



2025:DHC:8788



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 23rd September, 2025*

+ O.M.P. (COMM) 388/2025

UNION OF INDIA

.....Petitioner

Through: Mr. Piyush Hans and Mr. Paras
Varshney, Advocates.

versus

M/S LAXMAN SHARMA

.....Respondent

Through: Dr. Amit George, Ms. Manmeet Kaur
Sareen, Mr. Dushyant K Kaul and Mr. Adishwar
Suri, Advocates.**CORAM:****HON'BLE MS. JUSTICE JYOTI SINGH****JUDGEMENT****JYOTI SINGH, J. (ORAL)****I.A. 23723/2025 (Exemption) and I.A. 23724/2025(Exemption)**

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

I.A. 23725/2025

3. This application is filed on behalf of the Petitioner under Section 34(3) of the Arbitration and Conciliation Act, 1996 ('1996 Act') seeking condonation of delay of 140 days in filing the petition under Section 34 of the 1996 Act laying a challenge to an arbitral award dated 22.12.2024 and corrected award dated 31.12.2024, passed by the learned Sole Arbitrator.
4. It is stated in the application that the delay of 140 days was unintentional and *bona fide* and for reasons beyond the control of the



Petitioner. On receipt of the award, Petitioner being a public authority, sought legal opinion from the office of Additional Solicitor General of India at Patna High Court and basis the opinion, petition was filed under Section 34 of the 1996 Act before the learned Principal District Judge. The understanding that this was the Court of competent jurisdiction, was based purely on communication dated 14.03.2005 issued from the office of ASG. However, vide order dated 17.06.2025, Court dismissed the petition for lack of territorial jurisdiction to entertain the same and after obtaining approval from the concerned department, present petition was filed on 18.08.2025. It is stated that petitioner has a good case on merits and thus the delay be condoned.

5. It is urged by Mr. Piyush Hans, learned counsel for the Petitioner that copy of the corrected award was received by the Petitioner on 01.01.2025 through e-mail and on the same day, Petitioner requested the Arbitrator for sending a physical copy, which the Petitioner received on 06.01.2025. On 14.03.2025, legal opinion was received from the office of the ASG and immediately on 26.03.2025 i.e., on the 78th day, petition was filed under Section 34 of the 1996 Act before learned Principal District Judge, Patna, which was dismissed on 17.06.2025, when this Court was closed for vacations. The last day of the vacations was 30.06.2025 and the present petition was filed on 18.08.2025 after receiving certified copy of the judgment on 08.07.2025 and final approval of the draft on 16.08.2025, from the concerned department.

6. It is argued this since the petition was filed in this Court on 119th day i.e. within the condonable period under Proviso to Section 34(3) of the 1996 Act, Court has the power to condone the delay on sufficient cause being



shown. Petitioner had filed the Section 34 petition before the Patna Court on 26.03.2025 within the prescribed limitation period under the *bona fide* belief that the said Court was the competent Court and is entitled to the exclusion of the period from 26.03.2025 to 17.06.2025 under Section 14 of the Limitation Act, 1963. Reliance is placed on the judgment of the Supreme Court in ***My Preferred Transformation and Hospitality Private Limited and Another v. Faridabad Implements Private Limited, (2025) 6 SCC 481***, to argue that if the prescribed period of limitation expires when the Court is closed, the application under Section 34 will be considered as having been filed within the limitation period, if it is filed on the first opening day.

7. *Per contra*, Dr. Amit George, learned counsel for the Respondent opposes the condonation of delay on the ground that the delay is beyond 120 days i.e., beyond the 30 days condonable period under Proviso to Section 34(3). The argument is that if the delay is beyond 120 days, then showing sufficient cause is irrelevant as the Court has no power to condone the delay and this is evident from the expression “*but not thereafter*” in the Proviso to Section 34(3). In support of this plea, reliance is placed on the judgment of the Supreme Court in ***Simplex Infrastructure Limited v. Union of India, (2019) 2 SCC 455*** as also a recent judgement of the Division Bench of this Court in ***Ashok Kumar v. Delhi Metro Rail Corporation Limited*** in FAO(COMM) 244/2025, decided on 19.09.2025 and of the Single Judge in ***Tamta Construction Co. Pvt. Ltd. v. Allied Energy System Pvt. Ltd., 2025 SCC OnLine Del 5157***.

