

Item- 17-12-2024
4.

sg Ct. 37

FMA 1320 of 2009

Union of India
Versus
M/s. Howrah Chemical Works

1. The appellant is not represented even on the second call, nor any accommodation is prayed for on behalf of the appellant.
2. The appeal is pending since 2009 and no endeavour has been made for early disposal of the appeal. The appeal appeared on 21st February, 2012. Even on that date, the appellant was not represented. This matter has been appearing in the monthly list of November, 2024 and thereafter the matter is being listed till this date. It can be safely presumed that the appellant had due notice of this matter.
3. We have perused the impugned order. It appears that the award was passed on 12th October, 2002 and the application for setting aside of the award was filed on 1st February, 2007, which is more than four years after the passing of the award. Even if it is assumed that the appellant became aware of the award on 9th November, 2006, the application for setting aside of the award was filed on 1st February, 2007, which is beyond 120 days.
4. In view of the fact that the application for setting aside of the award is clearly barred by limitation and filed beyond 120 days, the application for setting aside of the award cannot be accepted and entertained in view of Section 34(3) of the Arbitration and Conciliation Act, 1996.

5. Although the appellant had the chance to appear and argue the matter and could have placed relevant documents to counter the findings of the learned Trial Court but the appellant has chosen not to appear.
6. In view of the above, the appeal stands dismissed. However, there shall be no order as to costs.

(Soumen Sen, J.)

(Biswaroop Chowdhury, J.)