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

+ **FAO(OS) (COMM) 204/2018 & CM No.35733/2018**

UNION OF INDIA

..... Appellant

Through: Mr. Jitender Kumar, Standing Counsel
versus

HIND TERMINAL PRIVATE LIMITED

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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04.09.2018

We do not find any merit in this intra court appeal preferred by the Union of India as the objections under Section 34 of the Arbitration and Conciliation Act, 1996 (A and C Act, for short) to the award dated 30.5.2016 were filed beyond the time period for which delay can be condoned.

2. Objections to an award in terms of Section 34(3) of the A and C Act can be filed within three months from the date of receipt of the award. Under the proviso, the Court can condone delay in filing of the objections of upto one month and not beyond.

3. The objection challenging the Award dated 30.5.2016 were filed in the Delhi High Court 14.5.2018.

4. Delay in filing objections in the Delhi High Court would be beyond four months, even if we exclude the period between 23.8.2016 and 24.2.2018, when the appellant had filed objections under Section 34 of the A and C Act before the District Court and the date on which the objections were returned by the Additional District Judge ('ADJ') on the ground of lack of pecuniary jurisdiction.

5. For that matter, even if we add the period between 16.3.2018 and

20.3.2018, when the certified copy of the order dated 24.2.2018 was applied and the certified copy was received, it would not make any difference.

6. This position is accepted and admitted by the counsel for the appellant.

7. The learned ADJ, applying the provisions of Order VII, Rule 10 of the Code of Civil Procedure, 1908 ('CPC'), had returned the objections filed by the appellant. What was filed in the High Court were a different set of objections, after they were redrafted. The appellant had not taken recourse to benefit of sub-rule 2 to Order VII, Rule 10 A of the CPC by moving an application before the ADJ. Accordingly, no date for hearing before the High Court was fixed.

8. We may also note that there was a delay of 58 days in refilling of the objection in the Delhi High Court after they were returned by the Registry.

9. In view of the aforesaid, the objections filed in the High Court on 14.5.2018 were beyond period for which delay could be condoned by the Court.

10. In this case because of the failure and lapse on the part of the Union of India, the Award has attained finality in terms of the statute, i.e., A and C Act. There is no merit in the appeal and the same is dismissed. Pending application is also dismissed.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

SEPTEMBER 04, 2018/tp