8. It is submitted that in the instant case, the award was admittedly received by the Petitioner on 01.01.2025 and thus the 120 days period, which includes the prescribed period of limitation of three months and 30



days upto which delay can be condoned on sufficient cause being made out, expired on 01.05.2025. Petitioner filed a petition under Section 34 of the 1996 Act before the Principal District Judge, Patna on 26.03.2025, which was dismissed on 17.06.2025. As per Petitioner's own narrative, it applied for the certified copy of the judgment on 05.07.2025, which was made available on 08.07.2025 and this petition was filed on 23.08.2025. Therefore, even if the benefit of exclusion of the period between 26.03.2025 to 17.06.2025 as also from 05.07.2025 to 08.07.2025 is given to the Petitioner, the delay is beyond 120 days from the receipt of the arbitral award and cannot be condoned. Thus this application cannot be allowed and consequently, the petition under Section 34 deserves to be dismissed.

9. Heard learned counsels for the parties and examined their rival submissions.

10. Section 34(3) of the 1996 Act prescribes a period of limitation of three months for challenging an arbitral award. Proviso to Section 34(3) provides that if the Court is satisfied that Applicant was prevented by sufficient cause from making the application within three months, it may entertain the application within a further period of 30 days, but not thereafter. In *Simplex Infrastructure Limited (supra)*, the Supreme Court held that the use of words 'but not thereafter' makes it clear that no extension can be given beyond the period of 30 days and objections filed beyond this period cannot be entertained. Relevant passage from the judgment is as follows:-

"16. The contention of Mr Aryama Sundaram, learned Senior Counsel for the appellant is that even if the benefit of Section 14 of the Limitation Act is extended to the respondent in filing the application under Section 34 of the 1996 Act, there would still be a delay of 131 days which could not be condoned in view of the specific statutory limitation prescribed under



Section 34(3) of the 1996 Act. The learned Senior Counsel has tendered the following tabulated chart:

DELAY CHART			
	Particulars	No. of Days	No. of Days
A.	Award received on 31-10-2014 Application under Section 34 filed in the Calcutta High Court on 28-3-2016		
	Total no. of days		514
B.	Less: Period between the date of filing application under Section 34 in District Court, Port Blair on 30-1-2015 and date of dismissal of the application on 12-2-2016 [Applying Section 14 of the Limitation Act]	379	
C.	Less: Period between the application for certified copy of the order dated 12-2-2016 filed on 29-2-2016 and receipt of certified copy of the order on 3-3-2016 [Applying Section 12 of the Limitation Act]	4	
	Total no. of days		383
D.	TOTAL DELAY		131

17. The appellant has, in this connection, relied on *Union of India v. Popular Construction Company* [*Union of India v. Popular Construction Company*, (2001) 8 SCC 470] and *Consolidated Engg. Enterprises v. Irrigation Deptt.* [*Consolidated Engg. Enterprises v. Irrigation Deptt.*, (2008) 7 SCC 169] to support its case. On the other hand, it is the respondent's contention that there were no wilful laches on its part and the delay was caused due to inevitable administrative difficulties of obtaining directions from higher officials.

