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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of decision: 27<sup>th</sup> January 2026*

+ FAO (OS)(COMM) 7/2026 & CM APPL. 3171/2026, CM APPL. 3172/2026, CM APPL. 3173/2026, CM APPL. 3174/2026

**UNION OF INDIA**

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**.....RESPONDENT**

Through: Dr. Amit George, Mrs. Manmeet Kaur Sareen, and Mr. Adishwar Suri, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE**  
**HON'BLE MR. JUSTICE AJAY DIGPAUL**

**JUDGMENT (ORAL)**

**NITIN WASUDEO SAMBRE, J.**

1. Heard.
2. This appeal is under Section 37 of the Arbitration and Conciliation Act, 1996, (hereinafter referred to as “*A&C Act*”) read



with Section 13(1) A of Commercial Courts Act, 2015.

3. The appeal questions the legality of the judgment dated 23<sup>rd</sup> September, 2025, passed by the learned Single Judge of this Court in O.M.P. (COMM) No.388/2025, whereby the proceedings taken out under Section 34 of the A&C Act, came to be rejected thereby refusing to condone the delay.

4. The fact necessary for deciding the present appeal are as under:-

- i. For the construction of a school building and boundary wall of *Kendriya Vidyalaya* in Bihar, a contract was entered into between the appellant and the respondent for a tender value of Rs.8,79,61,037/-.
- ii. Pursuant to letter of acceptance issued by the appellant on 08<sup>th</sup> March 2013, the execution of work commenced on 23<sup>rd</sup> March 2013, as the site was handed over on 20<sup>th</sup> March 2013.
- iii. The date of completion of the work under the agreement-in-question was 22<sup>nd</sup> July 2014.
- iv. There was a delay of 1439 day in competition of work, which was actually completed on 30<sup>th</sup> June 2018.
- v. The respondent attributed the delay to the appellant-Union of India and raised several claims on account of escalation, overheads, idle resources etc. The executed value of the contract-in-question was raised from Rs.8,79,61,037/- to Rs.15,36,41,508/-
- vi. In February, 2021, the respondent submitted the final bill along with the detailed claim including the payment of



unpaid running bills and the claim under the aforesaid heads.

- vii. The agreement entered into between the parties contains Clause 2A, which provides for the remedy of arbitration.
- viii. Accordingly, the respondent submitted a claim under Section 23(3) of A&C Act, to which the appellant submitted his statement of defence.
- ix. After appreciating the rivals claims and the evidence on record of the respective parties, the award came to be passed by the Sole Arbitrator on 22<sup>nd</sup> December 2024, thereby allowing claim to the tune of Rs.5,11,84,830/- along with *pendente lite* interest @12%, arbitration cost, GST etc.
- x. The intimation of the award was received through *e-mail* on 01<sup>st</sup> January 2025 from the arbitrator and the appellant requested for a physical copy of the award, which the appellant claims to have been received on 06<sup>th</sup> January 2025.

5. It is the case of the appellant in this background that the limitation provided under Sub-Section (3) of Section 34 of the A&C Act, shall commence from 06<sup>th</sup> January 2025.

6. After internal consultation, the appellant based on the opinion from the Office of Additional Solicitor General, Patna High Court on the issue of appropriate forum for filing Section 34 application, filed the proceedings on 26<sup>th</sup> March 2025 before the Principal District Judge, Patna, challenging the arbitral award dated 22<sup>nd</sup> December, 2024 and



the corrected award dated 31<sup>st</sup> December 2024.

7. Thereafter, a judgment was pronounced on 17<sup>th</sup> June, 2025 in the aforesaid case dismissing the petition on the ground of lack of territorial jurisdiction.

8. The appellant, accordingly, filed a Section 34 application before this Court on 23<sup>rd</sup> August 2025, which according to him was within 113 days from the commencement of the limitation period, which comprises of 90 days and also within 30 days as provided under the proviso of Sub-Section (3) of Section 34.

9. It is the case of the appellant that he was entitled for condonation of delay in view of the above.

10. The learned Single Judge *vide* judgment dated 23<sup>rd</sup> September 2025 has dismissed the application preferred under Section 34 of the A&C Act, being time barred.

11. Learned counsel for the appellant while questioning the aforesaid judgment has urged that the learned Judge has failed to interpret the very essence and principles laid down under Section 34 of the A&C Act. So, according to him, instead of deciding the issue on merits, the Court has gone on the technical issue of the claim being barred by limitation.

12. He would urge that the appellant being Union of India is required to spent considerable time to seek approvals in the matter of the decision being taken as to the choice of forum and also whether the proceedings are to be initiated.

13. He would claim that the decision may result into the loss of public revenue to an undeserving party like the respondent whose claim is beyond the scope of work provided under the tender, which was also



awarded by the arbitrator without there being any legal basis.

14. As against above, the learned counsel for the respondent has stated that the judgment of the learned Single Judge is in tune with provisions of Sub-Section (3) of Section 34 of the A&C Act and in such an eventuality, no interference is called for.

