

**IN THE HIGH COURT OF JUDICATURE AT PATNA
COMMERCIAL APPEAL No.1 of 2021**

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East Central Railway, through the Deputy Chief Engineer (Construction), East Central Railway, Pt. Deen Dayal Upadhyay (Mughalsarai), PIN-232101, Uttar Pradesh.

... .. Appellant/s

Versus

Arjun Engicon Pvt. Ltd., J-117, P.C. Colony, Kankarbag, Patna, PIN-800020, Bihar.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Kumar Priya Ranjan, Advocate Mr. Girish Nandan Abhishek, Advocate Mr. Ankur Apurv Singh, Advocate Mr. Vibhuti Kumar, Advocate
For the Respondent/s	:	Mr.Jitendra Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-12-2022

Petitioner has prayed for the following relief(s):-

“The present commercial appeal is being filed for setting aside the order dated 14.10.2020 (Order impugned) passed in Misc.(Arbitration) Case No. 14/2018 i.e. East Central Railway through the Deputy Chief Engineer (Construction) East Central Railway Pt. Deen Dayal Upadhyaya(Mughalsarai) Versus Arjun Engicon Pvt. Ltd., by Additional District and Session Judge, VIII cum Commercial Court, Patna, wherein the Misc.(Arbitration Case No. 14/2018 has been dismissed on grounds of limitation, non-compliance of Section 33, 34(3) and 34(5) of the Arbitration and conciliation Act, 1996.

Further, remanding the case to the learned commercial court with direction to the learned commercial court to



decide the Misc.(Arbitration) Case No. 14/2018 i.e. East Central Railway through the Deputy Chief Engineer (Construction) East Central Railway Pt. Deen Dayal Upadhyaya(Mughalsarai) versus Arjun Engicon Pvt. Ltd. on merit.”

In view of order dated 14.10.2020 passed in Misc.(Arbitration) Case No. 14/2018 titled as **East Central Railway through the Deputy Chief Engineer (Construction) ECR, Mughalsarai vrs Arjun Engicon Pvt. Ltd.**, we find the findings recorded by the learned District Judge in disposing the petition filed under Arbitration and Conciliation Act, 1996, on the ground of limitation to be perverse. The delay already stood condoned vide previous order dated 22.01.2019.

As such, we set aside the impugned order dated 14.10.2020 passed in Misc.(Arbitration) Case No. 14/2018 with the matter remanding to the authority for consideration afresh.

We direct the parties to appear before the concerned authority on 03.01.2023 at 10:30 A.M. along with a copy of this order. The authority concerned shall positively take a decision within a period of three months from the date of appearance of the parties.

Opportunity of hearing shall be afforded to the parties to place on record all essential documents and materials,



if so required and desired.

Parties through learned counsel undertakes to fully cooperate in such proceedings and not take unnecessary adjournment.

Liberty reserved to the petitioner to challenge the order, if required and desired.

Equally, liberty reserved to the parties to take recourse to such other remedies as are otherwise available in accordance with law.

We have not expressed any opinion on merits and all issues are left open.

The instant petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	25.12.2022
Transmission Date	

