

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

FAO-5069-2013 (O&M)

Date of Decision: 3rd March, 2023

M/s. Amar Rice Mills

... Appellant

Versus

Haryana Agro Industries Corporation. Ltd. and others ... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Paras Money, Advocate for the appellant.

Mr. Vishal Garg, Advocate for the respondents.

AVNEESH JHINGAN , J.(Oral)

1. This appeal under Section 37 of Arbitration and Conciliation Act, 1996 (for short 'the Act') is filed aggrieved of dismissal of objections under Section 34 of the Act.

2. The facts in brief are that parties entered into custom rice milling agreement on 28.9.1999. The terms and conditions provided for dispute resolution through arbitration. The appellant failed to deliver the custom rice within the stipulated time. The cheques were issued by the appellant for the payment due with regard to undelivered rice. Out of cheques totalling Rs. 20,94,424/- only cheques worth Rs.15 lakhs were honoured. Apart from value of undelivered rice, the respondent-Haryana Agro Industries Corporation Ltd. (for short, 'the Corporation') claimed misappropriation of 213 wooden crates and short supply of 1665 gunny bags. The Deputy General Manager of the Corporation was appointed as an arbitrator. Arbitration proceedings culminated into award dated 4.8.2006. The respondent-Corporation was found entitled to sum of Rs.

under Section 34 of the Act filed by the appellant were dismissed on 12.3.2013.

3. Learned counsel for the appellant argues that the award was passed at the back of the appellant. He submits that vide order dated 26.5.2006 the evidence of the appellant was closed. An application filed for recalling of the order dated 26.5.1995 was rejected and the case was fixed for 30.6.2005 for arguments. Thereafter, the matter was not taken up on 30.6.2005 due to transfer of arbitrator. On 4.8.2006, without serving any notice, the award was passed on 4.8.2006.

4. Learned counsel for the respondents defends the impugned award and order.

5. Heard learned counsel for the parties at length and perused the record.

6. From the perusal of the record, it is evident that on 10.6.2005, arbitrator adjourned the matter to 30.6.2005 for arguments. There is no zimni order of 30.6.2005 and only order after 19.6.2005 is of 4.8.2006 which is quoted below:

“Several dates were fixed for arguments as either the respondents or the claimants sought adjournments. Also the arbitrator had been transferred to Palwal. The award was announced on 4.8.2006 and copies supplied to the parties.”

7. From the order dated 4.8.2006, the contention raised by learned counsel for the appellant that the arbitrator was transferred after 10.6.2005 is fortified. The appellant had no notice of fixing the matter on 4.8.2006. Without giving reasonable opportunity to the appellant to address arguments, the award was passed.

8. The award passed is in violation of principles of natural justice and is patently illegal Act. Consequently, the impugned award and impugned order are set aside. The parties would be at liberty to avail remedies in accordance with law.

9. Since the main case has been decided, the pending application(s), if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

3rd March, 2023
anuradha

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No