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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-4046-2015(O&M)
Date of Decision:26.08.2025

M/S PUNJAB RICE MILLS AND OTHERS

....Appellant(s)

Versus

THE PUNJAB STATE CO-OPERATIVE SUPPLY AND
MARKETING FEDEERATION AND OTHERS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Vishal Sodhi, Advocate,
for the appellants.

Mr. Tarun Vir Singh Lehal, Advocate,
for the respondents.

JASGURPREET SINGH PURI, J. (Oral)

1. The present appeal has been filed against order dated 24.02.2015 by which the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') have been decided by the learned Additional District Judge, Amritsar and the case was remanded back to the learned Arbitrator.

2. Learned counsel appearing on behalf of the appellants while giving the brief facts and dates submitted that the award was passed by the Sole Arbitrator on 25.03.2002 vide Annexure A-1. On 08.06.2002, the respondents filed objection petition under Section 34 of the Act before the learned Additional District Judge, Chandigarh. The aforesaid objection petition was filed with a delay of 74 days and therefore, it was within the period of



limitation. However, the learned Additional District Judge, Chandigarh on 22.09.2004 returned the objection petition to the respondents for want of territorial jurisdiction to be presented before learned Principal Civil Court or original jurisdiction at Amritsar. A certified copy of the aforesaid order dated 22.09.2004 was applied for and it was received by the respondents on 29.09.2004. Thereafter, the respondents filed a fresh objection petition under Section 34 of the Act, although initially it was filed under Section 30 of the Arbitration Act, 1940 but it was converted to Section 34 of the Arbitration and Conciliation Act, 1996 by passing an order and this objection petition was filed on 09.12.2004. He submitted that in this way, the total time taken for filing the objection petition at the first instance before the learned Additional District Judge, Chandigarh was 74 days. Thereafter, when it was returned by the learned Additional District Judge, Chandigarh on 22.09.2004, the respondents consumed another 74 days for filing a fresh objection petition before the learned Court at Amritsar and this period of 74 days is calculated after excluding the date on which the objection petition was returned by the learned Additional District Judge, Chandigarh on 22.09.2004 and after excluding the time consumed for taking a certified copy of the aforesaid order of the learned Additional District Judge, Chandigarh which comes out to be 3 days and in this way, there was a delay of 74 days for filing a fresh objection petition before the learned Court at Amritsar.

3. He submitted that in this way the total period of delay comes out to be 148 days. He submitted that in this way there was a clear cut delay beyond the period of three months plus 30 days in filing objection petition. In this regard, he submitted that so far as the application under Section 5 of the Limitation Act is concerned, there is no dispute with regard to the proposition of law that Section 5 of the Limitation Act will not apply to Section 34 of the



Act. However, so far as the application under Section 14 of the Limitation Act is concerned, the same is certainly applicable in view of the settled law but in the facts and circumstances of the present case, even after granting the benefit of Section 14 of the Limitation Act, still there was a delay of 28 day in filing the objection petition before the learned Court at Amritsar and therefore, the learned Additional District Judge, Amritsar could not have further proceeded with the objection petition under Section 34 of the Act and decided the same being beyond the period of limitation. He further submitted that with regard to the aforesaid issue of application under Section 34 of the Act being filed beyond the period of limitation, the same was decided by the learned Additional District Judge, Amritsar vide order dated 17.01.2011 which has also been annexed with the present appeal as Annexure A-3. He submitted that the findings of the learned Additional District Judge, Amritsar by way of the aforesaid order dated 17.01.2011 were totally erroneous and against the law because the learned Additional District Judge, Amritsar has presumed that the earlier period of 74 days is to be segregated from the later period of 74 days of delay and in this way, by assuming that since 74 days are within the period of three months, there was no delay. He submitted that this is not the meaning and import of Section 14 of the Limitation Act because it is the time taken for prosecuting a case in a Court having a defect of jurisdiction that is to be excluded from the total period of limitation and also the dates on which it is filed and returned or withdrawn are to be excluded and in this way, the aforesaid finding of the learned Additional District Judge, Amritsar was totally erroneous and against not only the provisions of Section 14 of the Limitation Act but also against the provisions of Section 34 of the Act and therefore, the learned Additional District Judge, Amritsar could not have proceeded further because the application was barred by the law of limitation. He further



submitted that even if the aforesaid order was passed on 17.01.2011 but this being a question of limitation and purely a question of law, the subsequent proceedings before the learned Additional District Judge, Amritsar while deciding the objection petition under Section 34 of the Act were *non est*. He submitted that the impugned order dated 24.02.2015 passed by the learned Additional District Judge, Amritsar vide which the Court has remanded back the case to the learned Arbitrator for fresh decision cannot be sustained. He also submitted that even otherwise also it is settled law that the learned Court exercising power under Section 34 of the Act has no power to remand the case to the learned Arbitral Tribunal. He referred to judgments of the Hon'ble Supreme Court in ***Simplex Infrastructure Ltd. Versus Union of India, AIR Online 2018 SC 889, Union of India Versus M/s. Popular Construction Co., 2001(8) SCC 470***, and also judgment in ***Kinnari Mullick and another Versus Ghanshyam Das Damani, AIR 2017 SC 2885*** to contend that the Court has got no power to remand the case to the learned Arbitral Tribunal.

