dated 20.04.2007 and constituted the respondent No.2-Council for adjudication of the claims. Ultimately, the Council allowed the claims at Sr.No.58 to 82. The objections, as mentioned above, had also been dismissed.

Counsel for the appellant has sought to argue that actually the the only reason why the appellant could not make the payment was that there was a stay operating against payment by the Delhi High Court. He has however fairly accepted that the plea that the appellant was unable to make the payment in view of the stay order of the competent court was never taken in the reply.

In the circumstances, no fault can be found with the findings of the Council-respondent No.2 or the Court in not considering the plea of stay. The Court has correctly assessed the parameters under Section 34 of the Arbitration and Conciliation Act, 1996 and has noticed that the grounds on which the award can be set aside are very limited. I am also satisfied that no such ground exist.

Appeals are dismissed. No costs.

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

May 18, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No