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

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Judgment delivered on: 13.02.2020

+ FAO 379/2019 & CM APPL. 41375/2019, CM APPL. 41376/2019, CM APPL. 41377/2019, CM APPL. 41378/2019 & CM APPL.41379/2019

UNION OF INDIA

..... Appellant

versus

M/S B.S AGGARWAL & ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Ashim Sood, Ms.Senu Nizar, Advocates.

For the Respondent: Mr.Adarsh Kumar Tiwari, Mr.T.K.Dibyanshu Chaubey, Advocates for respondent No.1.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Appellant impugns order dated 06.12.2018 whereby the objections filed by the appellant under Section 34 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as the Arbitration Act) impugning award dated 30.06.2011 were dismissed.

2. Subject appeal is an appeal filed under Section 37 of the Arbitration Act. There is a delay of 50 days in filing of the appeal beyond the statutory period of three months and a further delay of 81

days in re-filing of the appeal.

3. Learned counsel for the respondent who appears on advance notice relies on the judgment of the Supreme Court in *N.V. International vs. State of Assam & Ors*, 2019 SCC Online SC 1584 to contend that under Section 5 of the Limitation Act, maximum period that can be condoned in filing an appeal under section 37 of the Arbitration Act is 30 days.

4. It is contended that since the appeal has been filed with a delay of 50 days, the delay in filing of the appeal cannot be condoned under Section 5 of the Limitation Act.

5. Learned counsel for the appellant submits that the judgment in *N.V. International (Supra)* has been passed in the peculiar facts of the case.

6. I am unable to accept the contention of learned counsel for the appellant. The Supreme Court in *N.V. International (Supra)* has relied on the earlier judgment of the Supreme Court in *Union of India vs Varindera Const. Ltd., SLP(C) 23155/2013* which was disposed of by the Supreme Court vide its judgment dated 17.09.2018. The Supreme Court specifically laid down as a principle of law that as the appellate proceedings are continuation of the original proceedings any delay beyond 120 days in filing of an appeal under Section 37 of the Arbitration Act from an application being either dismissed or allowed

under Section 34 of the Arbitration Act should not be allowed as it would defeat the overall statutory purpose of arbitration proceedings being decided with utmost despatch.

7. The Supreme Court has specifically laid down that only a grace period of 30 days could be condoned under Section 5 of the Limitation Act.

8. In view of the fact that the subject appeal has been filed with a delay of 50 days beyond the statutory permitted period of 90 days, applying the principles of law as laid down by the Supreme Court in *N.V.International (Supra)*, the period of 50 days cannot be condoned.

9. Accordingly, the application seeking condonation of delay is dismissed. Consequently, the application seeking condonation of delay in refiling as well as the appeal are dismissed.

10. Order *dasti* under signatures of the Court Master.

FEBRUARY 13, 2020

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SANJEEV SACHDEVA, J.