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

FAO-CARB-34-2018 (O&M)
Date of decision: 19.05.2026

M/S GANESH RICE MILL

....Appellant

Versus

PUNJAB STATE GRAIN PROCUREMENT CORPORATION LTD AND ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR

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Present: Mr. Baldev Raj Mahajan, Sr. Advocate with
Ms. Prerna Malhotra, Advocate and
Mr. Jaskirat Singh, Advocate
for the appellant.

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ASHWANI KUMAR MISHRA, J. (Oral)

CM-91-FCARB-2018

Delay of 09 days in filing the appeal has been satisfactorily explained.

In that view of the matter, the application is allowed and accordingly, the delay of 09 days in filing the appeal is condoned.

CM-92-FCARB-2018

Delay of 23 days in refiling the appeal has been satisfactorily explained.

In that view of the matter, the application is allowed and accordingly, the delay of 23 days in refiling the appeal is condoned.

Main case

1. This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short '1996 Act') arises out of an order passed by the Additional

District Judge, Commercial Court, Gurdaspur dated 24.08.2017, whereby the appellant's objections to the arbitral award under section 34 of the 1996 Act have been rejected.

2. Undisputed facts of the case are that during the crop season 2011-12, the respondent-Corporation supplied 86734.90 quintals of paddy contained in 2,47,814 bags of 35 kilograms each for custom milling. Out of it, the appellant-miller was required to deliver 58112.38 quintals of rice contained in bags of 50 kilograms each. The stipulated period for doing so was extended uptill 31.12.2012. The appellant-miller however delivered only 37679.80 quintals of rice to the FCI. For the shortfall in supply of rice, the respondent-department initiated recovery at the rate of Rs.1740/- per quintal (in A-class bags) and Rs.1681/- per quintal (in B-class bags) amounting to Rs.6,25,64,364/-. The claim was objected to by the appellant before the Arbitrator. The Arbitrator vide its reasoned award has allowed the claim and awarded a sum of Rs.5,29,28,576/-, against which objections filed under section 34 of the 1996 Act have been rejected.

3. Learned senior counsel for the appellant argues that the contract for custom milling was limited to 26330 quintals of paddy, and therefore, in the absence of any agreement, it was not open for the respondents to have stored larger paddy, nor was it open for the Arbitrator to have travelled beyond the terms of the contract so as to hold the appellant liable for return of the paddy which was not subjected to custom milling at the rate demanded by the respondents.

4. We have perused the award of the Arbitrator, as also the order passed by the Commercial Court rejecting the appellant's objections. Though it

is undisputed that the contract specified the quantity of paddy to be stored and then custom milled to be 26330 quintals, but it remains undisputed that in fact a much larger quantity of paddy was delivered to the appellant for custom milling. The Arbitrator has gone into this aspect of the matter and has found that the appellant had in fact issued receipts acknowledging specified quantity of paddy over and above the quantity specified in the contract for custom milling. Actual milling was also far in excess of the contracted quantity. It was in this context that the Arbitrator has found substance in the claim lodged by the respondents as per which the shortfall in supply of rice as against paddy had to be made good.

5. The issues for consideration have bee noticed by the Arbitrator in para 12. In para 13 and 14, the Arbitrator has held as under:-

