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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **O.M.P. (COMM) 28/2016 & IAs 1410-11/2016**

AIRPORT AUTHORITY OF INDIA & ORS. Petitioners
Through: Mr.Abhinav Vashisht, Sr.Adv. with Mr.
Ashwarya Sinha, Ms.Sonal Gupta, Adv.

versus

CYVAS - AVANTIKA (JV) Respondent
Through: Mr.Kirti Uppal, Sr. Adv. with Mr.
Somesh Chandra Jha, Mr. Shrehan Siddharth,
Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **11.03.2016**

IA 1410/2016

Allowed, subject to all just exceptions.

Application is disposed of.

IA 1411/2016

This is an application filed by the petitioners seeking
condonation of 100 days delay in filing the petition.

This is a petition under Section 34 of the Arbitration and
Conciliation Act. The impugned award was passed on July 13, 2015.
Admittedly, the petition was filed on January 20, 2016.

The learned senior counsel for the petitioners has vehemently
argued that as the petitioners have a case on merits, the delay having
been properly explained, the same need to be condoned and the

petition under Section 34 of the Arbitration and Conciliation Act, 1996 be heard. Before the award can be seen by the Court on merits, surely the petitioners need to cross the hurdle of delay. The explanation given by the petitioners in the application more specifically in paras 3,4, 5 and 6 reads as under:-

“3) That the impugned award was passed on 13.7.2015 and the Assistant General Manager (Engg-Civil) received the case file on 17.7.2015, thereafter the same was sent on 20.7.2015 for further processing to the office of Joint Secretary Manager (Engg-Civil) hereinafter referred to as JSM(Engg-Civil). After a perusal of the impugned award it came to the knowledge of the JSM(Engg-Civil) that no comments/recommendations were provided by ASM(Engg-Civil), therefore she was asked to submit the same. In addition to the above, the comments/recommendation received from the office of the ASM (Engg-Civil) on 30.7.2015 was forwarded to DGM Law on 31.7.2015. Consequently, after a detailed inspection of the impugned award, on 30.9.2015 a legal opinion was sought on the basis of the impugned award from the Counsel for Airport Authority of India, thereafter the opinion was forwarded to ED(Engg-Civil) through the Corporate Head Quarter, General Manager(Engg-Civil) on 5.10.2015.

4) That on 9.10.2015 the Directorate of Engineering received the case file at the Corporate Head Quarters and on the basis of the communications received the case file was scrutinized and sent to the office of ED (Engg-Civil) for obtaining a legal opinion for the impugned award on 13.10.2015. Subsequently, the file was sent back to the office of Directorate of Engineering on 15.10.2015 for providing comments/recommendation with regard to the impugned award, the same was sent to the Directorate of Law 2.11.2015, thereafter the case was again processed by the Directorate of Law on 10.11.2015.

5) *Subsequently, the case was again processed by various departments for challenging the impugned award. That on 7.11.2015 the file was forwarded to the office of Chairman, Airport Authority of India, thereafter on 9.12.2015 an approval for challenging the impugned award was accorded, the same was conveyed to the station.*

6) *That the files were then handed over to the counsel on 16.12.2015. Hon'ble High Court was closed soon after for the winter break and reopened only on 4.1.2016."*

It is apparent from reading of the aforesaid paragraphs that the petition has not been filed within three months or within 30 days thereafter as per Section 34 (3) of the Arbitration and Conciliation Act, 1996. The petition having not been filed within the stipulated period and the law being well-settled in terms of judgment of the Supreme Court reported in **2001 (8) SCC 470 titled UOI vs. Popular Construction Co.** which has been followed in **AIR 2012 SC 1395, Assam Urban Water Supply and Sew Board Vs. M/s. Subash Projects**, the present application need to be dismissed.

In view of the order in this application, the petition under Section 34 of the Arbitration and Conciliation Act is rejected.

No costs.

V. KAMESWAR RAO, J

MARCH 11, 2016/RN