



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

**FAO-6574-2023 (O&M)
Date of Decision: 03.11.2025**

1.

M/S MANJEET PLASTIC INDUSTRIES

.....Appellant

versus

SAMAGRA SHIKSHA ABHIYAN AUTHORITY
PUNJAB AND ANOTHER

.....Respondents

2.

FAO-89-2024 (O&M)

KHADIM INDIA LIMITED

.....Appellant

versus

DIRECTOR GENERAL SCHOOL EDUCATION CUM STATE
PROJECT DIRECTOR AND ANR

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Avi Singh, Senior Advocate (through V.C.) with
Mr. Jaskaranjeet Singh Sibia, Advocate for the appellant(s)
in FAO-6574-2023.

Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Raghav Gulati, Advocate,
Mr. Varun Sharma, Advocate and
Mr. Rahul Kesar, Advocate for the appellant(s)
in FAO-89-2024.

Mr. Shekhar Verma, Advocate,
Ms. Komal Bishnoi, Advocate,
Mr. Rahul Chadha, Advocate for the respondent No.1
in both the appeals.



Service of respondent No.2 in both cases was ordered to be dispensed with by this Court vide separate orders dated 10.04.2024.

JASGURPREET SINGH PURI J.(Oral)

1. Both the appeals are being taken up together for final disposal with the consent of all the learned counsel for the parties, as the issue involved in both the appeals is same.

2. The present appeals have been filed for setting aside the impugned orders dated 16.08.2023 passed by learned Additional District Judge, SAS Nagar (Mohali), whereby the applications filed by the respondent(s) under Section 34 of the Arbitration and Conciliation Act (hereinafter to be referred to as 'the Act') were erroneously allowed with a further prayer for restoration of the original awards dated 14.01.2022 and 27.06.2022.

3. Preliminary objections have been taken by learned counsel for the respondent(s) with regard to the maintainability of the present appeals on the ground that the present appeals against the order passed by learned Additional District Judge, SAS Nagar, Mohali, under Section 34 of the Arbitration and Conciliation Act, 1996, are not maintainable because the same could have only been filed before the Commercial Appellate Division under the Commercial Courts Act, 2015. Learned counsel for respondent No.1, while substantiating his arguments regarding maintainability, submitted that the State of Punjab issued a notification dated 14.06.2019 in exercise of powers conferred by sub-section (1) of Section 3 and



Section 3-A of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015, which was issued in due consultation with the High Court of Punjab and Haryana and constituted the courts of Additional District Judges- I, II and III of all the districts in the State of Punjab (except Sessions Division Ludhiana) were designated as Commercial Courts to decide the cases of the specified value of more than Rs.50 lakhs within their respective territorial jurisdictions. He submitted that by virtue of aforesaid notification issued by the State of Punjab in the year 2019, the objections under Section 34 of the Act in the present cases were filed in the year 2022, i.e., after the issuance of the notification, and were decided on 16.08.2023. The value of the subject matter was more than Rs. 50,00,000/- and therefore, by virtue of the aforesaid notification, the learned Additional District Judge, SAS Nagar (Mohali), who decided the objections also being designated as Additional District Judge-II, decided the objections as a Commercial Court and once the objections have been decided by a Commercial Court, the only remedy available with appellants is to file an appeal before the Commercial Appellate Division, which lies before a Division Bench of this Court and not before a Single Bench where the present appeals are pending.

4. He submitted that a Coordinate Bench of this Court had sought a report from the learned Additional District Judge, SAS Nagar, to clarify the position as to whether the impugned orders under Section 34 of the Act were passed while exercising the powers as a designated Commercial Court under the Act. Pursuant thereto, reports were submitted in both the cases on



27.01.2025 by the learned Additional District Judge, SAS Nagar, wherein it has been so reported that the cases had been decided by the learned Additional District Judge-II, SAS Nagar, on 16.08.2023, who was vested with powers of a Commercial Court. It was, however, mentioned in the report that a note regarding the case being a 'Commercial Court Case' had inadvertently not been recorded on the first page of the orders.

