

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

+ **FAO No. 29/2017**

% **14th November, 2017**

M/S TIRUPATI STRUCTURALS LTD. Appellant
Through Mr. Dilip Agarwal, Advocate

versus

INDIAN OIL CORPORATION LTD. & ANR. Respondents
Through Mr. Naveen Chawla, Mr.
Mayank Bughami and
Ms. Akanksha Sood, Advocates

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. It is noted that the objections under Section 34 of the Arbitration and Conciliation Act, 1996 ('the Act') were filed by the appellant on 18.08.2015. The impugned Award is dated 07.04.2015.

2. I have examined the arbitration record and in the arbitration record though there is a letter dated 07.04.2015 addressed by the Arbitrator to the counsel for the appellant annexing therewith the Award, however, there is no proof as to how this letter annexing the Award was sent to and was when received by the appellant's

counsel. Accordingly, this Court has to necessarily accept that the appellant's counsel received the copy of the Award on 18.04.2015. Once the Award is received on 18.04.2015 by the appellant, the period of limitation which is provided for filing of objections under Section 34(3) of the Act is a period of three months with condonation of delay being allowed for 30 days after the period of three months.

3. The issue is therefore whether there should be condonation of delay as permissible under the Act of 30 days after the period of three months.

4. In my opinion, once the law is harsh that there cannot be condonation of delay after three months plus 30 days then if there is any delay beyond three months upto 30 days, Courts should be liberal in allowing condonation of delay upto 30 days, otherwise vested rights and valuable rights of an objector to file objections to the Award would be rejected only on the ground of limitation, though every endeavour should be made to decide the objections on merits.

5. In view of the aforesaid discussion this appeal is allowed, against the impugned judgment dismissing objections under Section 34 of the Act as time-barred inasmuch as by the impugned judgment dated

26.09.2016 objections filed by the appellant under Section 34 of the Act have been dismissed as time barred by not considering condonation of delay upto 30 days beyond three months.

6. This appeal is accordingly allowed. Impugned judgment is set aside and the court below is now directed to decide the objections filed by the appellant under Section 34 of the Act, in accordance with law.

7. In view of the fact that the respondents had limited their reply to the objections only on the issue of limitation, since now delay is condoned, therefore, the respondents will have a right to file reply on merits to the objections which have been filed by the appellant under Section 34 of the Act.

8. Parties to appear before the District & Sessions Judge (Shahdara), Karkardooma Courts, Delhi on 7th December, 2017 and the District & Sessions Judge concerned will now mark the objections under Section 34 of the Act for disposal to the competent court, in accordance with law. Trial court record be sent back so that the same is available to the District & Sessions Judge concerned on the date fixed.

NOVEMBER 14, 2017/nn

VALMIKI J. MEHTA, J