

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

**FAO No. 3749 of 2008
Date of Decision: 23.01.2019**

Punjab State Civil Supplies Corporation Ltd., Chandigarh and another

..... Appellants

VERSUS

M/s A.V. Industries Guru Har Sahai District Ferozepur

..... Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. R.S. Dadwal, Advocate, for
Mr. Aman Chaudhary, Advocate,
for the appellants.

None for the respondent.

JAISHREE THAKUR, J.(Oral)

Punjab State Civil Supplies Corporation Ltd. ('PUNSUP'
for short) has filed the instant appeal seeking to challenge the order
dated 07.02.2008 passed by the District Judge, Ferozepur allowing
the objections filed under Section 34 of the Arbitration and
Conciliation Act, 1996 of the respondent claimant.

In brief, the parties entered into an agreement for milling of paddy by agreement dated 10.10.1995. A dispute arose on account of non-supply of rice by the respondent against the paddy supplied to them. On account of late supply of paddy, the appellant sought to recover a sum of ₹ 11,86,227/- due as on 30.11.1998 from the respondents with interest @ 21% till realization. The matter was referred by the Managing Director for arbitration to the Arbitrator, who submitted his award dated 30.12.2003 holding that the appellant would be entitled to recover ₹ 2,36,189.31 paise from the respondents with interest @ 10% per annum from 26.06.1999 till the date of realization. Aggrieved against the said award, the respondents, namely, M/s A.V. Industries Guru Har Sahai District Ferozepur through its partner Ashok Kumar filed objections under Section 34 of the Arbitration and Conciliation Act, which objections were allowed and the award of the Arbitrator was set aside. The District Judge, while relying upon clause 6(iii) of the agreement came to hold that it was the Managing Director who could have dealt with the issue while referring to Clause 6 (iii) and 17 of the Arbitration Agreement and further held that if any matter is referred to the Arbitrator which is outside the jurisdiction and purview of the Arbitrator then any decision taken thereon would be beyond his jurisdiction and, therefore, the award which was given by an authority having no jurisdiction, would be liable to be set aside. Aggrieved against the

said decision dated 07.02.2008, the present appeal has been filed.

Learned counsel appearing on behalf of the appellants submits that the award of the Arbitrator is correct as there was a delayed supply of the rice by the Miller to the appellants and, therefore, on the question of delayed supply, interest has rightly been assessed.

I have heard learned counsel for the appellants and find that clause 6(iii) of the arbitration agreement was a subject matter of judicial scrutiny in a similar case in ***FAO No. 3778 of 2004*** titled '***M/s Shiv Shankar Rice Mills vs. PUNSUP and others***'. In ***M/s Shiv Shankar Rice Mills*** case (supra) recovery for interest on late deposit of cost of paddy was also sought from the miller on account of delayed delivery and the matter was referred to the Arbitrator, who allowed the claim. Objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 were dismissed which led to the first appeal being filed. This matter was to be decided by the Managing Director himself as per the laws of the arbitration agreement and decide the same in terms of the said case. In ***M/s Shiv Shankar Rice Mills*** case (supra), it has been held that the award of the Arbitrator to the extent of accepting the claim of the Corporation for interest on late deposit of cost of paddy was beyond his jurisdiction, to that extent the same is set aside.

In view of the fact that this issue already stands decided,
no further orders are called for.

Disposed of in terms of FAO No. 3778 of 2004 decided
on 01.02.2011.

23.01.2019

Satyawan

(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned	Yes.
Whether reportable	No.