5. He also referred to another notification dated 04.07.2019 issued by the Registrar General of this Court to all the District and Sessions Judges in the State of Punjab (except Ludhiana), whereby a request was made to all the District and Sessions Judges in the State of Punjab (except Ludhiana) to assign the cases of Commercial Disputes to Additional District Judge-II/Additional District Judge-III, apart from Additional District Judge-I, and the cases to be dealt with by Civil Judges (Sr. Divn.) having more than 5 years' service at the District Headquarters and Sub-Divisional level, as the case may be, in consultation with the Hon'ble Administrative Judge, keeping in view the number of said cases including original and appellate jurisdiction.

6. He further submitted that in this way the impugned orders under Section 34 of the Act have been passed by learned Additional District Judge, who was designated as a Commercial Court by virtue of the aforesaid notification, and therefore, the appeals would lie only before the Commercial Appellate Division of this Court, i.e., before a Division Bench, and not before any other Court and therefore on this ground, the appeals may be returned to the Registry and he has no objection in case, after



returning the appeals, the same are preferred before a Division Bench of this Court in accordance with law.

7. On the other hand, Dr. Anmol Rattan Sidhu, Senior Advocate, with Mr. Raghav Gulati, Advocate for the appellant(s) in FAO-89-2024, and Mr. Avi Singh, Senior Advocate (through V.C.), with Mr. Jaskaranjeet Singh Sibia, Advocate for the appellant(s) in FAO-6574-2023, jointly submitted that the preliminary objections taken by learned counsel for the respondent No.1 are not sustainable in view of the fact that when the learned Additional District Judge, SAS Nagar, Mohali, decided the objections under Section 34 of the Act, the same were not decided in the capacity of a Commercial Court and that is the reason why the same has not been reflected in the orders itself as to whether learned Additional District Judge was exercising the powers of a Commercial Court or not. They also referred to the reports dated 27.01.2025 submitted by the learned Additional District Judge, SAS Nagar, Mohali, in pursuance of the order passed by this Court wherein it has been so specifically reported that no note has been given in the impugned orders with regard to the commercial court case and submitted that in this way the impugned orders were not passed by the learned Additional District Judge while exercising powers as a Commercial Court. Had the orders been passed by the learned Additional District Judge as a Commercial Court, a note was required to have been appended stating that learned Additional District Judge, SAS Nagar (Mohali), was exercising the powers of a Commercial Court. Therefore, on this ground, the appeals cannot be returned or dismissed. Learned Senior



Counsels also submitted that the objections were filed before learned District Judge, who in turn referred them to the concerned Additional District Judge. Since learned District Judge had referred the matters to learned Additional District Judge for adjudication of objections under Section 34 of the Act, there were no orders directing that the matters be listed before the learned Additional District Judge exercising the powers of a Commercial Court and therefore, the impugned orders were passed by learned Additional District Judge, SAS Nagar (Mohali), and not by the Commercial Court and as such objections raised by learned counsel for respondent No.1 are not sustainable.

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

9. The issue involved in the present cases is as to whether the present first appeals against the orders are maintainable before a Single Bench of this Court when the objections under Section 34 of the Act are being decided in the State of Punjab by ADJ-I, ADJ-II and ADJ-III (in the present cases, they pertain to Additional District Judge-II), without mentioning in the orders that they are being decided by the Additional District Judge as a Commercial Court. Before advertent to the rival submissions, it would be appropriate to first refer to the relevant notifications. The notifications dated 14.06.2019 and 04.07.2019 are reproduced as under:-



“ Punjab Govt. Gaz. (Extra), June 14, 2019

(JYST 24, 1941 SAKA)

PART-III

Government of Punjab

Department of Home Affairs and Justice (Judicial-I Branch)

Notification

The 14th June, 2019

No. S.O.59/C.A.4/2016/Ss.3 and 3-A/2019.- In exercise of the powers conferred by sub-section (1) of section 3 and 3-A of the Commercial Court, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (Central Act No. 4 of 2016), and all other powers enabling him in this behalf, the Governor of Punjab in due consultation with the High Court of Punjab and Haryana, is pleased to constitute the courts of Additional District Judge-I, II and III, in each District in the State of Punjab (except Sessions Division, Ludhiana), to be the 'Commercial Courts', to decide the cases of the specified value of more than rupees fifty lac, within its respective territorial jurisdiction, and is further pleased to designate the said courts to be the 'Commercial Appellate Courts', to decide the appeals arising out of the judgments, decrees and orders of the courts of the Civil Judge (Senior Division)/ Additional Civil Judge (Senior Division) and Civil Judge (Junior Division, having more than five years Service), for the purpose of exercising the jurisdiction and powers conferred on the said courts under the aforesaid Act.

