

D/L.19.
September 24, 2025.
MNS.

CO No. 681 of 2024

M/s Mahesk-E-Punjab Retreat Pvt. Ltd.
Vs.
Aryan Dhatu Pvt. Ltd

Mr. Sounak Sengupta,
Mr. Amar Singh,
Mr. Rahul Deb Banerjee,
Ms. Sanchita Bera

... for the petitioner.

Mr. Aniruddha Chatterjee, Sr. Adv.,
Mr. Pankaj Agarwal,
Mr. Parikshit Lakhotia,
Mr. Soham Saha

...for the opposite party.

1. The present revisional application has been preferred against an order whereby the learned Trial Judge dismissed an application for condonation of delay in filing an application for restoration of a petition under Section 34 of the Arbitration and Conciliation Act, 1996 (in short "the 1996 Act").
2. The brief facts are that the Section 34 application was rejected by the concerned court on March 2, 2021. Thereafter, an application for restoration was filed only on

April 3, 2023, along with an application for condonation of delay in filing the same.

3. Learned counsel appearing for the petitioner seeks to place reliance on the different orders passed by the Supreme Court during the Covid-19 pandemic period, extending the limitation period for filing all applications during the said period.
4. It is submitted that during the said period, the brother of the deponent in the application for condonation of delay met his demise.
5. That apart, the petitioner had relied on the learned Advocate for the petitioner in the court taking up the Section 34 application.
6. Despite being assured by such Advocate that the matter was taken care of, the petitioner was left “aghast” when it was discovered much after that the same was dismissed for default.
7. The learned Trial Judge, while dismissing the said application, disbelieved the grounds taken in the application.
8. It was recorded in the impugned order that the judgment-debtor/petitioner has been deliberately keeping himself abstained

from satisfying the particular terms of the award.

9. It was also observed by the learned Trial Judge that in another case, being an execution case pending before the First Court of learned Civil Judge (Senior Division) at Barasat, the petitioner had filed a put-up petition on February 10, 2022 and prayed for time to file written objection and on March 25, 2022 filed another petition seeking time to file written objection.
10. It is argued by the petitioner that the petitioner relied on his Advocate and as such it was beyond the control of the petitioner that delay was occasioned in taking out the restoration application.
11. Learned senior counsel appearing for the opposite party takes a preliminary objection as to the maintainability of the application since no appeal or application under Article 226/227 of the Constitution lies in respect of a proceeding under the 1996 Act.
12. Learned senior counsel also disputes the contentions of the revisionist petitioner on merits.

13. Insofar as the objection as to maintainability is concerned, the same cannot be accepted.

14. On a conjoint reading of Section 5 of the 1996 Act and Section 37 of the said Act, it is evident that the legislative intent is to curb judicial intervention, unless specifically provided for in the 1996 Act. Section 37 of the 1997 Act is the only appellate provision in the Act. However, it does not provide for an appeal in connection with a rejection of a restoration application or connected application for condonation of delay.

15. However, since there is no specific provision within the four corners of the 1996 Act for restoration of an application under Section 34 of the 1996 Act and/or adjudicating on an application for condonation of delay in filing the same, strictly speaking, the impugned order does not come within the legislative regime envisaged under the 1996 Act and the Court taking up an application under Section 34 of the said Act, acts as a civil court within the contemplation of the 1996

Act, having inherent power to consider an application for restoration and/or an application for condonation of delay thereof.

16. Thus, there is no bar in the 1996 Act for judicial interference against an order rejecting an application for condonation of delay in filing a restoration application. Thus, the present revisional application is maintainable.

17. However, a bare perusal of the grounds taken by the revisionist petitioner in the restoration application and the connected application for condonation of delay indicates that the total blame of the delay has been cast on the learned Advocate conducting the litigation at the relevant point of time on behalf of the petitioner.

18. Choicest adjectives have been used for the learned Advocate for the petitioner in the Trial Court while giving such explanation, including that there were laches on the part of the learned Advocate and the petitioner was aghast upon coming to know of the negligence of the learned Advocate. The application for condonation

of delay also states that the petitioner was shocked after finding that, because of the lackadaisical approach on the part of the Advocate, the dismissal for default to the Section 34 application took place.

19. However, the petitioner has failed abjectly to substantiate such allegations by cogent materials or evidence.

20. Moreover, the learned Court taking up the condonation application has considered the fact, as substantiated by the opposite party, that the petitioner was all along represented in different court proceedings during the relevant period of delay, thus belying the petitioner's grounds for not being able to file the restoration application in time.

21. That apart, there is nothing in the application for condonation of delay to substantiate that the petitioner itself, through its agents, was diligent throughout the period in conducting its litigation.

22. The demise of the brother of the deponent, cited in the application for condonation of delay, took place on August 2, 2021, during the thick of the Pandemic period

and as such, has no material bearing in view of the Supreme Court orders prolonging the time for filing applications coming to the aid of the petitioner in any event. However, such relaxation granted by the Supreme Court ended on May 20, 2022 and the prolonged delay of almost a year between the said date and April 3, 2023, when the restoration application was filed, has not been satisfactorily explained at all.

23. Learned counsel for the petitioner seeks to rely on the proposition of law that the litigant cannot be made to suffer for the laches on the part of the Advocate.

24. Although there cannot be any quarrel with such proposition, the said principle does not come to the aid of the petitioner in view of the negligent conduct of the petitioner which is evident from the explanations sought to be given in the condonation application itself in the present case.

25. Thus, I do not find any illegality or jurisdictional error in the impugned order, whereby the application for condonation of delay and, consequentially, the restoration

application filed by the petitioner were dismissed.

26. Hence, CO No. 681 of 2024 is dismissed on contest, thereby affirming the impugned order, bearing Order No. 7 dated February 2, 2024 passed by the learned Judge, Commercial Court at Rajarhat, District: North 24-Parganas in Miscellaneous Case 33 of 2023 (CC).

27. There will be no order as to costs.

28. 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.)