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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ O.M.P. (COMM) 467/2023, I.A. 22884/2023, I.A. 22883/2024

UNION OF INDIA THROUGH GENERAL MANAGER

NORTHERN RAILWAY

..... Petitioner

Through: Mr. Subhash Tanwar, CGSC with Mr.
Sandeep Mishra, Mr. Ashish
Choudhary, Advs.

versus

GATEWAY DISTRI PARKS LTD FORMERLY RAIL FREIGHT

LTD

..... Respondent

Through: Mr. Sanjeev Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

09.04.2024

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1. This is a petition under section 34 of the Arbitration and Conciliation Act, seeking to challenge the award dated 20.02.2023.
2. As per the order dated 11.12.2023, it was recorded as under:

“I.A. 22885/2023 (for delay in filing the petition)”

1. The impugned order was passed by the Arbitrator on 20th February, 2023. Counsel for Petitioner states that the requisite stamp duty was deposited on 1st March, 2023, and the award was received by the Petitioner only on 18th April, 2023. Thus, even if 19th April, 2023 is assumed to be the date of commencement for the limitation for filing the present petition under Section 34(3) of the Arbitration and Conciliation Act, 1996 (“Act”), prima facie, the petition seems to be barred by limitation as the same has been filed on 31st October, 2023. The date of filing is clearly beyond three



months provided in Section 34(3) of the Act but also beyond the overall condonable limit provided in the proviso to the aforementioned Section.

2. Counsel for the Petitioner seeks time to verify the facts of the case and examine the case law on this issue. Let a copy of the petition be supplied by counsel for Petitioner to counsel for the Respondent.

3. At his request, list on 14th December, 2023.”

3. It is stated by learned counsel for the respondent that there is a delay of 102 days in filing the present petition as the petitioner is Northern Railways, Firozpur, Punjab division and due to various visits of officials from Punjab to Delhi regarding the collection of various documents, delay occurred in filing the present petition.

4. The law is clear in this regard. The Supreme Court in **Assam Urban Water Supply & Sewerage Board v. Subash Projects & Mktg. Ltd** [(2012) 2 SCC 624]; **State of Maharashtra v. Hindustan Construction Co. Ltd** [(2010) 4 SCC 518], etc has repeatedly held that the Court cannot condone the delay beyond 120 days (including 30 days period on sufficient cause being shown). The relevant portion in **Assam Urban Water Supply & Sewerage Board** (supra) reads as under:-

“8. Recently, in State of Maharashtra v. Hindustan Construction Co. Ltd. [(2010) 4 SCC 518 : (2010) 2 SCC (Civ) 207] , a two-Judge Bench of this Court speaking through one of us (R.M. Lodha, J.) emphasised the mandatory nature of the limit to the extension of the period provided in the proviso to Section 34(3) and held that an application for setting aside an arbitral award under Section 34 of the 1996 Act has to be made within the time prescribed under sub-section (3) of Section 34 i.e. within three



months and a further period of 30 days on sufficient cause being shown and not thereafter.”

5. For the said reasons, keeping in view the settled law and in view of the fact that delay beyond three months plus 30 days is non-condonable, the application seeking condonation of delay in filing the present petition is dismissed.

6. Consequently, the petition under section 34 is also dismissed.

JASMEET SINGH, J

APRIL 9, 2024/DM

[Click here to check corrigendum, if any](#)