*Dr. N.S. KALSI,
Additional Chief Secretary to
Government of Punjab,
Department of Home Affairs and Justice. “*



Notification dated 04.07.2019

“From

*The Registrar General,
Punjab and Haryana High Court,
Chandigarh.*

To

*All the District & Sessions Judge,
in the State of Punjab (except Ludhiana).*

Dated: Chandigarh; the 04.07.2019

*Subject:- Establishment of commercial courts in the State
of Punjab.*

Sir/Madam,

*I am directed to refer you on the subject cited above
and to forward herewith copies of notification Nos.
S.O.57/C.A.4/2016/S.3/2019, S.O/58/C.A.4/2016/Ss.3 and 3-2019
and S.O.59/C.A.4/2016/Ss.3 and 3-A/2019 dated 14.06.2019
received from the Government of Punjab, Department of Home
Affairs and Justice for information and making compliance thereof.*

*You are further requested to assign the cases of
Commercial Disputes to Additional District Judge-II/Additional
District Judge-III, apart from Additional District Judge-I, and the
cases to be dealt with by Civil Judge (Sr. Divn.) having more than 5
years' service at the District Headquarter and Sub-Divisional level
as the case may be, in consultation with the Hon'ble Administrative*



Judge, keeping in view the number of said cases including original and appellate jurisdiction.

Kindly acknowledge the receipt of this communication.

*Yours faithfully,
Sd/-
Assistant Registrar (Gaz-II)
for Registrar General”*

10. The statutory provisions contained under the Commercial Courts Act 2015 are also required to be considered and reproduced. Section 2(1)(c)(xviii) of Commercial Courts Act, 2015 is reproduced as under:-

2. Definitions.—(1) *In this Act, unless the context otherwise requires-*

(a) (aa) (b) xxxxx xxxxx xxxxx

(c) *“commercial dispute” means a dispute arising out of—*

(i) to (xvii) xxxxx xxxxx xxxxx

(xviii) *agreements for sale of goods or provision of services;*

11. Sections 3, 5, 6, 10, 13 and 15 of Commercial Courts Act, are also reproduced as under:-

“Section 3 — Constitution of Commercial Courts:-(1) *The State Government, may after consultation with the concerned High Court, by notification, constitute such number of Commercial Courts at District level, as it may*



deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under this Act:

Provided that with respect to the High Courts having ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, constitute Commercial Courts at District Judge level:

Provided further that with respect to a territory over which the High Courts have ordinary original civil jurisdiction, the State Government may, by notification, specify such pecuniary value which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction exercisable by the District Courts, as it may consider necessary.]

[(1A) Notwithstanding anything contained in this Act, the State Government may, after consultation with the concerned High Court, by notification, specify such pecuniary value which shall not be less than three lakh rupees or such higher value, for whole or part of the State, as it may consider necessary.]

(2) The State Government shall, after consultation with the concerned High Court specify, by notification, the local limits of the area to which the jurisdiction of a Commercial Court shall extend and may, from time to time, increase, reduce or alter such limits.

(3) The [State Government may], with the concurrence of the Chief Justice of the High Court appoint one or more persons having experience in dealing with commercial disputes to be the judge or judges of a [Commercial Court either at the level of District Judge or a court below the level of a District Judge].”



“Section 5 — Constitution of Commercial Appellate Division (1) *After issuing notification under sub-section (1) of section 3 or order under sub-section (1) of Section 4, the Chief Justice of concerned High Court shall, by order, constitute Commercial Appellate Division having one or more Division Benches for the purpose of exercising the jurisdiction and powers conferred on it by this Act.*

(2) *The Chief Justice of the High Court shall nominate such Judges of the High Court who have experience in dealing with commercial disputes to be judges of the Commercial Appellate Division.”*

“Section 6. Jurisdiction of Commercial Court.—*The Commercial Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a Specified Value arising out of the entire territory of the State over which it has been vested territorial jurisdiction.*

Explanation.—For the purposes of this section, a commercial dispute shall be considered to arise out of the entire territory of the State over which a Commercial Court has been vested jurisdiction, if the suit or application relating to such commercial dispute has been instituted as per the provisions of sections 16 to 20 of the Code of Civil Procedure, 1908 (5 of 1908).”

