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

+ **O.M.P. (COMM) 30/2016**

UNION OF INDIA

Through

..... Petitioner
Mr. Santosh Kumar Tripathi, ASC
GNCTD, Advocate

versus

SHYAM TELECOM LTD

Through

..... Respondent
Mr. Biju K Nair, Advocate
Mr. Dinesh Agnani, Sr. Advocate
with Mr. L B Rai, Mr. Mohit
Krishna and Mr. Vijay, Advocates

CORAM: JUSTICE S. MURALIDHAR

ORDER

09.01.2017

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IA No. 1460/2016

1. There is a delay of 134 days in re-filing the petition and not three days as is mentioned in the application. The application fails to afford any justification to explain the inordinate delay in refiling.
2. With the leave of the Court, an additional affidavit dated 18th February 2016 has been filed seeking to offer some reason. It is stated that there were several defects pointed out by the Registry and for removal of such defects, the Petitioner required to file certain documents under the signatures and seal of the officer who swore to the affidavit in support of the petition. It is stated that the said officer, however, was transferred from Delhi to Rajasthan and the attempts of the Department to get him to travel to Delhi from Rajasthan only for signing the papers were not successful. Thereafter another officer who was to sign the papers expressed his desire to study the

case since he was new and he took considerable time to read the documents and thereafter sign them.

3. The scheme of Section 34 (3) of the Arbitration and Conciliation Act, 1996 (Act) is unambiguous that a strict view has to be taken as regards limitation. The outer limit for filing the petition is 90 days. A maximum delay of 30 days thereafter can be condoned by the Court subject to being satisfied about the reasons for the delay.

4. While in the present case, the main petition was filed within time, there was a delay of 134 days in re-filing. In *Delhi Development Authority v. M/s. Durga Construction Company* 2013 (139) D RJ 133 the Division Bench of this Court explained that the applicant would have to satisfy the Court that it has pursued the matter diligently and the delay in re-filing the petition was beyond its control. It was emphasised that the delay must not be such as would defeat the very object of Section 34 (3) of the Act read with its proviso. The additional affidavit filed by the Petitioner does not demonstrate that the Petitioner has been diligent in pursuing the matter or that the delay of 134 days in re-filing the petition was beyond its control.

5. In that view of the matter, the Court is not persuaded to condone the delay of 134 days in re-filing the petition. The application is dismissed.

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6. Consequently, the main petition is dismissed.

S.MURALIDHAR, J

JANUARY 09, 2017/P