

Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Uday Kumar

FMAT 43 of 2025
IA No: CAN 1 of 2025
CAN 2 of 2025

Union of India
Vs.
M/s Venus Engineering Concern PVT Limited

For the UOI : Mr. Asis Mukherjee,
Ms. Debjani Ghosal

For the respondent : Mr. Tapas Kr. Dey

Heard on : 13.03.2025

Judgment on : 13.03.2025

Sabyasachi Bhattacharyya, J.:-

1. IA No: CAN 1 of 2025 is an application for condonation of delay in preferring FMAT 43 of 2025. The said appeal itself has been preferred against an interlocutory order passed in a proceeding under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as "the said Act"). However, since appeal is a creature of statute and there is no provision for challenging an interlocutory order passed in connection with an application under Section 34 of the said Act, the present appeal itself is not maintainable. Hence, instead of

prolonging the agony of the parties by keeping the appeal pending, we hold that the appeal is not maintainable.

2. Accordingly, IA No: CAN 1 of 2025 is dismissed.
3. In view of the above observations, FMAT 43 of 2025 and CAN 2 of 2025 are also dismissed as not maintainable.
4. Leave, however, is granted to the appellant to prefer a properly constituted challenge before the appropriate court/Bench against the impugned order, as per law. Nothing in this order shall prevent such a challenge, if otherwise maintainable in law. If such a challenge is preferred, the court taking up the same shall decide it independently in accordance with law without being influenced by the dismissal of the present appeal and the connected applications.
5. Leave is granted to the appellant to take back the certified copy of the impugned order upon furnishing a photocopy of the same for the records.
6. There will be no order as to costs.
7. Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)