



2024:DHC:7176-DB



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

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*Date of decision: 17.09.2024*+ **FAO(OS) (COMM) 172/2024****ATC TELECOM INFRASTRUCTURE PVT LTD .....Appellant**

Through: Mr Tishampati Sen with Ms Riddhi Sacheti, Mr Anurag Anand and Mr Mukul Kulhari, Advocates.

versus

**MAHANAGAR TELEPHONE NIGAM LIMITED .....Respondent**

Through: Mr Chandan Kumar with Mr Vikram Sharma, Advocates.

**CORAM:****HON'BLE MR JUSTICE RAJIV SHAKDHER****HON'BLE MR JUSTICE AMIT BANSAL****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J.: (ORAL)**

**CM No. 45538/2024 [Application filed on behalf of the appellant seeking condonation of delay of 4 days in filing the appeal]**

1. This is an application filed by the appellant seeking condonation of delay in filing the appeal.
2. According to the appellant, there is a delay of four (4) days in filing the appeal.
3. Counsel for the respondent says that he would have no objection if the delay is condoned.
4. For the reasons given in the application, the delay in filing the appeal is condoned.



5. The application is disposed of.

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6. This appeal is directed against the judgment and order dated 20.05.2024 passed by the learned Single Judge in a petition preferred under Section 34 of the Arbitration and Conciliation Act, 1996 [in short “1996 Act”].

7. The appellant filed the said petition to assail the award dated 09.03.2024. The learned Single Judge, while entertaining the petition, issued notice with regard to only one aspect, i.e., the period for which interest needed to be granted *qua* claim no. 2.

8. It is the submission of the counsel for the appellant that there were other aspects concerning which the Section 34 petition was filed.

8.1 It is in this context that our attention has been drawn by the counsel for the appellant to prayer clause a) of the petition to establish that a challenge was laid concerning claim no. 1 as well.

9. On the other hand, Mr Chandan Kumar, who appears on behalf of the respondent, says that the manner in which the hearing proceeded would show that the challenge was confined only to the aspect on which notice was issued by the learned Single Judge *via* the impugned judgment and order dated 20.05.2024.

10. In our view, given the stage at which the Section 34 petition is positioned, we need not delve into the issue as to whether or not the appellant had assailed the subject award *vis-à-vis* claim no. 1 since there is no observation in the impugned judgment and order which would suggest otherwise.

11. Therefore, the appeal is disposed of with the following directions:



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i) The learned Single Judge would allow the appellant to agitate, if deemed necessary, other grounds taken in the Section 34 petition.

ii) The learned Single Judge shall, after giving due opportunity to the respondent, rule as to whether or not notice needs to be issued *vis-à-vis* other grounds of challenge.

12. It is not in dispute, as indicated above, that other grounds of challenge would center around claim no. 1.

13. Since the petition is listed before the concerned roster bench on 19.09.2024, the appellant would be at liberty to place its submissions *via* counsel before the learned Single Judge on the aforesaid date.

**RAJIV SHAKDHER, J**

**AMIT BANSAL, J**

**SEPTEMBER 17, 2024/tr**