



\$~6

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

+ **O.M.P. (COMM) 2/2024 & I.A. 134-137/2024**

UNION OF INDIA

..... Petitioner

Through: Mr. Vineet Dhanda, CGSC.

versus

M/S PNSC INFRASTRUCTURE P. LTD .

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

%

04.01.2024

O.M.P. (COMM) 2/2024 & I.A. 135/2024

1. This petition, under Section 34 of the Arbitration and Conciliation Act, 1996 [“the Act”], has been filed by the Union of India [“UOI”] against an arbitral award dated 20.07.2021.
2. Although, the petitioner has filed I.A. 135/2024 seeking condonation of delay of 8 days in filing of the petition, the delay in fact, appears to be far longer.
3. The relevant facts for the purpose of computation of delay are as follows:-

Date	Particulars	Reference
20.07.2021	The Award was made and received by the petitioner.	Stamp at page 30 of the petition.
28.10.2021	A petition under Section 34 of the Act was filed by the petitioner before the District Court, Tis Hazari.	Filing date at page 173 of the petition.
18.07.2023	The learned District Court	Page 145 of the

O.M.P. (COMM) 2/2024

Page 1 of 3



	returned the petition to the petitioner on the ground that it had no jurisdiction to entertain the petition, with a direction to file the same before this Court within 30 days.	petition.
04.10.2023	The petitioner applied for a certified copy of the order of the learned District Court dated 18.07.2023.	Paragraph 2(f) of I.A. 135/2024
17.10.2023	The certified copy of the aforesaid order was received by learned counsel for the petitioner.	Paragraph 2(f) of I.A. 135/2024
27.11.2023	The present petition was filed in this Court.	

4. Under Section 34(3) of the Act, the period of limitation for filing of a petition for setting aside of an Award is 3 months. The aforesaid period can be extended by a maximum period of 30 days in terms of the proviso to Section 34(3) of the Act.

5. In the present case, the facts mentioned above show that a period of 3 months and 7 days had lapsed before the petitioner filed the petition in the District Court. The matter remained pending before the learned District Court until 18.07.2023. Proceeding on the basis that the petitioner is entitled to exclusion of this entire period from the computation of limitation, under Section 14 of the Limitation Act, 1963, the petition ought to have been filed in this Court within 23 days thereafter, i.e. by 10.08.2023, or, at any rate, within the period of 30 days granted by the District Court. The petition was in fact filed only on 28.11.2023, i.e. after a period of more than 3 months thereafter.



6. Mr. Vineet Dhanda, learned Central Government Standing Counsel for UOI, points out that some time was taken in obtaining the certified copy of the order of the District Court dated 18.07.2023. As mentioned above, that period was of 13 days [04.10.2023 to 17.10. 2023]. It is clear from these dates that no application had even been made on behalf of the petitioner, for a certified copy of the order, before the maximum condonable period of delay had already lapsed, or within the period granted by the learned District Court for filing of the petition in this Court. Thus, even if the benefit of this period is also given to the petitioner under Section 12(3) of the Limitation Act, 1963, the present petition has still been filed well out of time.

7. The judgments of the Supreme Court in *Oriental Insurance Co. Ltd. v. Tejparas Associates & Exports (P) Ltd.*, (2019) 9 SCC 435 and *Mahindra & Mahindra Financial Services Ltd. v. Maheshbhai Tinabhai Rathod*, (2022) 4 SCC 162 clearly hold that the Court has no jurisdiction to extend the period of limitation for filing of a petition under Section 34 of the Act beyond the period of 3 months, plus 30 days, specified in the proviso to Section 34(3) of the Act.

8. Thus, looked at from any angle, the present petition is belated beyond the maximum condonable period of delay. I.A. 135/2024 is, therefore, rejected.

9. Consequently, the petition and all pending applications stand disposed of.

PRATEEK JALAN, J

JANUARY 4, 2024

SS/