“Section 10. Jurisdiction in respect of arbitration matters.—*Where the subject-matter of an arbitration is a commercial dispute of a Specified Value and—*

(1) *If such arbitration is an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) that have been filed in a High Court, shall be heard and disposed of by the Commercial Division where such Commercial Division has been constituted in such High Court.*



(2) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) that have been filed on the original side of the High Court, shall be heard and disposed of by the Commercial Division where such Commercial Division has been constituted in such High Court.

(3) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) that would ordinarily lie before any principal civil court of original jurisdiction in a district (not being a High Court) shall be filed in, and heard and disposed of by the Commercial Court exercising territorial jurisdiction over such arbitration where such Commercial Court has been constituted.”

“13. Appeals from decrees of Commercial Courts and Commercial Divisions.—*(1) [Any person aggrieved by the judgment or order of a Commercial Court below the level of a District Judge may appeal to the Commercial Appellate Court within a period of sixty days from the date of judgment or order.*

(1A) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the



Code of Civil Procedure, 1908 (5 of 1908) as amended by this Act and section 37 of the Arbitration and Conciliation Act, 1996 (26 of 1996).]

(2) Notwithstanding anything contained in any other law for the time being in force or Letters Patent of a High Court, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance with the provisions of this Act.”

“15. Transfer of pending cases.—(1) All suits and applications, including applications under the Arbitration and Conciliation Act, 1996 (26 of 1996), relating to a commercial dispute of a Specified Value pending in a High Court where a Commercial Division has been constituted, shall be transferred to the Commercial Division.

(2) All suits and applications, including applications under the Arbitration and Conciliation Act, 1996 (26 of 1996), relating to a commercial dispute of a Specified Value pending in any civil court in any district or area in respect of which a Commercial Court has been constituted, shall be transferred to such Commercial Court:

Provided that no suit or application where the final judgment has been reserved by the Court prior to the constitution of the Commercial Division or the Commercial Court shall be transferred either under sub-section (1) or sub-section (2).

(3) Where any suit or application, including an application under the Arbitration and Conciliation Act, 1996 (26 of 1996), relating to a commercial dispute of Specified Value shall stand transferred to the Commercial Division or Commercial Court under sub-section (1) or sub-section (2), the provisions of this Act shall apply to those procedures that were not complete at the time of transfer.



(4) The Commercial Division or Commercial Court, as the case may be, may hold case management hearings in respect of such transferred suit or application in order to prescribe new timelines or issue such further directions as may be necessary for a speedy and efficacious disposal of such suit or application in accordance 3 [with Order XV-A] of the Code of Civil Procedure, 1908 (5 of 1908).

Provided that the proviso to sub-rule (1) of Rule 1 of Order V of the Code of Civil Procedure, 1908 (5 of 1908) shall not apply to such transferred suit or application and the court may, in its discretion, prescribe a new time period within which the written statement shall be filed.

(5) In the event that such suit or application is not transferred in the manner specified in sub-section (1), sub-section (2) or sub-section (3), the Commercial Appellate Division of the High Court may, on the application of any of the parties to the suit, withdraw such suit or application from the court before which it is pending and transfer the same for trial or disposal to the Commercial Division or Commercial Court, as the case may be, having territorial jurisdiction over such suit, and such order of transfer shall be final and binding. “

12. So far as the question as to whether the subject matter of the arbitration/disputes is a commercial dispute is concerned, undisputedly it falls under Section 2(1)(c)(xviii) of the Commercial Courts Act, i.e., ‘agreements for sale of goods or provision of services’, and therefore undoubtedly the disputes were commercial disputes within the meaning of Section 2(1)(c)(xviii) of the Commercial Courts Act. When the objections were filed before the learned District Court, they were decided by learned



Additional District Judge-II, who has already been designated as a Commercial Court by virtue of the aforesaid notification dated 14.06.2019. Therefore, to this extent, there is no dispute that the impugned orders under Section 34 of the Act were decided by learned Additional District Judge-II, who was also designated as Commercial Court by virtue of the aforesaid notification.

