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

+ **O.M.P. (COMM) 179/2017**

M/S AMBUJ HOTELS AND REAL ESTATE(P) LTD

.....Petitioner

Through: Mr. Rajshekhar Rao (Sr. Adv) along
with Mr. S.S. Sisodia, Mr. Saurav
Kumar, Advs.

versus

INDIAN RAILWAY CATERING AND TOURISM CORPN LTD

.....Respondent

Through: Mr. Anshuman Choudhary, Adv.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

10.12.2024

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I.A. No. 13698/2019 and I.A. No. 13699/2019

1. I.A. No. 13698/2019 is an application purportedly filed under Section 151 of the Code of Civil Procedure, 1908 seeking restoration of OMP (Comm.) 179/2017 filed by the petitioner under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter '*the A&C Act*').
2. Vide Order 15.02.2018 the Court dismissed the said petition for non-prosecution.
3. I.A. No. 13699/2019 is an application seeking condonation of delay of 585 Days in filing 13698/2019.
4. After some hearing, learned senior counsel for the applicant does not seriously dispute that the restoration application is not maintainable



inasmuch as the proper remedy for the petitioner, if aggrieved with the order dated 15.02.2018 dismissing the petition under Section 34 of the A&C Act, is to file an appeal under Section 37 of the A&C Act.

5. In the circumstances, these applications are dismissed.

6. It is requested by learned senior counsel for the applicants that since the applicant has been pursuing these applications since 2019, the benefit of Section 14 of the Limitation Act, 1963 be afforded to the applicant for the purpose of enabling the applicant to pursue its remedies under Section 37 of the A&C Act. Needless to say, it shall be open for the applicant to make this request before the concerned Court, along with any appeal that may be filed under Section 37 of the A&C Act; the same shall necessarily be considered in accordance with law.

SACHIN DATTA, J

DECEMBER 10, 2024/uk