



**FAO-640-2024** (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH**

**(109-29)**

**FAO-640-2024** (O&M)

**Date of decision:- 22.08.2024**

**M/s Haryana Gawar Gum and Chemical**

**... Appellant**

**Versus**

**Union of India and others**

**... Respondents**

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Ram Kumar Saini, Advocate  
for the appellant.

Mr. Sumit Gupta, Advocate  
for the respondents-NHAI.

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**SUVIR SEHGAL, J. (ORAL)**

**CM-2239-CII-2024**

1. For the reasons given in the application, it is allowed.
2. Delay of 145 days in the re-filing of the appeal is condoned.

**Main case**

1. This appeal has been filed under Section 37 of the Arbitration and Conciliation Act, 1996 (for short “the Act of 1996”) assailing order dated 03.04.2023, whereby learned Additional District Judge, Hisar has dismissed application, Annexure A-1, filed by the appellant, seeking condonation of delay in filing objections under Section 34 of the Act of 1996.
2. Factual matrix leading to the filing of the appeal is that land owned by the appellant was acquired for widening and four-laning of National Highway No.65, vide notification dated 05.06.2013 issued under

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Section 3A of the National Highways Act, 1956. Competent Authority Land Acquisition (CALA), Hisar announced award dated 07.05.2015 assessing compensation for the land acquired in village Choudhriwas, Tehsil and District Hisar. Dissatisfied with the Award, appellant sought reference before the Arbitrator, which has been declined by award dated 27.05.2019 by the Arbitrator-cum-ADC, Hisar. Appellant filed objections under Section 34 of the Act of 1996 before the learned Additional District Judge, Hisar, along with an application, Annexure A-1, for condoning of delay. After contest by respondents No.1 and 2, application and consequently the objections have been dismissed vide order dated 03.04.2023, which has been impugned herein.

3. Counsel for the appellant has argued that learned Additional District Judge has erred in dismissing the application for condonation without considering the explanation given by the appellant for the delay in filing the objections. He has sought setting aside of the order under challenge. Appeal has been opposed by counsel for NHAI.

4. I have heard counsel for the parties and considered their arguments.

5. The sole question to be considered is whether provisions of Section 5 of the Limitation Act, 1963 are applicable to objections filed under the Act of 1996. This matter is no longer *res integra* and has been answered by the Supreme Court in a number of cases.

6. Section 34 (3) of the Act of 1996 provides a period of limitation of three months for preferring objections from the date of receipt of the

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signed copy of the Award by the appellant, which can be further extended by another period of 30 days, if the party challenging the Award is able to show sufficient cause. This is the settled legal position. In ***Union of India Versus M/s Popular Construction Company, 2001 AIR (SC) 4010; Consolidated Engineering Enterprises Versus Principal Secretary, Irrigation Department and others, (2008) 7 SCC 169; M/s Simplex Infrastructure Limited Versus Union of India, 2019 (1) RCR (Civil) 205,*** and ***Mahindra and Mahindra Financial Services Limited Versus Maheshbhai Tinabhai Rathod and others, (2022) 4 SCC 162,*** Supreme Court has held that the limitation for filing objections is prescribed under Section 34 of the Act of 1996 and the extent to which it can be condoned is also circumscribed. It has been clarified that Section 5 of the Limitation Act, 1963, is not applicable to condone the delay beyond the period prescribed under Section 34 (3) of the Act of 1996. The result is that application under Section 5 of the Limitation Act, 1963, is ousted by proviso to Sub-Section 3 of Section 34 of the Act of 1996.

7. Adverting to the factual position in the instant case, appellant could not dispute that the certified copy of the award was delivered to him on 25.07.2019 and the objections were preferred on 02.09.2020. The objections were clearly beyond the period of limitation specified in Section 34 of the Act of 1996. Although, application for condonation of delay has been moved, but in view of the settled position of law as noticed above, the delay could not be condoned as the application for condonation of delay was not maintainable. This Court, therefore, does not find any illegality or



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infirmity in the impugned order passed by the learned Additional District Judge, Hisar, which is affirmed.

8. Finding no merit in the appeal, it is dismissed with no order as to costs.

**(SUVIR SEHGAL)**  
**JUDGE**

22.08.2024  
*Kamal*

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|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |