2023:PHHC:160424

In the High Court for the States of Punjab and Haryana
At Chandigarh

CR-7505-2023 (O&M)
Date of Decision:-13.12.2023

Punjab State Power Corporation Limited … Petitioner

Versus

M/s Speed Craft Industries ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Saksham Dudeja, Advocate for the petitioner.

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GURVINDER SINGH GILL, J.

1. The petitioner - Punjab State Power Corporation Limited (PSPCL) assails order dated 28.8.2023 passed by learned Additional District Judge, Patiala wherein the executing Court while disposing of the calculation applications filed on behalf of the petitioner/Judgment Debtor as well as the respondent/Decree Holder held that the Decree Holder was held entitled to interest on the component of compensation as well.

2. The matter pertains to execution of award dated 20.6.2014 passed in favour of the respondent and against the petitioner – PSPCL. The operative portion of award dated 20.6.2014, as has been reproduced in the instant petition reads as under :-

> "*In view of position explained above, petitioner is entitled to Rs.10,92,816 + Rs. 13,15,401 = Rs. 24,08,217 (rupees twenty four lacs eight thousand two hundred and seventeen only) on the account of wrongful deduction of excise duty by the respondent + compensation of short closing of order in addition to interest @ 12 (as claimed by respondent in warranty clause), 18% demanded by the petitioner is on higher side) per annum on wrongfully deducted excise duty of Rs.13,15,301.00 from 01.04.2011 to 26.05.2014 i.e. date of closing arbitration proceedings, works out as Rs.4,97,292. Total amount payable is Rs. 24,08,217 + Rs. 4,97,292 = Rs. 29,05,509 (rupees twenty nine lacs five thousand five hundred nine only) <u>interest is payable till date of payment, which may be calculated separately.</u>*"

3. In other words, the components of the award may be stated in simpler terms as under :-

(i)	amount awarded on account of short closing of order by the Judgment Debtor	:	Rs. 10,92,816
(ii)	amount wrongfully deducted as excise duty amount	:	Rs. 13,15,401
(iii)	interest @ 12% on the wrongly deducted excise duty amount of Rs. 13,15,401/- w.e.f. 1.4.2011 to 26.5.2014	:	Rs. 4,97,292
	TOTAL		Rs. 29,05,509

4. The Decree Holder filed the execution petition in the year 2018. During the pendency of the execution proceedings, the Judgment Debtor deposited an amount of Rs.38,07,106/- on 25.11.2020. The calculation sheet submitted on behalf of the petitioner (Annexure P-3) reads as under :-

" <u>Calculation sheet As per Award Dated 20.6.14 of Er.V.K. Gupta, Er.-in-Chief Retd. - M/s Speed Craft Industries.</u>

A) **<u>Amount as per award</u>**

i)	Amount of Compensation	Rs. 10,92,816
ii)	Amount of Deduction of Excise Duty	Rs. 13,15,401
iii)	Amount of Intt. on Excised Duty Rs.1315401 from 1.4.11 to 26.5.14 (Amount of Intt. already calculated by arbitrator i.e. Date of closing of Arbitrator Proceedings, so Amount of intt. already included in the Award Amount)	Rs. 4,97,292
		……….…………
	Total amount of Award 'A'	Rs. 29,05,509
		……..…………..
B)	i) Amount of Intt. on Excise Duty at Rs.1315401 from 27.5.14 to 31.5.14 @ 12% (5 days)	Rs. 2,162
	ii) Amount of Intt. on Excise Duty at Rs.1315401 from 1.6.14 to 31.10.2020 @ 12% (77 months)	Rs.10,12,858
		……………..
	Total amount of intt. 'B'	Rs.10,15,020
		…………….

Grand Total 'A' + 'B' (Rs.29,05,509 + Rs.10,15,020) Rs.39,20,529

Less: TDS @ 7.5% on Interest Amount at Rs.15,12,312/- is 1,13,423

Payable Amount = 38,07,106/-"

5. The learned trial Court upon considering the submissions addressed before it held that the amount of Rs.38,07,106/-, as had been deposited by the Judgment Debtor in accordance with detailed Calculation Sheet (Annexure P-

3) was deficient inasmuch as no interest had been paid on amount of Rs.10,92,816/-.

6. The learned counsel for the petitioner vehemently argued that since the operative portion of the award dated 20.6.2014 did not specify payment of interest on the compensation amount of Rs. 10,92,816/-, therefore, the executing Court on its own could not have held that the Decree Holder was entitled for the same.

7. This Court has considered the aforesaid submission. However, this Court is unable to subscribe to the contentions addressed before this Court inasmuch as in the last line of the operative portion of the award, it has clearly been specified that interest is payable till date of payment and was to be calculated separately. The operative portion of the award dated 20.6.2014 is reproduced herein-under again:-

> **"……….Interest is payable till date of payment, which may be calculated separately……."**

8. The executing Court in its order dated 28.8.2023 (impugned order) observed as under :-

> "…………….It is pertinent to mention over here that these contentions raised by learned counsel for JD also finds no force because an amount of Rs.10,92,816/- was itself granted as compensation amount of short closing of order at the time of passing of award itself on 20.6.2014 so at that time granting of interest amount at the time of passing of the award on that compensation amount, as calculated on another amount i.e. Rs.13,15,401/- which comes to be Rs.4,97,292/- as interest amount, does not arise at all because the interest amount @ 12% as awarded will start to count from 20.6.2014 onward till its payment because in last line of relief clause it has been mentioned specifically by the learned Arbitrator **that interest is payable till date of payment which may be calculated separately**

> **and here the word "payment" denotes Rs.24,08,217/- as per the terms of the award and not Rs.13,15,401/- and on the date of passing of the award the total payment amount was Rs.24,08,217/- and not Rs.13,15,401/-. As such, the decree holder as per the award dated 20.6.2014 is also entitled for an interest amount @12% per annum on an amount of Rs.10,92,816/- deposited on account of compensation of short closing of order from the Jds from 20.6.2014 i.e. from the date of passing of award till its payment i.e. till date and the JD is accordingly hereby directed to make the remaining interest amount payment @ 12% per annum on an amount of Rs.10,92,816/- from 20.6.2014 till date. So the calculation application stands disposed off accordingly in the light of above observations made by this court. Now to come up for making the above mentioned on 11.9.2023."**

9. The aforesaid view taken by the executing Court is perfectly in tune with the directions issued by the Arbitrator in its award dated 20.6.2014. As such, there is no infirmity in the impugned order dated 28.8.2023 and the same is upheld.

10. Finding no merit in the revision petition, the same is hereby dismissed.

13.12.2023 **(Gurvinder Singh Gill)**
kamal **Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No