

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

**FAO No. 6468 of 2018 (O&M)
Date of Decision: 16.01.2019**

Punjab State Co-operative Supply and Marketing Federation Limited,
Chandigarh

..... Appellant

VERSUS

M/s Ganesh Rice Traders Malout

..... Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Shivam Grover, Advocate,
for the appellant.

JAISHREE THAKUR, J.

CM-22493-CII-2018

This is an application that has been filed under Section 5 of the Limitation Act seeking condonation of delay of 11 days in filing the instant appeal.

For the reasons mentioned in the application, the same is allowed.

Delay of 11 days in filing the appeal stands condoned.

FAO No. 6468 of 2018

1. The appellant Punjab State Cooperative Supply and

Marketing Federation Ltd., Chandigarh, seeks to challenge the order dated 06.11.2017 passed by the Addl. District Judge, Chandigarh, dismissing the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996.

2. In brief, the facts are that agreement was entered into between the appellant and the respondent M/s Sh Ganesh Rice Traders to mill paddy. As per agreement, the appellant supplied 48,853 bags weighing 17098.55 quintals of grade 'A' paddy for storage. Out of these, 1,29,870 bags weighing 45454.5 quintals of paddy was issued for milling. The respondent milled 15659.03 quintals of paddy out of 48,853 bags weighing 17098.50 quintals, leaving 3661 bags weighing 1281.35 quintals of paddy with the respondent. On account of shortage, a dispute arose and the matter was referred by the Managing Director to the sole Arbitrator. The claim petition was filed claiming that the total amount of ₹ 4,23,494/- was to be recovered from the respondent-miller. The respondent also led evidence and claimed adjustment of the amount due to it from the claimant. Both parties were given adequate opportunity to lead evidence in support of their claim. Thereafter, on appreciation of the evidence, the Arbitrator allowed the claim of the appellant to the extent of ₹ 3,48,310/- while disallowing the claim towards recovery of ₹ 75,184/- which was paid to FCI for storage charges etc. Aggrieved against the award which did not allow the claim in toto,

objections under section 34 of the Arbitration and Conciliation Act 1996 was filed which too came to be dismissed. Hence, the present appeal.

3. Mr. Shivam Grover, learned counsel appearing on behalf of the appellant vehemently urges that the Addl. District Judge has erred in dismissing the objections, as the award of the arbitrator was patently illegal and prejudicial to the rights of the claimant appellant. It is urged that the Courts can interfere under Section 34 (2) of the Arbitration and Conciliation Act 1996 in the event of arbitrariness and illegality. It is argued that the Arbitrator by not allowing the recovery of ₹ 75,184/- made by the Food Corporation of India for storage charges, has acted in a biased manner and has travelled beyond the terms and conditions of the agreement dated 13.10.2011. Therefore, the order dismissing the objections deserves to be set aside and claim of the appellant be allowed for a recovery of ₹ 75,184/- alongwith interest.

4. I have heard learned counsel for the appellant and with his assistance has gone through both, the award of the Arbitrator as well as the order dismissing objections.

5. The agreement between the parties is not disputed. The Arbitrator on appreciation of evidence of the claimant-appellant herein and the respondent, awarded an amount of ₹ 3,48,310/- in favour of the claimant. As per section 34(2) of the Arbitration and

Conciliation Act, 1996, the scope of interference of an award of the Arbitrator is limited & until and unless the Objector can satisfy any of the provisions specified thereunder, the award of the Arbitrator is not to be interfered with. Reliance in this regard can be placed upon the judgment rendered by Hon'ble the Supreme Court in *Mcdermott International Inc. Vs Burn Standard Co. Ltd., 2006(2) Arb. LR 498 (SC)*. In *Bhagwati Oxygen Ltd. Versus Hindustan Copper Ltd., AIR 2005 Supreme Court 2071*, where it has been held by Hon'ble the Supreme Court that the Courts cannot reappraise evidence under Section 34 of the Act.

6. The Arbitrator, while relying upon the agreement came to hold that the claim of the appellant regarding recovery of charges for storage by FCI was not justified or covered under the agreement. Learned counsel for the appellant herein has not been able to satisfy this court otherwise.

7. In view of the above, this Court finds no ground to interfere with the award of the Arbitrator or to set aside the order so passed on the objection petition.

8. The instant First Appeal stands dismissed.

16.01.2019

Satyawan

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes.
No.