

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

FAO No.6236 of 2019 (O&M)
Date of Decision: October 15, 2019

The General Manager

...Appellant

Versus

M/s Shankar Cable Industries

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Amit Kumar, Advocate
for the appellant.

JAISHREE THAKUR, J. (Oral)

1. The instant appeal has been filed seeking to challenge the order dated 09.05.2019 passed by the District Judge, Gurugram whereby, the objection petition filed by the appellant under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') for setting aside the award of the Arbitrator has been dismissed.

2. On account of a dispute that arose between the parties, the matter was referred to the Arbitrator by the Micro and Small Enterprises Facilitation Council, Haryana, who gave his award dated 12.06.2018 and as per the award, the appellant herein was to pay a sum of ₹ 13,37,061/- from the date of institution of claim statement till payment. Aggrieved against the said award, objections were filed on 14.12.2018 along with an application for condonation of delay stating that the same could not be filed

within time on account of procedural delays. Notice was issued and a reply was filed stating that the objections filed were not maintainable, as the same had been filed beyond the period of 90 days as provided under Section 34(3) of the Act, along with an additional period of 30 days as allowed by the proviso to the said section. The District Judge, Gurugram, by taking into account the judgment as rendered by the Apex Court in ***Union of India vs. M/s Popular Construction Compant, 2001(2) Apex Court Journal, 385 (SC)*** held that the said objections had been filed beyond the period of limitation and dismissed the same. Aggrieved, the instant appeal has been filed.

3. I have heard counsel for the appellant and with his assistance have gone through the impugned order.

4. The only question arise for consideration of this court is whether the objections were filed within the period of limitation. Admittedly, the award was pronounced on 12.06.2018 and, therefore, the prescribed period of limitation would be a period of 90 days from the date on which the copy of signed award was delivered to the party. A further period of 30 days would have been made available in case, the appellant had been able to give sufficient reasons for not filing the objections within the specified time. As per the grounds of appeal and as noticed in the impugned order itself, the copy of the award was delivered to the counsel on 12.06.2018 and the objections ought to have been filed on or before 11.09.2018 and if the appellant was to take the benefit of an additional period of 30 days, as stipulated in the proviso, the objections ought to have been filed on or before 11.10.2018. As the objections were filed on

14.12.2018, the same could not have been entertained, being filed beyond the period of limitation as provided under Section 34(3) of the Act.

5. Finding no infirmity in the impugned order of the District Judge, Gurugram, the appeal stands dismissed.

6. However, while parting with this order, it is also the opinion of the court that the appellant herein has chosen a wrong forum in challenging the award of the Arbitrator. Since the Arbitrator had been appointed by the Micro and Small Enterprises Facilitation Council, Haryana, which was constituted under Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006, as such, the appeal would have been maintainable under Section 19 of the said Act.

October 15, 2019
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No