18. A plain reading of sub-section (3) along with the proviso to Section 34 of the 1996 Act, shows that the application for setting aside the award on the grounds mentioned in sub-section (2) of Section 34 could be made within three months and the period can only be extended for a further period of thirty days on showing sufficient cause and not thereafter. The use of the words "but not thereafter" in the proviso makes it clear that the extension cannot be beyond thirty days. Even if the benefit of Section 14 of the Limitation Act is given to the respondent, there will still be a delay of 131 days in filing the application. That is beyond the strict timelines prescribed in sub-section (3) read along with the proviso to Section 34 of the 1996 Act. The delay of 131 days cannot be condoned. To do so, as the High Court did, is to breach a clear statutory mandate."

19. The respondent received the arbitral award on 31-10-2014. Exactly ninety days after the receipt of the award, the respondent filed an



application under Section 34 of the 1996 Act before the District Judge, Port Blair on 30-1-2015. On 12-2-2016, the District Judge dismissed the application for want of jurisdiction and on 28-3-2016, the respondent filed an application before the High Court under Section 34 of the 1996 Act for setting aside the arbitral award. After the order of dismissal of the application by the District Judge, the respondent took almost 44 days (excluding the date of dismissal of the application by the District Judge and the date of filing of application before the High Court) in filing the application before the High Court. Hence, even if the respondent is given the benefit of the provision of Section 14 of the Limitation Act in respect of the period spent in pursuing the proceedings before the District Judge, Port Blair, the petition under Section 34 was filed much beyond the outer period of ninety days.

20. The respondent has relied on the decision of this Court in Union of India v. Tecco Trichy Engineers & Contractors [Union of India v. Tecco Trichy Engineers & Contractors, (2005) 4 SCC 239] , where this Court had to decide the effective date from which the limitation within the meaning of sub-section (3) of Section 34 of the Act shall be calculated. The Chief Project Manager on behalf of the Southern Railway had entered into a contract with a contractor for construction of a railway bridge. Disputes between the parties were referred to arbitration and an award was delivered in the office of the General Manager, Southern Railway. The Chief Engineer preferred an application against the award under Section 34 of the 1996 Act before the High Court. The learned Single Judge and the Division Bench of the High Court rejected the application holding it as barred by limitation. This Court reversed the order of the High Court and condoned the application for delay. This Court observed that in huge organisations like the Railways having different divisional heads and various departments within the division, the copy of the award had to be received by the person who had knowledge of the proceedings and who would be the best person to understand and appreciate the award and grounds for challenge. This Court found that all arbitral proceedings for the Railways were being represented by the Chief Engineer and the General Manager had simply referred the matter for arbitration as required under the contract. While condoning the delay of three months and 27 days, this Court found that the service of the arbitral award on the General Manager could not be taken to be sufficient notice to constitute the starting point of limitation for the purpose of Section 34(3) of the 1996 Act. The decision in this case has no applicability to the facts of the present case as there is no dispute with respect to the party who received the arbitral award. It is an admitted position that on 27-10-2014, the arbitrator made an award in favour of the appellant and on 31-10-2014, the Union of India received a copy of the award. One of the reasons stated by the respondent for delay in filing an application under Section 34 of the



1996 Act was that the departmental office was located at Port Blair, Andaman and it was a time-consuming process for obtaining permission from the circle office at Chennai. Administrative difficulties would not be a valid reason to condone a delay above and beyond the statutory prescribed period under Section 34 of the 1996 Act.

21. Under the circumstances, we are of the considered opinion that in view of the period of limitation prescribed in Section 34(3), the learned Single Judge of the High Court was not justified in condoning the respondent's delay of 514 days in filing the application. The judgment rendered by the learned Single Judge of the High Court of Calcutta on 27-4-2016, in *Union of India v. Simplex Infrastructures Ltd.* [*Union of India v. Simplex Infrastructures Ltd.*, 2016 SCC OnLine Cal 12045] is set aside and the appeal is allowed. The petition under Section 34 stands dismissed on the ground that it is barred by limitation. There shall be no order as to costs.”

