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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010494822025
+ O.M.P. (COMM) 285/2025
PSA PROTECH AND INFRALOGISTICS
PRIVATE LIMITEDPetitioner
Through: Ms. Smiti Verma, Mr. Pranay
Chitale and Mr. Aditya Dutta,
Adv.
versus
FOOD CORPORATION OF INDIARespondent
Through: Mr. Manoj and Ms. Aparna
Sinha, Adv.

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CNR No. DLHC010494832025
+ O.M.P. (COMM) 286/2025 & I.A. 27401/2025
ALOMPCM INFRASTRUCTURAL
AND LOGISTICS PRIVATE LIMITEDPetitioner
Through: Ms. Smiti Verma, Mr. Pranay
Chitale and Mr. Aditya Dutta,
Adv.
versus
FOOD CORPORATION OF INDIARespondent
Through: Mr. Manoj and Ms. Aparna
Sinha, Adv.

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CNR No. DLHC010494842025
+ O.M.P. (COMM) 287/2025 & I.A. 27801/2025
MACHEDA LOGISTICS PRIVATE LIMITEDPetitioner
Through: Ms. Smiti Verma, Mr. Pranay
Chitale and Mr. Aditya Dutta,
Adv.
versus
FOOD CORPORATION OF INDIARespondent
Through: Mr. Manoj and Ms. Aparna
Sinha, Adv.



**CORAM:
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA**

ORDER
% **02.09.2026**

I.A. 17793/2025 (2 Days Delay) & I.A. 17795/2025 (113 Days Delay) in O.M.P. (COMM) 285/2025, I.A. 17796/2025 (2 Days Delay) & I.A. 17798/2025 (113 Days Delay) in O.M.P. (COMM) 286/2025 and I.A. 17868/2025 (2 Days Delay) & I.A. 17870/2025 (113 Days Delay) in O.M.P. (COMM) 287/2025

1. These are the applications filed under Section 151 of the Code of Civil Procedure, 1908 seeking condonation of delay of 2 days in filing and 113 days in re-filing.

2. Ms. Smiti Verma, learned Counsel appearing for the Petitioners submits that the delay of 2 days in filing and 113 days in re-filing are sought to be condoned on the ground that the original petitions were validly and substantially filed on 02.03.2025, within the maximum prescribed period under Section 34(3) of the Arbitration and Conciliation Act, 1996¹.

3. According to learned Counsel for the Petitioners, it was not a non-est filing, as the defects initially raised by the Registry were merely procedural and curable in nature.

4. It is further submitted that the delays were further occasioned by the time taken to procure the complete arbitral record and connected documents due to serious illness of the Director

¹ "the Act", hereinafter



coordinating the litigation, and the subsequent requirement to prepare fair typed copies of approximately 450 pages in three connected petitions pursuant to the orders dated 15.04.2025 and 16.04.2025 passed in O.M.P. (COMM) 159/2025 and ARB.P. 1853/2024 respectively.

5. In these circumstances, the Petitioners pray that the delay may be condoned.

6. Mr. Manoj, learned Counsel appearing for the Respondent opposes condonation on the ground that the petitions were effectively perfected only on 25.07.2025, *i.e.*, 117 days beyond the outer statutory limit of three months plus thirty days prescribed under Section 34(3) of the Act and, therefore, the Court lacks jurisdiction to entertain them in view of the expression “but not thereafter.”

7. It is contended that the initial filing was *non-est* and merely intended to arrest limitation, as the petitions remained substantially defective for nearly four months and required extensive curing before they could be listed.

8. According to learned Counsel for the Respondent, the prolonged period taken to remove defects, coupled with the alleged absence or defect in essential pleadings and documents, is relied upon to show that the original filing was not a complete and valid Section 34 petition.

9. The Respondent further contends that the reasons advanced,



including the bulky record, typing of annexures, internal office difficulties, absence of staff and procedural delays, do not constitute sufficient cause and instead demonstrate negligence and lack of due diligence on the part of a corporate litigant represented by competent Counsel.

10. It is accordingly submitted that the delay in filing and re-filing must be considered conjointly and since the valid institution of the petitions occurred beyond the non-extendable statutory period, both the applications for condonation and the accompanying Section 34 petitions are liable to be dismissed as barred by limitation.

11. Learned Counsel for the Respondent has relied upon the judgment passed in ***Delhi Development Authority v. Durga Construction Co.***² to contend that, although delay in re-filing may in appropriate cases be condoned, an inordinate and unexplained delay, or an initial filing that is substantially incomplete or non-est, may result in the petition being treated as instituted beyond the permissible period.

12. I have heard learned counsel for both the parties and perused the record.

13. It is made out from the record that the delay in the present petitions are within condonable period.

14. The Supreme Court in ***Northern Railway v. Pioneer Publicity***

² **FAO (OS) (COMM) 485-86/2011**



Corporation Pvt. Ltd³ has held that Section 34(3) governs the initial filing and not re-filing, while this has also recognised that re-filing delay may be condoned where sufficient cause and diligence are shown.

15. According to this court, the initial filing was not *non-est*, as the defects were largely procedural and curable.

16. The additional compliance requirements arose subsequently from Registry directions concerning typed copies and the list of dates, and the Petitioner has also relied upon the serious illness of the Director who was coordinating instructions and documents.

17. Taken together, these circumstances support the case that the filing was not *non-est*.

18. For all the aforesaid reasons, the present applications are allowed.

O.M.P. (COMM) 285/2025, O.M.P. (COMM) 286/2025 & O.M.P. (COMM) 287/2025

19. The parties are directed to complete the pleadings within four weeks from today.

20. Reply be filed within four weeks. Rejoinder, if any, be filed within two weeks thereafter.

21. List on 14.10.2026 for final hearing.

³ (2017) 11 SCC 234



22. Learned Counsel for both the parties are directed to file written submissions, not exceeding four pages each at least three days prior to the next date of hearing, with reference to corresponding PDF and paragraph numbers, setting out: (i) the precise nature of the disputes arising for consideration; (ii) the findings rendered by the learned Arbitral Tribunal, claim-wise and counterclaim-wise, if any, together with the reasons given; and (iii) the grounds on which the parties seek interference/non-interference with the impugned arbitral award within the limited scope of Section 34 of the Arbitration and Conciliation Act, 1996.

OM PRAKASH SHUKLA, J

SEPTEMBER 2, 2026/gunn