



2024:DHC:4955



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **O.M.P. (COMM) 94/2023**
M/S RAVINDER KUMAR YADAV Petitioner

Through: None

versus

**TELE COMMUNICATIONS CONSULTANTS
INDIA LTD.** Respondent
Through: Mr. Nikhilesh Krishnan and
Mr. Abhishek Bhushan Singh, Advs.

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

% **02.07.2024**

O.M.P. (COMM) 94/2023

1. This is a petition under Section 34(1)¹ of the Arbitration and Conciliation Act, 1996 ("the 1996 Act"), challenging an arbitral award passed on 26 January 2020.

2. The petitioner had initially filed a Section 34 petition before the Saket Court on 20 March 2020, which was within the period of limitation envisaged in Section 34(3)² of the 1996 Act.

¹ **34. Application for setting aside arbitral award. –**

(1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3).

² (3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under Section 33, from the date on which that request had been disposed of by the arbitral tribunal:

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.

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3. On 27 August 2022, the learned District Court at Saket dismissed the Section 34 petition on the ground that it lacks pecuniary jurisdiction.

4. The petitioner, thereafter, filed the present petition before this Court on 28 January 2023. Section 34(3) of the 1996 Act does not permit entertaining of any application challenging the award after three months from the date by which the party concerned (the petitioner) received the arbitral award, subject to condonation of upto 30 days, in case the Court is satisfied that sufficient cause exists to do so.

5. No date of receipt of the impugned arbitral award is forthcoming from the record.

6. It is clear that, even if the time during which the proceedings remained pending before the Saket Court are excluded from consideration, the present petition has been filed beyond 120 days from the date of passing of the impugned award.

7. It was in these circumstances that the coordinate Bench of this Court, by order dated 18 January 2024, directed the petitioner to satisfy the Court that the present petition was not barred by time. On the next date, i.e. 9 April 2024, an adjournment was sought to address this issue, on the ground that the Counsel who was to argue the matter was not available.

8. The matter was adjourned to 1 July 2024.

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9. Yesterday, a Counsel appeared and stated that the Counsel who had to argue the matter was held up elsewhere, whereon the Court listed the matter for today.

10. Today, the matter has been called out twice. There is no appearance on behalf of the petitioner at either call.

11. It is clear, therefore, that the petitioner has no answer to the query, from the Court, as to how this petition can be entertained even beyond 120 days from the date of passing of the award under challenge.

12. The present petition, is therefore, clearly barred by time. It is accordingly dismissed.

I.A. 4055/2023 (permission to file present petition)

13. The application does not survive for consideration and stands disposed of.

C.HARI SHANKAR, J

JULY 2, 2024

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Click here to check corrigendum, if any

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