



NC: 2026:KHC:15777-DB
COMAP No. 399 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

COMMERCIAL APPEAL No. 399 OF 2023

BETWEEN:

UNION OF INDIA
REPRESENTED BY

1. THE GENERAL MANAGER
SOUTH WESTERN RAILWAY,
GADAG RAOD
HUBBALLI - 580 023.

2. THE CHIEF ADMINISTRATIVE OFFICER (C)
SOUTH WESTERN RAILWAYS
No.18, MILLERS ROAD
BENGALURU-560 046.

3. THE CHIEF OFFICER (C)
SOUTH WESTERN RAILWAYS
GADAG ROAD
HUBBALLI-580 023.

...APPELLANTS

(BY SRI UNNIKRISHNAN. M, CGC)

AND:

1. M/S HINDUSTHAN STEEL WORKS
CONSTRUCTION LIMITED.
REPRESENTED BY AUTHORISED
REPRESENTATIVE
(GOVERNMENT OF INDIA UNDERTAKING)
1297, 2ND FLOOR, 13TH MAIN
JUDICIAL LAYOUT, GKVK POST

Digitally
signed by JAI
JYOTHI J
Location:
High Court
of Karnataka



YELAHANKA
BENGALURU - 560 086.

2. SMT. SUNANDHA ARUL
PFA AND CAO, RWF,
YELAHANKA
BENGALURU-560 063.

3. P K KSHATRIYA
CHIEF PROJECT MANAGER
RVNL, BENGALURU-560 063.

...RESPONDENTS

(BY SRI. VASU DEVA NAIDU S, ADVOCATE FOR R1
NOTICE TO R2 AND R3 D/W V.O.D 13.08.2025)

THIS COMAP IS FILED UNDER SECTION 13 (1-A) OF THE
COMMERCIAL COURTS ACT READ WITH SECTION 37(1) OF THE
ARBITRATION AN CONCILIATION ACT, PRAYING TO SET ASIDE
THE JUDGMENT DATED 05.12.2022 IN COM.A.P.No. 70/2020
PASSED BY THE HON'BLE LXXXIII ADDITIONAL CITY CIVIL AND
SESSIONS JUDGE, AT BANGALORE (CH-84), ANNEXURE 'B'
PARTLY ALLOWING THE APPEAL FILED BY THE APPELLANT
UNDER SECTION 34 OF THE ARBITRATION AND CONCILIATION
ACT, 1996 AND CONSEQUENTLY SET ASIDE THE AWARD
PASSED BY THE ARBITRAL TRIBUNAL, DATED 16.12.2019 I.E.,
AT ANNEXURE A.

THIS APPEAL, COMING ON FOR ORDERS THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MS. JUSTICE TARA VITASTA GANJU



ORAL JUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. This appeal is filed seeking to set aside the Judgment dated 05.12.2022, passed in COM.A.P No.70/2020 by the LXXIII Additional City Civil and Sessions Judge, Bengaluru [hereinafter referred to as the "Impugned Judgment"], whereby the petition filed under Section 34 of the Arbitration & Conciliation Act, 1996 [hereinafter referred to as "the Act"] has been partly allowed.

2. We have heard the learned counsel appearing for the appellants and the learned counsel appearing for the respondents.

3. I.A.No.1 of 2023 is filed by the appellants seeking condonation of delay of 234 days in filing the appeal. The review of the application shows that the only ground for delay as set out in the application is that the first respondent has violated the terms of the contract and that the Impugned Award is causing grave loss and hardship to



the appellants. It is further stated that the appellants have got a good case on merits and thus, the only ground that is set out for the delay in paragraph No.7 of the application is that immediately after receipt of the judgment, the matter was referred to the Legal Department and the process of obtaining permission for preferring an appeal had undergone various stages in the administrative set ups and thus there was a delay.

4. The Supreme Court in the case of ***State of Maharashtra Vs. Borse Bros. Engineers & Contractors (P) Ltd.***¹ has explained that in the case of commercial disputes, the delay should be condoned merely by way of an exception and not by way of a Rule. It has been explained that the expression 'sufficient cause' is not elastic enough to cover long delays, which are beyond the period provided in the appeal. It has further been held that merely because the Government is

¹ (2021) 6 SCC 460



involved, a different yardstick for condonation of delay cannot be made. The relevant extract is below:

"58. Given the object sought to be achieved under both the Arbitration Act and the Commercial Courts Act, that is, the speedy resolution of disputes, the expression "sufficient cause" is not elastic enough to cover long delays beyond the period provided by the appeal provision itself. Besides, the expression "sufficient cause" is not itself a loose panacea for the ill of pressing negligent and stale claims. This Court, in Basawaraj v. LAO [Basawaraj v. LAO, (2013) 14 SCC 81] , has held : (SCC pp. 85-88, paras 9-15)

"9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona



HC-KAR

fide or was merely a device to cover an ulterior purpose. (See *Manindra Land & Building Corpn. v. Bhutnath Banerjee* [*Manindra Land & Building Corpn. v. Bhutnath Banerjee*, AIR 1964 SC 1336], *Mata Din v. A. Narayanan* [*Mata Din v. A. Narayanan*, (1969) 2 SCC 770] *Parimal v. Veena* [*Parimal v. Veena*, (2011) 3 SCC 545 : (2011) 2 SCC (Civ) 1] and *Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai* [*Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai*, (2012) 5 SCC 157 : (2012) 3 SCC (Civ) 24])...

59. Likewise, merely because the Government is involved, a different yardstick for condonation of delay cannot be laid down. This was felicitously stated in *Postmaster General v. Living Media (India) Ltd.* [*Postmaster General v. Living Media (India) Ltd.*, (2012) 3 SCC 563 : (2012) 2 SCC (Civ) 327 : (2012) 2 SCC (Cri) 580 : (2012) 1 SCC (L&S) 649] [*"Postmaster General"*], as follows : (SCC pp. 573-74, paras 27-29)

"27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making



several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

[Emphasis is supplied]

5. The Supreme Court has in ***Borse Brothers'*** case further held that given the object of speedy disposal sought to be achieved by the Commercial Courts Act, 2015, for appeals filed under Section 37 of the Arbitration and Conciliation, 1996, that are governed by Articles 116 and 117 of the Limitation Act, 1963, the delay is to be condoned by way of an exception and not a Rule. The relevant extract is below:

"63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the



Arbitration Act and the Commercial Courts Act, for appeals filed under Section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1-A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. *In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches."*

[Emphasis Supplied]

6. The application (I.A.No.1 of 2023) as filed by the appellants, other than setting out administrative reasons, does not set out any ground for condonation of delay. The relevant extract of the Affidavit is below:

"7. I submit that immediately after the receipt of the Judgment of the Hon'ble LXXXIII Additional City Civil & Sessions Judge at Bangalore (HC-84), the matter was referred to the Legal Department of Union of India, who opined that it was a fit case for preferring an Appeal. Accordingly, the same was sent to the Head Office for further action in the matter. It is submitted that the process of obtention of permission for preferring an Appeal undergoes in various stage in administrative set up of the Union of India. Accordingly, by the time the permission for granted to prefer an Appeal, there was substantial loss of time, which resulting in the delay in filing the Appeal."

7. A reading of the above shows that the appellants have failed to furnish any sufficient cause for condonation



of delay. In view of the settled law, this Court is not inclined to condone the delay in the present case.

8. In view of the above, I.A.No.1/2023 is dismissed. Resultantly, the appeal is also dismissed. All pending applications stand closed.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

LRS/YN
List No.: 1 Sl No.: 3.1