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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 22nd October, 2018

\+ **O.M.P. 576/2012**

FOOD CORPORATION OF INDIA, MOGA ..... Petitioner

Through: Mr. Mohan Lal Sharma, Advocate. (M:9811537909)

versus

RAVINDRA TRADING CO., BADHNI & ORS. ..... Respondents

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

<u>Prathiba M. Singh, J.</u> (Oral)

1. Present petition under Section 34 of the Arbitration and Conciliation Act, 1996 (*'the Act'*) has been filed challenging the award dated 8th February, 2012 passed by the learned Sole Arbitrator with the aegis of the Indian Council of Arbitration.

2. Disputes arose out of an agreement dated 18th October, 1994 which was entered into between the Petitioner and the Respondents. The same relates to milling of paddy, which was to be done by the Respondents. Disputes had arisen between the parties and FCI had invoked arbitration and raised claims against the Respondents. Operative portion of the award is set out herein below:

> "*The claimant in his claim Petition in Para-4, have specifically given detail of the dealing between the parties including a copy of balance sheet.*
> *FCI is a state Corporation and as such the record and evidence submitted can be relied upon safely. The damages are being awarded in terms of the*

agreement arrived at between the parties.
The Claimant has claimed an amount of Rs. 75, 67, 325/- in accordance with the terms and conditions of the Storage-cum-Milling agreement dated 18-10-94 between the Claimant and the Respondent as per the details at Annexure A.
After due consideration of the facts of the case, I grant this claim in full to the Claimant on Ex-parte basis i. e. an amount of Rs.75, 67, 325/- is awarded to the Claimant against the Respondents.
The Respondent did not honour the Agreement and did not attend the Arbitration.
I award interest on the above payment @ 10% per annum from 01.01.2012 till the payment is made.
There has been considerable delay in conducting the arbitration, which was provided for in the agreement. The grain was stored for milling in '94 -'95 Kharif season, the default occurred in '94 - '95 and arbitration proceedings finally started in 2010, I allow 50% of the cost of arbitration charges incurred by the Claimant to be recovered from the Respondent."

3. Present petition filed by the FCI is limited to the interest component in the award. The claim of FCI was for interest @18%. Due to the failure of the Respondents to seriously contest the arbitration, the Ld. Arbitrator allowed the claims of FCI with interest @10% p.a. from 1st January, 2012 till the payment is made.

4. The Ld. Arbitrator further held that the Respondent had repeatedly failed to appear before the Tribunal, and came to the conclusion that the Respondents were in fact avoiding the proceedings before the tribunal. There was no communication from their side, in spite of several opportunities being given to the Respondents, and even after publication of

notices, the Respondents chose not to appear before the Tribunal. Under these circumstances the Ld. Arbitrator has passed the impugned award. Admittedly, the contract dates back to 1995. Arbitration was invoked only in 2003 as there was long drawn litigation before the matters were referred to arbitration by the Supreme Court. Under such circumstances, the interest granted by the Ld. Arbitrator and the period for which the same has been granted is reasonable. No interference is called for.

5. OMP is dismissed, accordingly.

PRATHIBA M. SINGH
JUDGE

OCTOBER 22, 2018/*dk*