13. However, the only dispute raised by both learned Senior Counsels for the appellants is that since the orders passed by the learned Additional District Judge do not reflect that they were decided as Commercial Court cases, the same cannot be deemed to have been decided by a Commercial Court and therefore, a normal course of appeal would lie against the aforesaid orders and not before the Commercial Appellate Division of this Court. This Court, however, is unable to accept the contention raised by both the learned Senior Counsels for the appellants. The relevant portion of the reports submitted by the learned Additional District Judge, SAS Nagar (Mohali), on the basis of the query raised by this Court in both the cases, are also reproduced as under :-

*“Subject:- **Report of ARB 806/28.03.2022** decided by Sh. Sandeep Kumar Singla, the Additional District Judge, SAS Nagar Mohali on 16.08.2023, required in **FAO 6574-2023** pending for 03.02.2025.*

Kindly refer to your office letter No.728 Judicial Dated 15.01.2025 on the subject cited above. It is submitted that this



*case arises out of commercial dispute between **Samagra Shiksha Abhiyan Authority Punjab and M/s Manjeet Plastic Industries, for an amount of Rs.9,69,19,174/-.***

It is further submitted that this case was decided by my Ld.Predecessor Sh. Sandeep Kumar Singla, the then ADJ-2, SAS Nagar, on 16.08.2023 who was vested with exercising the powers of Commercial Courts. It is pertinent to mention here that the note regarding Commercial Court case has not been written on the first page of order.”

Subject:- Report of Arb 1290/28.09.2022 decided by Sh. Sandeep Kumar Singla, the Additional District Judge, SAS Nagar Mohali on 16.08.2023, required in **FAO 89 of 2024** pending for 03.02.2025.

Respected Sir,

*Kindly refer to your office letter No.728 Judicial Dated 15.01.2025 on the subject cited above. It is submitted that this case arises out of commercial dispute between **Director General School Education-cum-State Project Director Vs. Khadim India Limited and Ors. for an amount of Rs.31,96,86,729/-.***

It is further submitted that this case was decided by my Ld. Predecessor Sh. Sandeep Kumar Singla, the then ADJ-2, SAS Nagar, on 16.08.2023 who was vested with exercising the



powers of Commercial Courts. It is pertinent to mention here that the note regarding Commercial Court case has not been written on the first page of order.”

14. Once a notification has been issued by the State of Punjab while exercising its powers under Sections 3 and 3-A of the Commercial Courts Act and by virtue of such statutory notification, the learned Additional District Judge-II has been designated as a Commercial Court, the impugned orders passed by the learned Additional District Judge-II would, therefore, be deemed to be decisions of a Commercial Court. The mere fact that learned Additional District Judge has not mentioned in the impugned orders that they were decided as Commercial Court cases would not make any difference, because by virtue of the aforesaid notification dated 14.06.2019, learned Additional District Judge was *de jure* exercising the powers of a Commercial Court, notwithstanding the fact that it was not specifically incorporated in the orders that such powers were being exercised as a Commercial Court.

15. It was also so pleaded by learned Senior Counsels for the appellants that these objections with regard to Commercial Court or not a Commercial Court ought to have been taken before the Court concerned since no such objection was raised at that stage, the appellants are now estopped from raising the same. However, this argument is not sustainable, as there can be no estoppel against law.



16. The reports of learned Additional District Judge, SAS Nagar, also make it clear that the impugned orders were passed by the Court of ADJ-II, who, by virtue of the aforesaid notification, has been designated as a Commercial Court and therefore, the mere fact that it was not so noted in the orders that the same were decided as Commercial Court cases would not mean that they were not decided as such by a Commercial Court.

17. Therefore this Court is of the considered view that the present appeals are not maintainable before this Court and same would lie only before the Commercial Appellate Division in accordance with law.

18. Consequently, both the appeals are returned back to the Registry and the Registry is directed to place the same before the Commercial Appellate Division of this Court.

19. A photocopy of this order be placed on the file of other connected matter.

(JASGURPREET SINGH PURI)
JUDGE

03.11.2025

shweta

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No