

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

**CM-6097-6098-CII-2016 in/and
FAO-1644-2016 (O&M)**

Date of Decision: September 03, 2019

Punjab State Cooperative Supply and Marketing Federation Ltd.

Applicant-appellant

Versus

M/s SS Traders and others

Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vikas Singh, Advocate
for the applicant-appellant.

JAISHREE THAKUR, J. (Oral)

CM-6097-CII-2016

This is an application that has been filed under Section 151 CPC seeking condonation of delay of 265 days in re-filing the appeal.

For the reasons mentioned in the application, the same is allowed. The delay of 265 days in re-filing the appeal stands condoned.

CM-6098-CII-2016 and main case

The instant application has been filed under Section 5 of the Limitation Act for condoning the delay of 626 days in filing of the appeal.

As per the application, the award of the Arbitrator dated 29.02.2008 was challenged by the appellant herein under Section 34 of the Arbitration and Conciliation Act 1996 before the Additional District Judge,

Patiala, who dismissed the same by an order dated 22.01.2013. The appeal was filed along-with an application under Section 5 of the Limitation Act seeking condonation of delay of 626 days in filing of the appeal. As per the application and the averments made thereunder, the delay occurred due to lack of communication between the appellant and the counsel defending the proceedings before the District Judge and due to lack of communication between the Head Office and the office at Patiala.

Learned counsel appearing on behalf of the applicant-appellant argues that the delay should be condoned in view of the law laid down by the Hon'ble Supreme Court in AIR 1987 (2)SCC107 titled as '**Collector, Land Acquisiton, Anantnag and Another vs. Mst Katiji and Others**', wherein it has been held that there should be a liberal approach in condoning the delay in filing of the appeal.

I have heard learned counsel for the applicant-appellant herein and find that the application as filed does not give any details as to when the appellant received a copy of the award from the counsel appearing on behalf of the appellant or what was the lack of communication between the Head Office and the Patiala Office. The application as filed is wholly devoid of any details and therefore, there is no ground made out for condoning the delay as sought.

Even otherwise, a perusal of the Arbitrator's award dated 29.02.2008 would reflect that the Arbitrator has taken into consideration all the points as raised before him. The claimant namely the appellant herein had sought recovery from the respondent-miller on account of short supply of Grade 'A' paddy. It was contended that it had supplied 7006 bags

weighing 4553.90 qntls of Grade 'A' paddy. The respondent was required to deliver 3020.60.187 qntls of rice by 31.08.2000 but it supplied only 1692.90 qntls, leaving a balance of 1327.50 qntls to be supplied for which the respondent was to pay ₹13,14,928/- @ ₹990.53 per qntl. Other claims were released as well.

The claim was contested by taking a specific ground that the claimant had never supplied 7006 bags of paddy to the respondent-miller. The claimant tried to stress upon Annexure C-4 to contend that the proprietor of the respondent-Mill had appended his signatures on the said receipt of bags of paddy. The Arbitrator vide his order dated 22.07.2005 directed that the signatures of the proprietor be sent to a reputed laboratory in Chandigarh for comparison, however, the claimants, for reasons best known to them, chose to suffer a statement that they did not press Annexure C-4 on which they had relied while stating that the miller had accepted the bags in question. Based on that statement, the Arbitrator came to the conclusion that there was no material on the record to substantiate the fact that the claimant had ever supplied 7006 bags of fine quality paddy to the respondent-miller and dismissed the claim of the appellant herein.

The Additional District Judge dismissed the objections by taking into account that there was no evidence on the record. This Court too finds that once the appellant herein had not been able to substantiate by way of any documentary evidence that it had supplied 7006 bags of fine paddy to the respondent, it could not take a stand that there was any shortage in supply of rice.

Consequently, finding no ground to interfere, either by

condoning the delay in filing of the appeal or on merits, the application seeking condonation of delay as well as the main appeal stand dismissed.

September 03, 2019
seema

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No