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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **FAO(OS) 102/2017, C.M. APPL.13202-13204/2017**  
**BHARAT SANCHAR NIGAM LTD** ..... Appellant  
Through : Sh. Chandan Kumar and Sh. Rahul  
Kumar, Advocates.

versus

**NATIONAL TELECOM OF INDIA LTD & ANR** ..... Respondents  
Through : None.

**CORAM:**  
**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**  
**HON'BLE MR. JUSTICE YOGESH KHANNA**

% **ORDER**  
**10.04.2017**

**FAO(OS) 102/2017 & C.M. APPL.13204/2017 (for condonation of delay)**

This appeal is directed against an order of the learned Single Judge rejecting the petition under Section 34 of the Arbitration and Conciliation Act, 1996 [hereafter referred to as “the petition under Section 34”]. That petition had challenged an award dated 10.07.2007 and had directed payment of ₹1.09 crores together with interest @ 12% per annum from 01.04.1997 to the date of payment.

At the outset, the Court notices that the appeal is delayed by 435 days. The ground urged in support of the application to condone the delay is that though the certified copy of the impugned order was received on time and was duly forwarded to the appellant by its counsel, yet a decision to file the appeal was not taken in a timely

manner. The appellant explains that its responsible officer, i.e. one Sh. S.C. Gupta, AGM was transferred and later had retired. In the circumstances, his successor took some time in deciding whether or not to file an appeal. This ground can hardly qualify as “sufficient case” to require condonation of delay. The application, therefore, deserves to fail. Even otherwise, the Court is of the opinion that contrary to the learned counsel’s vehement argument, there is no infirmity in the impugned order. The appellant’s mainstay in the arbitral proceedings as well as in the petition under Section 34 was that there was no concluded contract between the parties for the supply of 266 Supply Line Concentrators (SLCs). In support, it was contended that what was issued was an advance purchase order.

This objection, as it were, was reiterated before the arbitrator who went into the evidence in a detailed manner. The respondents/claimants were able to establish firstly that equipments had been purchased and consequently that repeated letters requesting the appellant to issue formal orders and also take consequential steps to take delivery went unheeded and finally in May 1998, the appellant expressed its opinion that there was no concluded contract. Consequently, the arbitrator also took note of the fact that the performance bank guarantee to the tune of 10% of the APO and also the entire contract value, was in fact accepted by the appellant. These materials were held to be conclusive to rule against the appellant’s contention with respect to the absence of a concluded contract. Learned Single Judge too has elaborately dealt with these factual

aspects.

This Court discerns no unreasonableness in the award nor perversity in the impugned order. The appeal too has to accordingly fail.

For the foregoing reasons, the application for condonation of delay is dismissed. The appeal also is accordingly dismissed.

**C.M. APPL.13202-03/2017**

In view of the orders made today in C.M. Appl.13204/2017 and FAO(OS) 102/2017, the applications are dismissed.

**S. RAVINDRA BHAT, J**

**YOGESH KHANNA, J**

**APRIL 10, 2017/ajk**