4. On the other hand, the learned counsel appearing on behalf of the respondents submitted that so far as the aforesaid dates narrated by the learned counsel for the appellants are concerned, the same are undisputed and regarding which there can be no dispute. He submitted that the learned Additional District Judge, Amritsar had decided the issue regarding limitation way back in the year 2011 and thereafter proceeded with the adjudication of objections under Section 34 of the Act and the present appeal has been filed in the year 2015 after the expiry of about 4 years, which is belated and therefore, the argument pertaining to the limitation aspect could not have been raised by the learned counsel for the appellants after 4 years from the aforesaid decision.

5. With regard to the power of the Court to remand back the matter is concerned, he referred to a judgment of Hon'ble Supreme Court in ***Bombay***



Slum Redevelopment Corporation Private Limited Versus Samir Narain Bhojwani, Civil Appeal No.7247 of 2024 (Arising out of Special Leave Petition (C) No.16451 of 2023, decided on 08.07.2024 and submitted that the learned Court can always remand the matter back in exceptional cases and there is no hard and fast rule with regard to the same.

6. I have heard the learned counsels for the parties.

7. The facts pertaining to the dates as mentioned by the learned counsel for the appellants and affirmed by the learned counsel for the respondents are not in dispute. The aforesaid undisputed dates would show that it is a case where after the award was passed on 25.02.2002, the objection petition under Section 34 of the Act was filed after a period of 74 days, which was well within the period of limitation. This objection petition was filed before the learned Additional District Judge, Chandigarh but on 22.09.2004, the objection petition was returned to the respondents because of want of territorial jurisdiction. Thereafter, three days were consumed for taking the certified copies, which were required to have been excluded from the total period of limitation. Fresh objections were filed by the respondents before the learned Courts at Amritsar on 09.12.2004 and in this way, there was a total delay of 74 days after excluding the date of returning the objection petition by the Court at Chandigarh and filing at the Court of Amritsar and the earlier delay was of 74 days and in this way the total period comes out to be 148 days, whereas as per Section 34 of the Act, the period of limitation is three months which can be extended for a period of 30 days on an application moved for showing sufficient cause and in this way, the maximum period could have been three months plus 30 days, whereas here the delay has occurred of 28 days.



8. A perusal of the order dated 17.01.2011 whereby the learned Additional District Judge, Amritsar decided the objections pertaining to limitation would show that the learned Additional District Judge proceeded on erroneous assumption that the earlier period of 74 days is to be segregated from the later period of 77 days. As per Section 14 of the Limitation Act, the period which is consumed by a person prosecuting an application before a Court that could not have entertained the application for want of defect of jurisdiction and in a *bona fide* manner, the same period is to be excluded from the period of limitation and the date of filing and returning back is to be excluded. The aforesaid Section 14 of the Limitation Act is covered in Part 3 of the Limitation Act, 1963, which pertains to computation of period of limitation and Section 14 pertains to exclusion of the aforesaid period and in this way, it is the total period which has been consumed by a Court having defect of jurisdiction and the time spent in a prosecution being done in good faith that is to be excluded from the total period of limitation. When the aforesaid period is excluded by applying Section 14 of the Limitation Act, then it does not mean that the earlier period of 74 days has to be segregated from the later period of 77 days because the total period has to be seen after excluding the time taken or consumed by the Court who has entertained it for defect of jurisdiction and therefore clearly the order which was passed by the learned Additional District Judge, Amritsar on 17.01.2011 was based on a totally wrong appreciation of law.

9. Learned counsel for the appellants has rightly relied upon a judgment of Hon'ble Supreme Court in ***Simplex Infrastructure Ltd.'s case (Supra)*** in this regard. Therefore, this Court is of the considered view that the learned Additional District Judge, Amritsar could not have proceeded to



adjudicate the objections under Section 34 of the Act when the objections were barred by the law of limitation.

10. Consequently, the present appeal is allowed. The impugned order dated 24.02.2015 by the learned Additional District Judge, is set aside.

26.08.2025

(JASGURPREET SINGH PURI)
JUDGE

rakesh

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No