

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO.2317 OF 2024

IN

COMMERCIAL ARBITRATION PETITION (L) NO.16340 OF 2024

Ganesh Benzoplast Ltd.

...Applicant

Versus

Indorama Synthetic India Ltd.

...Respondent

Mr. Amey Deshpande, *Advocate for Applicant.*

Mr. Shyam Dewani (*through VC*) *i/b. Dewani Associates,*
Advocate for Respondent.

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 31, 2025

PC :

1. This is an Application seeking condonation of delay in filing an Application under Section 34 of the Arbitration and Conciliation Act, 1996 (“***the Act***”) to challenge an Arbitral Award dated December 30, 2023.

2. According to Learned Counsel for the Applicant, the Arbitral Award was received on January 24, 2024 and by computing 90 days from that date, according to the Applicant, the three months period referred to in Section 34 expired on April 23, 2024. Learned Counsel

concedes that even if one were to not count a period of 90 days and instead count the period of three months, the date would be April 24, 2024. According to him, another 30 days from that date would be May 23, 2024 whereas he filed the application on May 3, 2024. Consequently, he submits that for the reasons set out in the Application, the period of delay must be condoned.

3. There is strong opposition for such condonation of delay from Learned Counsel for the Respondent who submits that the filing of the application was actually on May 13, 2024, but according to him, even this date is not the date of filing because when the application under Section 34 was filed, the petition was not accompanied by any application seeking condonation of delay. It was when the Registry raised objections that eventually, on June 14, 2024, an application seeking condonation of delay giving reasons was filed. If this date were to be taken, according to Learned Counsel for the Respondent, the period in which it has been filed in 144 days and not the period of 120 days, which is the outer limit beyond which this Court has no power to grant condonation of delay.

4. Upon a review of the record, I find that the Petition has indeed been filed within the time stipulated, and the absence of an application being taken out cannot by itself lead to the precious right to challenge

being negated. The Registry has raised an objection after which the application seeking condonation has been filed, but the test to be determined is whether the petition was within such period in which this Court has the power to condone. Since the Petition was filed within 30 days of the expiry of the three months since the receipt of the Arbitral Award, there is indeed power to condone.

5. Having heard Learned Counsel for the parties and having perused the record, it is apparent that the grounds submitted by the Respondent are not very robust. However, considering that this is a discretionary power and I have the part to impose costs to allow condonation, the condonation of delay is hereby granted subject to payment of costs in the sum of Rs.2,50,000/- to the Respondent.

6. If such costs are paid within a period of two weeks from the date on which this order is uploaded on the website of this Court, the delay shall stand condoned, and the Petition may be processed for listing for further consideration by the Court.

7. This Interim Application is ***finally disposed of*** in the aforesaid terms.

8. Subject to payment of costs as directed, list Commercial Arbitration Petition (L) No.16340 of 2024 under the caption “***Case Management Hearing***” on ***February 27, 2025***.
9. All actions required to be taken pursuant to this order, shall be taken upon receipt of a downloaded copy as available on this Court’s website.

[SOMASEKHAR SUNDARESAN, J.]