

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE N.BALAYOGI

CIVIL REVISION PETITION NO.4188 OF 2018

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

This revision is filed, under Article 227 of the Constitution of India, aggrieved by the order passed by the Chief Judge, City Civil Court, Hyderabad in Arb.O.P.SR.No.10246 of 2018 dated 19.07.2018.

The petitioner herein filed an application under Section 34 of the Arbitration and Conciliation Act, 1996 ("the Act" for brevity) to set aside the award passed by the second respondent dated 18.01.2018. It is the petitioner's case that, since a copy of award was received by them on the very same day on which it was passed (i.e. on 18.01.2018), the date of its receipt must be excluded in computing limitation of three months to file a petition under Section 34 of the Act; if three months is computed from 19.01.2018, it would expire only on 18.04.2018; the petitioner had filed the petition, under Section 34 of the Act, on 18.04.2018 within time; and the learned Chief Judge had erred in returning the petition on the ground that it was not accompanied with an application to condone the delay.

Section 34 (3) of the Act stipulates that an application, to set aside an arbitral award, may not be made after three months from the date on which the party making that application had received the arbitral award or, if a request had been made under Section 33 of the Act, from the date on which that request had been disposed

of by the Arbitral Tribunal. Under the proviso thereto, if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within three months, it may entertain the application within a further period of thirty days, but not thereafter. The limitation, for filing an application under Section 34 of the Act, is three months from the date on which the party making the application had received a copy of the arbitral award.

As noted hereinabove, a copy of the arbitral award was received by the petitioner on 18.01.2018. The Supreme Court, in **State of Himachal Pradesh v. Himachal Techno Engineers**¹, observed that Section 12 of the Limitation Act, 1963 provides for exclusion of time in legal proceedings; Section 12(1) of the Limitation Act provides that, in computing the period of limitation for any application, the day from which such period is to be reckoned shall be excluded; the applicability of Section 12 of the Limitation Act to petitions under Section 34 of the Act is not excluded by the provisions of the Act; Section 9 of the General Clauses Act, 1897 provides that in any Central Act, when the word “from” is used to refer to commencement, the period of “three months, from the date on which the party making that application had received the arbitral award”, shall be computed from the next day.

As a copy of the arbitral award was received by the petitioner on 18.01.2018, the period of limitation of three years must be computed, in view of the law declared by the Supreme Court in **Himachal Techno Engineers**¹, from the next day i.e. 19.01.2018; and, if so computed, the three-month period would expire only by

¹ (2010) 12 SCC 210

18.04.2018. Consequently the petition, filed under Section 34 of the Act on 18.04.2018, is within time. The learned Chief Judge, City Civil Court, Hyderabad, has erred in holding that the petition was filed belatedly; and an application to condone the delay must be filed.

The order under revision is set aside. The learned Chief Judge, City Civil Court, Hyderabad shall receive the petition if it is otherwise in order. On a photostat of the order, of the Chief Judge, City Civil Court, Hyderabad, being filed the Registry shall return the original docket order today, to the learned counsel for the petitioner, under due acknowledgement.

The Civil Revision Petition is disposed accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.



(RAMESH RANGANATHAN, J)

(N.BALAYOGI, J)

25th July 2018
RRB