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A.No.550 of 2023
in Arb.O.P(Com.Div).Dr.No.20571 of 2022

KRISHNAN RAMASAMY. J.,

This Application has been filed applicant/petitioner seeking to set aside the impugned order dated 22.12.2022 passed by the learned Master in Application No.4905 of 2022 in Arb.O.P(Com.Div).Dr.No.20571 of 2022.

2.Learned counsel appearing for the applicant would submit that he has filed the petition under Section 34 in time and he has also paid the full Court fees. However, the same was returned for compliance of certain defects. Since the learned counsel for the petitioner could not able to contact his client, there occurred a delay in re-presentation.

3.Further, learned counsel appearing for the petitioner would submit that he filed an application to condone the delay of 191 days in re-presenting the Arb.O.P(Com.Div).Dr.No.20571 of 2022. However, learned Master has dismissed the same rejected the application stating that petition under Section 34 cannot be filed after 90 days and if sufficient cause is shown it can be received within further period of 30 days and not thereafter and the same cannot be overruled by colouring the delay in re-presentation. Hence, the petitioner approached this Court.

4.Learned counsel appearing for the respondent would submit that he has no objection in allowing this application.



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5. In number of cases, this Court has held that the time limit mentioned in Section 34 of the Arbitration and Conciliation Act applies only for filing the Arb.O.P., to set aside the arbitral award and not for the re-presentation. Further, this Court has condoned the delay even if there is deficit Court fees.

6. In view of the above submissions made by either side counsel, it is seen that the Arb.O.P was filed in time and the Court fees also paid in full. Further, this Court is satisfied with the reasons stated in the affidavit filed in support of the application.

7. Accordingly, this application is allowed as prayed for and the order passed by the learned Master dated 22.12.2022 in Application No.4905 of 2022 in Arb.O.P(Com.Div).Dr.No.20571 of 2022 is set aside and the delay is condoned.

01.02.2023

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