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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO (COMM) 124/2024, CM No.36556/2024 & 36557/2024**
UNION OF INDIAAppellant

Through: Mr. Rakesh Kumar, CGSC alongwith
Mr. Sunil, Advs.

Versus

M/S ISGEC HEAVY ENGINEERING LTD.Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **03.07.2024**

CM Nos.36558/2024 & 36559/2024 (both for exemption)

1. Exemption allowed subject to all just exceptions.
2. Applications stand disposed of.

FAO (COMM) 124/2024

3. The appellant has filed the present appeal under Section 37(1)(c) of the Arbitration and Conciliation Act, 1996 (hereafter *the A&C Act*) impugning an order dated 20.04.2024 passed by the learned Commercial Court. By the impugned order, the learned Commercial Court had rejected an application filed by the appellant under Section 34 of the A&C Act, to set aside the Arbitral Award dated 30.08.2023 (hereafter *the impugned award*).

4. The learned Commercial Court had found that the appellant's application to set aside the impugned award had been filed beyond the maximum period stipulated under Section 34(3) of the A&C Act, and further noted that the delay could not be condoned in terms of the proviso to Section 34(3) of the A&C Act.

5. We find no infirmity with the view taken by the learned Commercial Court. Admittedly, a copy of the impugned award was received by the



appellant on 01.09.2023. The application to set aside the impugned award was filed only on 14.02.2024. In terms of Section 34(3) of the A&C Act, the said application could have been filed within a period of three calendar months from the date of receipt of the impugned award, which expired on 01.12.2023. In terms of the proviso to Section 34(3) of the A&C Act, the application under Section 34 of the A&C Act could have been filed within a further period of 30 days, subject to the delay beyond 03 months being condoned by the Court upon sufficient cause being shown. Even this 30 days period expired on 30.12.2023. Any delay in filing beyond the period of 03 months plus 30 days, cannot be condoned by the Court.

6. Thus, in the present case, the application was hopelessly time barred when it was filed and the delay could not have been condoned by the Court. This question is no longer *res integra*. The Supreme Court in the case of ***Union of India v. Popular Construction 2001 8 SCC 470*** has authoritatively held that the court has no jurisdiction to condone the delay beyond the period of 30 days after the expiry of 03 months from the date of receipt of the impugned award.

7. In view of the aforesaid circumstances, the appeal lacks merit, and is accordingly dismissed.

8. All the pending applications also stand dismissed.

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 03, 2024

‘at’