> *"13. A perusal of the consolidated receipt, Ex. C7, of delivery of paddy in the rice mill of the respondent, from as many as 12 different commission agents and grain markets, shows that 89,365 quintals of paddy was stored in the mill of the respondent. This receipt, placed on record along with the affidavit of Joginder Singh, AW1, was neither challenged in his cross examination nor in the affidavit of Ashok Kumar RW1. Therefore, execution of this consolidated receipt by the respondent, on its own letter pad, obviates every possibility of storing this paddy in the respondent mill without his consent. Joginder Singh Awl also stated in his cross examination that paddy was stored in the respondent rice mill from 11.10.2011 to 28.11.2011. Since this receipt did not bear any date of delivery of any lot of paddy mentioned therein, this statement of Joginder Singh AW1 has filled in that lacuna. Ashok Kumar, RW1, also says in his cross examination that the respondent mill did not charge any rent from the claimant for the storage of this paddy in the space provided by it to the latter for that purpose, which was possible only in the event of paddy being stored there in the account of the respondent especially when the latter is an industry, working with the sole motive of profit earning and not charity. The respondent got release orders pertaining to 5,000 tons of paddy and had delivered resultant rice to the FCI as per its own admission, smashing even a residue, if any, of its case of denial of storage of excess paddy in the premises of its mill with its consent.*

> *14. There is a letter dated 28.12.2011, Ex. R5, placed on the record by the respondent, a perusal of which shows that the District Controller of Food, Civil Supply and Consumer Affairs, Gurdaspur, wrote to the miller that it had got stored excess paddy of 6,040 metric tons, but had not deposited cash guarantee money at the rate of Rs. 540 per metric ton. Therefore, the miller was asked to show cause as to why its allotment be not cancelled, if it failed to deposit that money within 10 days from the receipt of that letter. Ashok Kumar RW1 stated in his cross examination that this letter was not replied to by the respondent. Therefore, this letter and conduct of the respondent for not responding to that letter does not leave any manner of doubt that the excess paddy was stored with the miller by the claimant with its consent. Case of the respondent, that excess paddy was stored without any authority from the District Controller of Food, Civil Supply and Consumer Affairs and that it was stored separately from the duly allotted paddy, has not been proved, so as to make out a further case that it is not covered under the agreement. Letter dated 28.12.2011, Ex.R5 referred to above, shows that storage of excess paddy was sought for by the respondent itself and that this allotment had the tacit approval of the District Controller of Food, Civil Supply and Consumer Affairs, Gurdaspur and that was why this letter was written by him to the respondent to deposit the Cash Guarantee Money within the stipulated. Separate storage of the excess from the allotted paddy has also not been proved. Hence, an inescapable conclusion, that excess paddy was stored in the premises of the miller, with its consent. Above extracted clause 2 of the agreement, clearly mandates that the quantity of Paddy stored in the rice mill will be as per the final receipt, on completion of storage of Paddy, which will be jointly signed by the rice Miller, and the district manager of the concerned agency. Therefore, quantity of paddy stored in the mill is as per receipt Ex. C7."*

6. The factual finding returned by the Arbitrator as per which a much larger quantity was actually received by the appellant and part of it was subjected to custom milling remains undisputed. No objection was ever raised by the appellant resisting the supply of paddy for custom milling on the ground that such supply was over and above the contracted quantity. Having accepted such larger quantity of paddy supplied to the appellant and proceeding with substantial custom milling of such supplied paddy, it would not be open for the

appellant to subsequently turn around and state that there was no contract to subject larger quantity of paddy over and above the specified quantity. The finding returned by the Arbitrator is based upon examination of evidence adduced by the parties in a process consistent with the provisions of the Act. The view expressed by the Arbitrator is clearly a permissible view, particularly keeping in view the conduct of the appellant. It otherwise remains undisputed that the appellant never objected to receiving of extra paddy and had willingly issued acknowledgment of such receipt. Having done so with open eyes, the appellant cannot turn around and take a contrary view later. Such view of the Arbitrator has rightly not been interfered with by the Commercial Court. Considering the limited scope of proceedings under section 37 of the 1996 Act, we are therefore not impressed by the arguments addressed on behalf of the appellant.

7. Though the appeal has been filed in 2018, but the same has been argued for the first time. Having considered the submissions of the appellant, we find that no case for admission of the appeal is made out for consideration under Order 41 Rule 11 CPC. Appeal stands dismissed accordingly.

8. Pending applications, if any, shall stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

MAY 19, 2026
mohit goyal

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