

(2016) 05 P&H CK 0437

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 510 of 2014 (O&M)

M/s Equipment Conductors and Cables Ltd.

APPELLANT

Vs

Grid Corporation of Orissa Ltd.

RESPONDENT

Date of Decision : 16-05-2016

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 34
Constitution of India, 1950 — Article 226
Limitation Act, 1963 — Section 5

Citation : (2016) 4 PLR 331

Hon'ble Judges : Mr. Amit Rawal, J.

Bench : Single Bench

Advocate : Mr. Paras Money Goyal, Advocate, for the Appellants in both the appeals; Mr. R.K. Mehta Advocate with Mr. Gagneshwar Walia, Advocate, for the Respondent No. 1 in both the appeals

Final Decision : Dismissed

Judgement

Mr. Amit Rawal, J. (Oral)—This order of mine shall dispose of two appeals bearing FAO No.510 of 2014 titled as "M/s Equipment Conductors and Cables Ltd. v. Grid Corporation of Orrisa Ltd. now Orissa Power Transmission Corporation and another" and FAO No.511 of 2014 tiled as "M/s Equipment Conductors and Cables Ltd. v. Grid Corporation of Orrisa Ltd. now Orissa Power Transmission Corporation and another" filed at the instance of the appellant-Contractor/Supplier, who in pursuance to the agreement to sell having been entered between the parties supplied the certain goods. On account of non-payment of the amount, the appellant filed a claim petition before the Arbitrator i.e. Haryana Micro & Small Enterprises Facilitation Council on 06.08.2001. All the five out of six issues though have been decided in favour of the appellant(s), but the claim was held to be time-barred.

2. Aggrieved of the aforementioned finding of the Arbitrator, the objections were filed before the Objecting Court, but also met with the same fate.

3. Mr. Paras Money Goyal, learned counsel appearing on behalf of the appellant(s)-Contractor submits that in the year 1996 a writ petition was filed in the Orissa High Court, but the same was dismissed in the year 2001 and therefore, the claim cannot be said to be time-barred by law of limitation. Though, the Micro Small and Medium Enterprises Development Act, 2006 (hereinafter called "the MSMED Act 2006") does not specifically excludes the applicability of the Limitation Act and the Act being a separate Code, the Limitation Act should not come in way in lodging the claim as the appellant-Contractor had admitted on record that the respondent(s) did not pay the payment of the goods supplied.

4. Mr. R.K. Mehta Advocate with Mr. Gagneshwar Walia, learned counsel appearing on behalf of respondent No.1 submits that the same controversy arose before this Court in the appeal bearing FAO No. 1979 of 2015 titled as "M/s Equipment Conductors & Cables Ltd. Gurgaon v. Chief Engineer, M/s Transmission Corporation of Andhra Pradesh Ltd., Hyderabad and another" decided on 30.09.2015 and this Court while adjudicating the similar questions dismissed the appeal and prays for dismissal of the appeal(s).

5. I have heard the learned counsel for the parties and appraised the paper book and of the view that even if the MSMED Act 2006 does not exclude the applicability of the Limitation Act, as per the provisions of Section 43 of the 1996 Act, therefore provisions of the Limitation Act are applicable to the arbitration proceedings. The agreement envisages the resolution of dispute through arbitration, the appellant(s) failed to lodge the claim within time prescribed, rightly, so, it has been held to be time-barred by law of limitation, thus, Arbitrator being expert though examined entire claim threadbare, but rejected on the ground of limitation.

6. In view of the aforementioned observations and as well as the judgment cited supra, no ground is made out for interference in the findings under challenge, much less, the objections were not falling within the realm of Section 34 of the 1996 Act and accordingly, the appeal(s) are dismissed.