

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

RSA No.3040 of 2000 (O&M)

Date of decision : 23.01.2019

M/s Druck Grafen India Ltd.

...Appellant

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Ashwani Kumar Chopra, Sr. Advocate with
Mr. Aashutosh Jerath, Advocate for the appellant.

Mr. Saurabh Girdhar, AAG, Haryana.

ANIL KSHETARPAL, J.

Plaintiff-appellant is in the Regular Second Appeal against the judgment passed by the learned First Appellate Court reversing the judgment of the trial Court resulting in dismissal of the suit filed for recovery of ₹8,96,758/-.

Detailed facts have been noticed by the Courts below, however, to complete narration of the facts, some facts are being noticed. State of Haryana through Department of Printing and Stationery issued a tender in which plaintiff-appellant company was successful bidder. Plaintiff company was given order to print bus tickets meant for issuing to the passengers for a period of four years i.e. 1988-89, 1989-90, 1990-91, 1991-92. As per the terms of the tender, paper was to be supplied by the State whereas printing was to be carried out by the plaintiff company. It is the allegation of the defendant that plaintiff did not print required quantity of the tickets. The

information can be depicted in a tabulated form which is extracted from the written statement of the State:-

YEAR	ORDERED/ QUANTITY	ORDER/ EXECUTED	20% PAYMENT WITH HELD AFTER MAKING 80% PAYMENT
1. 1988-89	84 CRORES	82.25 CRORES	2,63,200.00
2. 1989-90	99.55 CRORES	89.39 CRORES	3,12,865.00
3. 1990-91	106 CRORES	21.60 CRORES	1,19,568.00
1991-92			
TOTAL	289.55	193.24	6,95,633.00

Plaintiff has filed the suit claiming that there was defect in the quality of paper supplied and the plaintiff has not been granted proper wastage as ordered by the Commissioner in the proceedings held on 27.01.1995. The defects which have been pointed out by the plaintiff in the plaint are extracted as under:-

- “i) That the paper reels consisted too many joints which were not even properly pasted resulting into breakage of reels.*
- ii) The paper reels had got more bubbling due to wrong slitting and winding.*
- iii) The paper reels consisted of pieces of paper wrapped on reels.*
- iv) The paper reels contained sprees and broles which caused breakage of paper.*
- v) The reels of paper were of very small in circumference.”*

Learned trial Court, on appreciation of evidence, decreed the suit, whereas First Appellate Court, on re-appreciation of evidence, have dismissed the suit while reversing the judgment of the trial Court.

This Court has heard learned counsel for the parties at length

and with their able assistance gone through the judgments passed by both the Courts below as well as record.

Learned Senior Counsel appearing for the appellant has submitted that Commissioner and Secretary to Government of Haryana, Printing and Stationery Department, after hearing the appellant had passed an order accepting the grievance of the plaintiff and, therefore, the Department is wrong in withholding the payment. He has further submitted that various communications/letters were written to the Department pointing out complaints/defects in the paper supplied but no response was given. He further submitted that the First Appellate Court erred in accepting the appeal on the ground that no expert has been examined by the plaintiff to prove defect in the paper supplied.

On the other hand, learned counsel for the State has submitted that the First Appellate Court has passed a well-reasoned judgment, which does not require any interference.

As regards first argument of the learned counsel for the appellant with reference to the order passed by the Commissioner dated 27.01.1995, it is apparent that the Commissioner had only accepted one request of the appellant and that was to the effect that in place of wastage per reel at 1 kg per quintal, wastage of 3.5 kg per reel was allowed. The Department has pointed out that wastage of 2.3 kg per reel has already been allowed which is a concession granted by the Department, although as per tender, only 1 kg is permissible. With regard to remaining complaints, Commissioner had not granted any relief to the plaintiff company. No doubt, the plaintiff has been writing various letters pointing out defects in

the papers, however, such communications are not evidence of the fact that the paper was defective. In the present case, State has produced Test Certificates from a Laboratory-Ex.D5 to Ex.D9 which prove that there was no defect in the quality of paper which was supplied. Test Certificates have been submitted with regard to paper supplied for almost entire duration of the contract.

Still further, plaintiff had filed the present suit. Plaintiff was to stand on its own legs. Plaintiff has not led any evidence by examining any expert or has placed any material on the basis whereof the Court can come to the conclusion that the paper as supplied was defective.

One more grievance of the plaintiff is to the effect that paper was supplied on small sized reels which resulted into more wastage. In this regard, it may be pointed out that letter dated 21.11.1989 Ex.D10 proves that reels of smaller size were purchased on the request of the plaintiff.

In view of the aforesaid discussion, for the reasons stated above, this Court does not find any good ground to interfere with the well-reasoned judgment of the First Appellate Court.

Hence, the present Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

23.01.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No