

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

**REVIEW PETITION (L) NO. 49 OF 2019
IN
NOTICE OF MOTION (L) NO. 1210 OF 2019
IN
COMMERCIAL ARBITRATION PETITION (L) NO. 82 OF 2019**

Transport Corporation of India Ltd. ...Petitioner/Orig.Respondent
vs.

Global Logistics Pvt.Ltd. & Ors. ...Respondents/Orig.Petitioners

Mr.Ajay Panicker with Amit Kakri i/b. Ajay Law Associates for Petitioner.
Mr.Akshay Deshpande with Pranil Sonawane i/b.KLS Legal for Respondent.

CORAM : S.C. GUPTE, J.

DATE : 20 JANUARY 2020

P.C. :

Heard learned Counsel for the parties.

2 This review petition seeks a review of an order passed by this court on 19 September 2019 on a notice of motion in a commercial arbitration petition. The motion (Notice of Motion (Lodging) No.1210/2019) sought condonation of a delay of 30 days in filing the commercial arbitration petition. A copy of the award was said to have been received by the Petitioners on 17 September 2017 (wrongly mentioned as 17 September 2018). The petition was lodged on 17 January 2018 (though the petition was registered on 18 January 2018). Based on these, it was submitted before the court that original three months' period from the date of receipt of the award expired on 17 December 2017 (wrongly mentioned as 17 December 2018) and that the extra 30 days provided for filing of an

arbitration petition would, accordingly, expire on 17 January 2018. Accordingly, it was submitted that the petition filed on 17 January 2018 was within time. Accordingly, this court had allowed the notice of motion and condoned the delay of 30 days in filing the arbitration petition. The review petition is filed on the basis that this court whilst, thus, condoning delay, made a computational error in calculating the 30 days extra period. It is submitted that the original period admittedly expired on 17 December 2017 and that the extra period of 30 days would thereafter begin on and from 18 December 2017 and would expire on 16 January 2018 (considering that the month of December 2017 had 31 days). The submission is correct. 30 days period after expiry of the original 90 days period would commence on 18 December 2017 and would expire on 16 January 2018. The petition filed on 17 January 2018 is, thus, beyond the permissible period of 30 days over and above the ordinarily available three months' period.

3 Learned Counsel for the Respondent to the review petition (original Petitioner) relies on the judgments of the Supreme Court in the cases of **Saketh India Ltd. v. India Securities Ltd.**¹, **State of Himachal Pradesh vs. Himachal Techno Engineers**² and **Rameshchandra Ambalal Joshi vs. The State of Gujarat**³ in support of his submission that 30 days would expire on 17 January 2018 and not 16 January 2018. The cases relied upon by the Respondent indicate that whilst applying a rule of limitation, consistently with the General Clauses Act, whenever a particular period is mentioned for filing of an application or a complaint from a partulate date, such period must be reckoned from the day immediately

¹ MANU/SC/0151/1999

² (2010) 12 SCC 210

³ MANU/SC/0108/2014

following the day mentioned in that behalf. So also, whenever a month or months are mentioned for filing of an application or complaint from a particular date, the period of month or months, i.e. the second month or such number of months, must be reckoned with reference to the date corresponding to the date on which the period starts. For example, the period of three months, in the case of Section 34(3) of the Arbitration and Conciliation Act, 1996, would start on the date immediately following the date of receipt of the award or would expire in the third month on the date corresponding to the date on which such period starts.

4 Thus, in the present case, the award having been received on 17 September 2017, after excluding that day, the original period of limitation would start on 18 September 2017 and would end on 17 December 2017. (This is irrespective of the number of days in the intervening months.) The extended period of limitation is stated not in terms of months but in terms of days. It is 30 days. 30 days' period would start on 18 December 2017 (excluding the date when the original period ends, i.e. excluding 17 December 2017) and would expire on 16 January 2018, considering the fact that the month of December has 31 days. The petition, thus, having been filed on 17 January 2018, is beyond the extended period of limitation and cannot be entertained. The order under review passed on the notice of motion, thus, suffers from a clear error apparent, as a computational error, and accordingly, deserves to be reviewed.

5 The present review petition is, accordingly, disposed of by reviewing the original order passed on 19 September 2019 and rejecting Notice of Motion (Lodging) No.1210/2019 on the ground that the

arbitration petition is lodged after the expiry of the extended period of limitation, namely, 30 days after the original period of three months expired. The interim stay granted in respect of the award stands vacated forthwith.

(S.C. GUPTE, J.)

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