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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.394 OF 2018
IN
ARBITRATION PETITION (LODGING) NO.157 OF 2018

WITH
ARBITRATION PETITION (LODGING) NO.157 OF 2018

Tops Security Ltd. ...Applicant

IN THE MATTER BETWEEN :

Tops Security Ltd. ...Petitioner

V/s.

Hansol CSN Logistics India Pvt. Ltd. ...Respondent

Mr.Sujit Lahoti with Mr.Pratik Amin for the Applicant / Petitioner.

Ms.Sudeshna Roy with Mr.Anuj Dave i/b Vidhii Partners for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 4TH APRIL, 2018.

P.C. :-

1. By this notice of motion, the applicant seeks condonation of delay of 2 days in filing the arbitration petition. The notice of motion is vehemently opposed by the learned counsel for the respondent on the ground that the delay is not of two days in filing the arbitration petition but is of 289 days.

2. It is the case of the applicant that the impugned award has

been passed on 18th November, 2016. Mr.Mitesh Pabari, ex-employee of the applicant had collected the copy of the award from the learned arbitrator on 13th January, 2017. The said employee however, did not inform the higher authority about collection of the said award and resigned from the employment in the month of April, 2017.

3. Learned counsel for the applicant does not dispute that the said Mr.Mitesh Pabari was in the employment on the date of collection of the signed copy of the award from the learned arbitrator on 13th January, 2017 and had also handed over the balance fees of the learned arbitrator on behalf of the applicant. I am not inclined to accept the submission of the learned counsel for the applicant that the said employee was not authorized to collect the copy of the award. It is not in dispute that the balance fees of the learned arbitrator was paid by the applicant and not the said employee. Admittedly the arbitration petition is lodged on 1st February, 2018 which is beyond the period of three months from the date of the receiving signed copy of the award from the learned arbitrator and also beyond 30 days thereafter. This Court has no jurisdiction to condone the delay beyond the period of 30 days after expiry of the period of three months from the date of receiving the signed copy of the award from the learned arbitrator under section 31(5) of the

Arbitration and Conciliation Act, 1996 in view of section 34(3) of the said Act. The arbitration petition has to be filed within a period of three months from the date of receiving the signed copy of the award from the learned arbitrator.

4. In my view, the arbitration petition is thus barred by law of limitation prescribed under section 34(3) of the Arbitration & Conciliation Act, 1996. The notice of motion seeking condonation of delay as well as the arbitration petition are dismissed. No order as to costs.

(R.D. DHANUKA, J.)