

FAO No. 1066 of 2020 (O&M)

[1]

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CM-2672-CII of 2020 in/and
FAO No. 1066 of 2020 (O&M)
Date of decision: 12th May, 2023

M/s K. L. Sons

Appellant

Versus

The Punjab State Civil Supplies Corporation Ltd. and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Nakul Sharma, Advocate for the applicant-appellant.

AVNEESH JHINGAN, J (Oral):

1. This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') is filed accompanied by an application for condonation of delay of 360 days.

2. The parties entered into a custom milling agreement. The applicant failed to supply the milled rice within the stipulated period. The arbitration proceedings initiated at the instance of the Punjab State Civil Supplies Corporation (for short, 'PUNSUP') culminated in award dated 2.12.2016. The objections filed under Section 34 of the Act were dismissed on 31.7.2018, hence the present appeal.

3. Explaining the delay counsel for the applicant submits that the applicant was not attending his business in routine. He gained knowledge of rejection of objections on receiving summons of the executing court through lessee when he went to collect lease money for the rice mill.

4. The Supreme Court in ***Oriental Aroma Chemical Industries Ltd. Vs. Gujarat Industrial Development Corporation and another, 2010 (5) SCC, 459*** held that a liberal approach be adopted in condoning the delay of short duration and a stricter approach where the delay is inordinate

5. In ***Pundlik Jalam Patil (D) by LR. Versus Exe. Eng.***

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Jalgaon Medium Project and another, 2008 (17) SCC 448, the Supreme Court held that the court cannot enquire into belated and stale claims.

6. The Supreme Court in case of *Tribhuvanshankar Vs. Amrutlal, 2014 (1) RCR (Civil) 206* laid down that the fundamental policy behind the limitation is that if a person does not pursue his remedy within the stipulated time-frame, the right to sue gets extinguished.

7. In case of *Amalendu Kumar Bera and others Versus The State of West Bengal 2013 (2) RCR (Civil) 534*, the Supreme Court held that the delay in filing the appeal or revision cannot and shall not be mechanically condoned and in the absence of 'sufficient cause' delay shall not be condoned. In case of serious negligence, the delay should not be condoned.

8. From the perusal of the pleadings, it is forth coming that the applicant was duly represented by a counsel in proceedings under Section 34 of the Act. After rejection of the objections, the applicant waited for more than a year. It is not the case set up that the counsel had not informed the applicant with regard to out-come of the objections under Section 34 of the Act. The other aspect of the matter is that the applicant, a businessman, never took trouble to enquire the status of objections from his counsel for more than a year. The explanation put forth is not worth acceptance.

9. In view of the above, the application for condonation of delay is dismissed. The appeal is dismissed as time-barred.

[AVNEESH JHINGAN]
JUDGE

12th May, 2023
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1. Whether speaking/ reasoned	:	Yes
2. Whether reportable	:	Yes