

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

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**CM-2757-58-CII-2018 in/and
FAO-864-2018 (O&M)
Date of Decision : 06.03.2018**

M/s Saluja Rice Mills and others

..... Appellants

Versus

The District Manager, Food Corporation of India
and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Sachin Mittal, Advocate
for the appellants.

AJAY TEWARI, J. (Oral)

CM-2757-58-CII-2018

For the reasons recorded, the applications are allowed. Delay of 171 days in refiling and 119 days in filing the appeal is condoned.

FAO-864-2018 (O&M)

This appeal has been filed against the order of the Additional District Judge, Ferozepur dismissing a petition under Section 34 of the Arbitration and Conciliation Act, 1996.

The respondents had claimed an amount of Rs.22,50,000/- odd on account of losses incurred from the conduct of the appellants. The arbitration proceedings were initiated and ultimately, since the appellants did not appear, an ex-parte award was passed. The court below rejected the objections on the ground that the appellants had been served and intentionally did not appear. The reasons for this was that

the Arbitrator had recorded in one zimini order that the summons sent by registered post returned with the report of refusal. In the next zimini order it was recorded that the summons which had been resent by registered post had not been returned back undelivered and though there was a presumption of service yet publication was ordered by way of abundant caution in the Tribune and the Punjab Kesari. On the basis of these zimini orders the court below came to the conclusion that the appellants had not been able to prove non-service.

On 09.02.2018 the following order was passed:-

“Counsel seeks an adjournment to check if any material was placed before the court to show that the presumption of service of registered notice in the event of non-return of acknowledgment due for 30 days could be rebutted.

Adjourned to 06.03.2018.”

Counsel for the appellants has not been able to place any material on record which would lead to a conclusion that service was not effected. He has argued that as a matter of fact summons were sent at that address of Mill which was closed as far back as in 1998. He has however accepted that no material was placed before the court below to prove this fact. In this view of the matter no fault can be found with the order of the court below.

Appeal stands dismissed. No costs.

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

March 06, 2018
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(AJAY TEWARI)
JUDGE

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