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

+ O.M.P. (COMM) 236/2017

BWL LTD.

..... Petitioner

Through Mr.Jayant K.Mehta and Ms.Bharti
Badesra, Advocates

versus

UNION OF INDIA & ANR.

..... Respondent

Through Mr.Ruchir Mishra and Mr.Mukesh
Kr.Tiwari, Advs. for R-1
Mr.L.B.Rai and Mr.Mohit Kr.Sharma, Advs. for
R-2

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **18.05.2017**

IA Nos.6132-6133/2017

Exemption allowed, subject to all just exceptions.

O.M.P. (COMM) 236/2017 & IA No.6134/2017

Present petition is filed under section 34 of the Arbitration and Conciliation Act seeking to file objections against an Award dated 3.4.2008 by which a part of the claim of the petitioner was rejected, namely, a claim of Rs.4,00,185/- on account of liquidated damages. The Award granted a sum of Rs.19,30,568/- in favour of the petitioner alongwith interest.

Against the said Award the respondents filed an objection being OMP No.400/2008. This petition was dismissed in default on 25.11.2016. It is the case of the petitioner that they were not aware of the said order of dismissal of 25.11.2016 though admittedly they were served in the said petition.

Now after nine years the petitioner has chosen to file the present objections under section 34 of the Act. The only ground stated for the delay is alleged discovery of fraud. Other than using the word fraud there is no elaboration of any facts which can lead to any conclusion. Mere dismissal of a petition in default cannot amount to fraud. Under section 34(3) of the Act an application for setting aside of an Award is to be made within three months.

Petition is patently barred by limitation and is dismissed. All pending applications, if any, also stand disposed of.

JAYANT NATH, J

MAY 18, 2017

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