



FAO-CARB-37-2025 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

01

FAO-CARB-37-2025 (O&M)

Date of Decision :05.09.2025

Gurugram Metropolitan Development Authority

...Appellant

Versus

M/s Grover Appliances and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURIPresent: Mr. Atul Kumar, Advocate with Mr. Ashish Rawal, Advocate
for the appellant.

Mr. Hemant Bassi, Advocate for respondents.

* * *

Harsimran Singh Sethi, J. (Oral)

1. Present appeal has been filed against the impugned award dated 11.07.2025 passed by the Additional District Judge-cum-Presiding Judge, Exclusive Commercial Court at Gurugram (for short, 'the Commercial Court' by which, the petition filed by the appellant herein under Section 34 of the Arbitration and Conciliation Act, 1996 for setting aside the order dated 19.09.2021 has been dismissed by the learned Commercial Court alongwith the Award dated 19.09.2021 passed by the learned Arbitral Tribunal.

2. The only argument which is being raised by the learned counsel for the appellant is that a mathematical error was done at the hands of learned Arbitral Tribunal while calculating the amount awarded as, even if it



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is assumed that the scope of work was enhanced from Rs.12,96,39,047 to Rs.16,29,52,353/- as held by learned Arbitral Tribunal then also, the total difference that surfaces is that of Rs.3,33,13,309/- and not of Rs.4,22,04,802/-, which fact has not been considered by the Commercial Court while passing the impugned order dated 11.07.2025 dismissing the petition of the appellant herein.

3. Learned counsel for the appellant further submits that out of the said awarded amount, an amount of Rs.1,73,99,060/- has already been paid by the appellant during the pendency of the proceedings, which amount has also not been adjusted either by the Arbitrator or by the Commercial Court while assessing the amount payable by appellant in pursuance of impugned awards, which is causing prejudice to the appellant.

4. Notice of motion.

5. Mr. Hemant Bassi, Advocate accepts notice on behalf of the respondents and argues that the correct picture qua the case in hand has not been brought to the notice of this Court as before the Arbitral Tribunal, the appellant themselves mentioned that the amount of Rs.1,73,99,060/ does not relate to the claim qua the works exercised which issue was pending consideration in the arbitration proceedings hence, now taking a summer-salt by the appellant is incorrect.

6. Learned counsel for the respondents further submits that the difference can be corrected as per the issue raised by the appellant as the difference between the two amounts as have been mentioned above was in fact Rs.3,33,13,309/-.

7. We have heard learned counsel for the parties and have gone through the record with their able assistance.



8. With regard to the first issue whether, the difference of the amount for which the respondents is entitled for, is Rs.3,33,13,309/- or Rs.4,22,04,802/-, the same can be seen from the pleadings by the respective parties. From the pleadings of the respective parties, it is clear that the scope of work was increased from Rs.12,96,39,047 to Rs.16,29,52,353/- and in case, the difference is calculated, the same comes to Rs.3,33,13,309/- instead of Rs.4,22,04,802/-. The Court was required to look into the said matter once, the same was raised before it but the same has not been not discussed while passing the impugned order.

9. Further, learned counsel for the respondents has also conceded the said fact that the difference of the work was not Rs.4,22,04,802/- rather than the same was Rs.3,33,13,309/ as the same was only typographical error hence, the entitlement of the increased work qua the respondents will be Rs.3,33,13,309/ instead of Rs.4,22,04,802/- as same was granted inadvertently by the Arbitral Tribunal and has further wrongly been upheld by the Commercial Court while passing the impugned order.

10. Further, qua the grievance being raised by the appellant that a sum of Rs.1,73,99,060/- was already paid by the appellant during the pendency of the proceedings but, the same has not been adjusted while calculating the entitlement of the respondents, it may be noticed that said issue was brought before the Arbitral Tribunal and the following statement of the appellant has been noticed while passing the award:-

“When Tribunal first reserved the award, an e-mail was received from learned counsel for the claimant that part payment has been released by GMDA. When put it to Mr. Abhinav Verma appearing for GMDA. State that the payment is not towards the contract subject mater of these proceedings. It



is stated that the same is for another contract of claimant. In the e-mail now sent by claimant it is admitted that payment is not for the instant contract.”

11. A bare perusal of the above reproduction would show that it was the case of the appellant themselves before the Arbitral Tribunal that the said amount of Rs.1,73,99,060/- was paid qua another contract and not qua the contract regarding which the arbitration proceedings were going on. Once, the said statement has been made by the appellant themselves which has been taken on record by Arbitral Tribunal, they cannot wriggle out of the same to contend that the said amount should have also been deducted while calculating the entitlement of the respondents especially when the appellant themselves conceded in the email that the said amount was received qua other contract of work hence, the claim that the said amount should also be deducted from the assessed amount, cannot be accepted.

12. The reliance is being placed by the appellant to underpin the assertion that the amount of Rs.1,73,99,060/- has already been paid by appellant upon the affidavit Annexure A-6 will not come into picture as the statement which has been given before the Arbitral Tribunal and has been reproduced hereinbefore carries more weight, which concededly was given by the appellant themselves.

13. The 3rd argument which has been raised by the learned counsel for the appellant is that the grant of benefit of interest @ 13.40% by the Arbitral Tribunal is incorrect and the same should be at bank rate.

14. In the contract between the parties the rate of interest upon default in payment has been stipulated and the award of the interest is as per the agreement entered into between the parties, which fact is conceded by

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the learned counsel for the appellant therefore, the said argument cannot be accepted and the grant of interest @ 13.5% per annum by the Arbitral Tribunal cannot be treated to be arbitrary or illegal or against the agreement entered into between the parties.

15. Keeping in view the above, impugned award dated 16.09.2020 passed by the Arbitral Tribunal is only modified to the extent that the entitlement of the respondents will not be of Rs.4,22,04,802/- and the same will be of Rs.3,33,13,309/ as amount of Rs.4,22,04,302 was awarded due to a clerical error and not the change of the terms and conditions of award for entitlement of the respondents which has already been conceded by the appellant. Rest of the conditions of the award will remain the same.

16. Present appeal is disposed of in above terms.

17. Civil miscellaneous application pending, if any, is also disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

September 05, 2025*aarti*

(VIKAS SURI)
JUDGE

*Whether speaking/reasoned : Yes**Whether reportable : No*