IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.3615 of 2017 (O&M)
Date of decision : 06.02.2019

State Bank of Hyderabad

...Appellant

Versus

M/s Sachdeva Metal Works and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Madhu Dayal, Advocate for the appellant.

Mr. Amit Jhanji, Advocate for respondent No.1.

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ANIL KSHETARPAL, J. (ORAL)

CM No.8731-C of 2017

Deficiency in the Court fees has already been made good. Delay, if any, is condoned.

Application is allowed.

CM No.8732-C of 2017

For the reasons stated in the application, which is duly supported by an affidavit, delay of 9 days in refiling the present appeal is condoned.

Application is allowed.

Main Case

A nationalized Bank is in the appeal against the judgment passed by the learned First Appellate Court.

The plaintiff had filed a suit for recovery of ₹13,90,105/- on account of supply of goods to defendant Nos.1 and 2 against the letter of credit. The letter of credit was a deferred letter of credit with expiry date specifically mentioned as 06.09.2009. Letter of credit was presented to the appellant-bank on 12.11.2009 which was refused to be honoured.

This Court is not called upon to examine the correctness of the decree which has been passed against defendant Nos.1 and 2. The only issue which requires consideration is "whether the First Appellate Court was correct in taking note of the words 'usance 120 days from the date of invoice as period' to hold the presentation of the letter of credit was presented in the bank within time and, therefore, bank was also liable to pay. It may be noted that the plaintiff had supplied goods under invoice Nos.91 and 92 dated 23.07.2009 to defendant Nos.1 and 2 for a sum of ₹10,37,392/- on receipt of a letter of credit issued by the appellant-bank dated 01.07.2009. In the first column of letter of credit, it was recited that the date of expiry is 06.09.2009. Of course, in column No.5 which was dealing with the "credit available with", it was provided 'usance 120 days from the date of invoice'. The First Appellate Court has interpreted this letter of credit to mean that the validity was upto 120 days from the date of invoice till 21.11.2009. The aforesaid interpretation of the learned First Appellate Court is clearly erroneous.

Both the counsels have assisted the Court in a very fair manner. It has been brought to the notice of the Court that there are two types of letter of credit, one is 'payment letter of credit at sight' which means business parlance that the payment would be made immediately on the presentation of documents to the bank. There is another letter of credit which is known as 'deferred letter of credit' or 'letter of credit usance'. The aforesaid letter of credit means that after presentation of the letter of credit, amount would be paid after a period of 120 days, if all the documents are in order. However, this Clause does not extend the expiry period and letter of credit has to be presented before the expiry date which is 06.09.2009. It is undisputed that the letter of credit was presented on 12.11.2009 when the validity of the letter of credit had already expired.

In view thereof, the judgment passed by the learned First Appellate Court to this extent against the appellant, is set aside.

Regular Second Appeal is partly allowed.

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

06.02.2019 **(ANIL KSHETARPAL)**
Pawan **JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**