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Appln.No.4542 of 2023 in
Arb.O.P. (Com.Div.) DR.No.111387 of 2023

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C.SARAVANAN, J.

The petitioner has filed this application for condoning the delay of 2183 days in filing the petition under Sections 47 & 49 of the Arbitration and Conciliation Act, 1996.

2.The applicant / petitioner herein is a successful Award Holder in an arbitration proceeding before the International Chamber of Commerce, ICC International Court of Arbitration in London, UK vide award dated 02.09.2014.

3.The petitioner had attempted to enforce the award earlier by approaching the Court of First Instance in Dubai. As a first step, the petitioner moved an application for ratification of the award and for attachment of the assets of the respondent.

4.It is stated by the petitioner that by an order dated 28.11.2015, the award passed by International Chamber of Commerce, International



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Court of Arbitration, London on 02.09.2014 was ratified by the Court of First Instance, Dubai and also validated the precautionary attachment of the assets of the respondent Company.

5.The said order dated 28.11.2015 appears to have challenged by the respondent before the Court of Appeal in Dubai. The Court of appeal has later dismissed the challenge to the order passed by the Court of First Instance, Dubai by its order dated 27.04.2016.

6.Meanwhile the petitioner came to know that Insolvency Proceedings were initiated against the respondent Company before the Dubai Bankruptcy Commercial Court of First Instance. In the said proceeding, the Liquidator appointed had filed a report dated 15.12.2022. In the report, it has been stated that the respondent is a Shell Company holding shares in other countries in India, UAE, Malaysia, Mauritius, England and Sri Lanka.

7.It is the case of the applicant that the applicant came to know from the report of the Liquidator recently on 14.02.2023 that the respondent Company was holding shares in Indian Companies having



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their Registered Office in Chennai. Thus, the present application has been filed.

8.The learned counsel for the petitioner has placed reliance on the decision of the Hon'ble Supreme Court in **Government of India Vs. Vedanta Limited and others**, (2020) 10 SCC 1, wherein the Hon'ble Supreme Court has held that in an award passed in an International Arbitration, decree is to be compared with a domestic award and therefore the application filed for enforcing the award has to be within the period of three years from the date of the award, in terms of Article 137 of the Limitation Act, 1963.

9.Further, the petitioner has served notice on the Liquidator appointed by the Dubai Court, which has been duly acknowledged. A copy of the same is also enclosed along with the Affidavit of Service. However, there is no response by the Liquidator.

10.Considering the above, Court is inclined to condone the delay of 2183 days in filing the captioned petition under Sections 47 & 49 of the Arbitration and Conciliation Act, 1996 and A.No.4542 of 2023 in



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Arb.O.P.(Com.Div.)DR.No.111387 of 2023 is allowed.

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11.Registry is directed to number the Original Petition, if the
papers are otherwise in order.

09.10.2023

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