



2024:DHC:9596-DB



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

Date of decision: 10.12.2024

+ **FAO (COMM) 238/2024**
UNION OF INDIA

.....Appellant

Through: **Mr.Balendu Shekhar, CGSC**
with Mr.Krishna Chaitanya and
Mr.Rajkumar Maurya, Advs.

versus

ENKAY ENTERPRISES

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

CM APPL. 72452/2024 (Exemption)

1. Allowed, subject to all just exceptions.

CM APPL. 72451/2024

2. This application has been filed by the appellant seeking condonation of delay of 29 days' in filing of the present appeal.

3. For the reasons stated in the application, the delay is condoned.

4. The application is disposed of.

FAO (COMM) 238/2024 & CM APPL. 72449/2024, CM APPL.72450/2024

5. This appeal has been filed challenging the Order dated 12.08.2024, passed by the learned District Judge (Commercial)-02, Central District, Tis Hazari Courts, Delhi, in OMP (COMM) 10/2024,



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titled *Union of India (Through COFMOW, Indian Railway) v. Enkay Enterprises*, dismissing the said petition filed by the appellant herein under Section 34 of the Arbitration and Conciliation Act, 1996, (hereinafter referred to as the, 'Act') as being barred by the limitation provided under Section 34(3) of the Act.

6. Admittedly, the Arbitral Award challenged in the above petition was passed on 10.06.2023. The appellant itself claimed that the Award was published on 11.08.2023, and the information regarding the same was received by the appellant on 22.08.2023. The petition under Section 34 of the Act, however, was filed only on 30.01.2024, that is, beyond the period of three months from the date of receipt of the Arbitral Award, as provided under Section 34(3) of the Act, and even beyond the period of 30 days thereafter, which is the maximum delay that can be condoned by the Court in terms of the Proviso to Section 34 (3) of the Act.

7. Accordingly, the learned District Judge was pleased to dismiss the petition filed by the appellant as being barred by limitation.

8. The learned counsel for the appellant submits that there are glaring errors in the Impugned Award, which has been passed against the public policy of India. He submits that the delay in filing of the petition should have been condoned by the learned District Judge.

9. We are afraid that the said submission cannot be considered as the petition under Section 34 had been filed by the appellant beyond the prescribed period and has been rightly rejected by the learned District Judge. We, therefore, find no infirmity in the Impugned Order.



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10. The appeal and the pending applications are accordingly dismissed.

NAVIN CHAWLA, J

SHALINDER KAUR, J

DECEMBER 10, 2024/sg/DG

click here to check corrigendum, if any