11. Following the said judgement, this Court in ***SKS Power Generation (Chhattisgarh) Ltd. v. ISC Projects Private Limited***, 2019 SCC OnLine Del 8006; ***Akash Gupta v. Praveen Kumar Gupta and Others***, 2020 SCC OnLine Del 229; ***Govt. of NCT of Delhi v. RKMT Buildcon Pvt. Ltd.***, 2024 SCC OnLine Del 8330; and ***Container Corporation of India Limited v. Shivhare Road Lines***, 2024 SCC OnLine Del 5490, to refer to a few, has dismissed petitions filed under Section 34 of the 1996 Act where they were filed beyond the period of 120 days. I may also allude to the judgment of the Supreme Court in ***State of West Bengal Represented Through the Secretary and Others v. Rajpath Contractors and Engineers Limited***, (2024) 7 SCC 257, where it was emphasized by the Supreme Court that a petition filed even one day after expiry of the 30 days period under Proviso to Section 34(3), cannot be entertained.

12. The Division Bench of this Court in ***Ashok Kumar (supra)*** was dealing with an appeal arising out of an order passed by the learned District Judge dismissing an application under Section 14 of the Limitation Act



2025:DHC:8788



seeking exclusion of time spent by the Appellant in prosecuting its challenge to the award before a Court having no territorial jurisdiction. In the said case, petition under Section 34 was filed before the learned District Judge, North-West District, Rohini on 05.03.2020, which was the last day of limitation prescribed under Section 34(3). The petition was returned by the learned Judge vide order dated 09.11.2022 and the petition was filed in the Competent Court on 11.05.2023. Certified copy of the judgment returning the petition was ready for delivery on 19.01.2023 but was obtained by the Appellant on 03.03.2023. The Division Bench observed that it was only the period between 05.03.2020 and 09.11.2022 that could be excluded and given the said benefit, the petition filed in the jurisdictional Court on 11.05.2023 was with the delay of more than two months. Following the judgment in ***Simplex Infrastructure Limited (supra)***, the Division Bench dismissed the appeal on the ground that delay beyond 120 days could not be condoned.

13. It is thus trite that Courts are not empowered to condone the delay of even one day beyond 120 days from the date receipt of signed copy of the arbitral award, in filing a petition under Section 34(3) of 1996 Act. Coming to the instant case, for the sake of record, it needs a mention that this petition was filed on 23.08.2025 as per the filing log and not on 18.08.2025, as stated by the Petitioner. As rightly flagged by Mr. Hans, Petitioner is entitled to exclude the period between 26.03.2025 and 17.06.2025, the date on which the petition was filed before the Patna Court and the date on which it was returned, respectively. *Albeit* Petitioner applied for the certified copy of the judgment on 05.07.2025, assuming that the Petitioner is entitled to benefit of 4 days from 05.07.2025 to 08.07.2025, the delay in filing this petition is beyond the period of 120 days and cannot be condoned.



14. Learned counsel for the Petitioner places reliance on the judgment of the Supreme Court in *My Preferred Transformation (supra)* to urge that where the three months limitation period prescribed under Section 34(3) expires on a day when the Court is closed, the petition will be considered as having been filed within the limitation period, if it is filed on the next working day when the Court opens. There can be no quarrel with this proposition. However, the judgment does not inure to the benefit of the Petitioner as the present is not a case where the limitation expired during the vacations of this Court and/or the petition was filed on the next working day when the Court re-opened on 01.07.2025. By Petitioner's own showing, the petition filed before the Patna Court was dismissed on 17.06.2025, whereas the present petition was filed on 23.08.2025.

15. For all the aforesaid reasons, the delay in filing this petition cannot be condoned and the application is dismissed.

O.M.P. (COMM) 388/2025 & I.A. 23722/2025 (for stay)

16. In view of the order passed in I.A. 23725/2025, this petition cannot be entertained being barred by limitation and the same is accordingly dismissed.

17. Pending application also stands dismissed.

JYOTI SINGH, J

SEPTEMBER 23, 2025/Ch