

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

**FAO No. 4790 of 2013 (O&M)
Date of decision: 24th April, 2023**

Uttar Haryana Bijli Vitran Nigam

Appellant

Versus

UIC Wires Ltd. and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R. S. Madan, Advocate for the appellant.
Mr. Dheeraj Jain, Advocate for respondent No. 1.

AVNEESH JHINGAN, J (Oral):

1. This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') is filed aggrieved of acceptance of objections under Section 34 of the Act filed by respondent No. 1 (hereinafter referred to as 'the respondent').

2. The brief facts are that on 25.3.2004 the appellant placed a purchase order on respondent for supply of 630 MT of GSS wire on respondent. The supply was to be made within the stipulated period. On failure of the respondent to supply the material, the appellant made purchases at the risk and cost of the respondent and on that basis claim was raised by the appellant. Arbitration proceedings culminated in award dated 15.12.2009. The objections filed by the respondent were allowed on 8.1.2013.

3. The award was set aside, considering that after 2.11.2007, there were no arbitration proceedings and without informing the parties

award was passed on 15.12.2009. The present appeal was allowed *ex parte* on 6.7.2015. On an application moved by the respondent, *ex parte* order was set aside on 5.12.2018.

4. The factual finding recorded in the impugned order that after 2.11.2007 no arbitration proceedings took place is not in dispute.

5. The Supreme Court in *Dr. A. Parthasarathy and others v. E. Springs Avenues Pvt. Ltd. and others*, 2022(2) RC (Civil) 329 held that after setting aside of the award, two options are available to court either to consider the matter on merits on the basis of material available on record within the limited scope of interference or to relegate the parties for initiation of fresh arbitration.

6. In the present case, as the award was set aside and the matter was not considered on merits, the parties would be at liberty to initiate fresh arbitration.

7. No interference is called for under Section 37 of the Act.

8. The appeal is dismissed.

9. As the main appeal has been dismissed, pending application (if any) is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

24th April, 2023
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1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No