15. We have considered the rival submissions.

16. The appellant has framed the particulars as regards to the expiry of the limitation in the tabular form, in his appeal, which reads thus:

PARTICULARS	DATE	REMARKS
Award passed by the Arbitrator	22.12.2024	
Corrected Award passed by the Arbitrator	31.12.2024	
Intimation of Award received through email	01.01.2025	
Appellant requested for physical copy	01.01.2025	
Physical copy of Award received by appellant	06.01.2025	Limitation u/s 34(3) commences
Opinion received by the appellant from ASG, Patna High Court for filing Section 34 petition before the Ld. Principal District Judge, Patna	14.03.2025	On 67 <sup>th</sup> day
Appellant filed Section 34 petition before Ld. Principal Distt. Judge, Patna	26.03.2025	79 days from 06.01.2025
Ld. Principal Distt. Judge, Patna dismissed Section 34 Petition on Territorial Jurisdiction	17.06.2025	
Last Day of Vacation at Delhi High Court	30.06.2025	
Counsel at Delhi telephonically sought certified copy (if any) of the judgment and order of Ld. Principal Distt. Judge, Patna.	03.07.2025	
Certified Copy Applied	05.07.2025 (Due to summer vacations)	



Counsel for the appellant received copy of Judgment of Ld. Principal Distt. Judge, Patna	08.07.2025	Period Excluded from 14.03.2025 till 08.07.2025 Limitation under Section 34(3) along with Proviso 30 days commences. $120 - 67 = 53$ days left
Appellant Department sought several departmental approvals and sent the same back to present counsel	16.08.2025	
Appellant filed Section 34 Petition before this Hon'ble Court 46 days from the date of receipt of certified copy on 08.07.2025	23.08.2025	113 <sup>th</sup> Day (90 + 30 = 120 – 113 = 7 days left)

17. Learned counsel for the appellant has claimed that the time was consumed by the appellant because of the decision making process and the pleadings to that effect are as under:-

*“ 13. The learned Principal District Judge, Patna, after hearing, pronounced the judgment on 17.06.2025, dismissing the petition solely on the ground of lack of territorial jurisdiction, holding that Delhi was the juridical seat of arbitration, as recorded in paragraph 23 of the award, and that only the courts at the seat would have jurisdiction to entertain any challenge to the award. (True copy of judgment dated 17.06.2025 passed by Hon'ble Principal District Judge, Patna is produced herewith as ANNEXURE No. 9) ”*

*14. After pronouncement of the order on 17.06.2025, Appellant approached the present counsel on 10.07.2025 as the Appellant's counsel telephonically contacted the Patna office on 03.07.2025 to obtain a certified copy of the judgment. An application for obtaining the certified copy of judgment was made on 05.07.2025, and due to the summer vacations of civil Courts in Patna and in Delhi up to 30.06.2025 and the*



*intervening administrative delay, the certified copy was received on 08.07.2025.*

*15. Immediately upon receiving final clearance on 16.08.2025, the Appellant filed the Section 34 petition before this Hon'ble Court on 23.08.2025, that is, within 113 days from commencement of limitation, comprising 90 days under Section 34(3) and 23 days within the 30-day condonable period under the proviso. The petition was, therefore, well within the permissible limitation when computed after exclusion of the period from 14.03.2025 to 10.07.2025, during which the Appellant was bona fide prosecuting proceedings before a court lacking jurisdiction.”*

18. The fact remains that the appellant was required to face the objection of territorial jurisdiction before the Commercial Court, Patna, where it has initiated the proceedings under Section 34 of the A&C Act.

19. The moment objection to the territorial jurisdiction was raised by the respondent, the least that was expected of the appellant was to analyze the said issue and take appropriate decision in the matter as regards whether to withdraw the said proceedings with liberty to initiate before a forum having appropriate jurisdiction.

20. Rather, the appellant has chosen to wait till the decision of the learned Principal District Judge, Patna, wherein in the judgment dated 17<sup>th</sup> June 2025, it was ruled in favour of the respondent and against the appellant that the Court at Patna will not have territorial jurisdiction.

21. As such, the limitation, in our opinion should have been counted from the date, the respondent has raised an objection to the territorial jurisdiction and there was failure on the part of the appellant to examine the said issue diligently.



22. Be that as it may, the learned Judge, while dealing with the claim of the appellant, has considered the time spent by the appellant in the matter before initiating the proceedings under Section 34 in entirety and examined the same in the light of the provisions of Sub-section (3) of Section 34 of the Act.

23. Proviso to Sub-Section (3) of Section 34 of the Act uses the words “***but not thereafter***”. The Apex Court has interpreted the said term “***but not thereafter***” as employed in proviso to Sub-Section (3) of the Section 34 of the A&C Act in the matter of ***Simplex Infrastructures Limited vs Union of India*** 2019 2 SCC 455.

24. The learned Single Judge based on the aforesaid and other judgments has endorsed that the Court has no power to condone the delay even of a single day beyond the statutory period of 120 days, as provided under Section 34(3) of the A&C Act.

25. This Court also noticed that the petition was under Section 34 was initiated on 23<sup>rd</sup> August 2025, as could be inferred from the filing record.

26. Even if the period from 26<sup>th</sup> March, 2025 to 17<sup>th</sup> June, 2025, for which the proceedings were prosecuted before the Patna Court are excluded, still there was a delay in filing the petition.

27. The finding recorded by the learned Single Judge in para 13, to the aforesaid effect are worth referring to, which read thus:-

*“13. It was submitted that the learned Sole Arbitrator concluded the hearing through video conferencing on 05.12.2024. The Impugned Award was rendered and signed on 22.12.2024, and a subsequently corrected Award was signed on 31.12.2024. It is further stated that the agreement dated 08.03.2024 was executed between*



*the parties at Patna, and the contractual work was carried out at Sheohar, located in North Bihar".*

28. For the aforesaid reasons, in our opinion, no legal infirmity or any contrary view to the statutory provisions pursuant to the mandate provided under Section 34 could be noticed and inferred from the judgment of the learned Single Judge.
29. The judgment of the learned Single Judge is in tune with the scheme of the Section 34(3) of the A&C Act.
30. That being so, the appeal lacks merit and is, accordingly, dismissed.
31. Pending applications also stand disposed of.
32. Copy of the Judgment be uploaded on the website of this Court.

**NITIN WASUDEO SAMBRE  
(JUDGE)**

**AJAY DIGPAUL  
(JUDGE)**

**JANUARY 27, 2026/sky/st**