

varsha

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 7270 OF 2025
IN**

ARBITRATION PETITION (L) NO. 1683 OF 2023

Navodaya Enterprises ... Applicant/Petitioner

vs.

Tata Motors Finance Solution Limited ... Respondent

Mr. Mohammed Zain Khan a/w. Mr. Ashraf Kapoor i/b. One Legal for
Petitioner/Applicant

Mr. Janay Jain a/w. Mr. Gaurav Jangle, Mr. Siddhant Dalvi i/b. IV
Merchant and Co. for the Respondent.

CORAM : GAURI GODSE, J.

DATED : 16th DECEMBER 2025

ORDER:

1. This application is for condonation of the delay of 25 days in filing the arbitration petition under Section 34 of the Arbitration and Conciliation Act, 1996 ('**Arbitration Act**'). It is the applicant's case that the award dated 4th August 2022 was received by the applicant on 10th September 2022. The three-month period provided under sub-section (3) of Section 34 expired on 10th December 2022, and the further period of thirty days provided under the proviso expired on 9th January 2023. According to the applicant, the arbitration petition was filed on 5th January 2023, which is within the further thirty days provided under the proviso to sub-section (3) of Section 34 of the Arbitration Act.

2. Learned counsel for the applicant submits that from 1st January 2023, the filing of all arbitration petitions was made compulsory through the e-filing portal. Accordingly, the petition was filed on 5th January 2023 through the e-filing portal.

3. On 8th September 2025, due to technical issues, this court was unable to access the soft copies of the proceedings; hence, the physical hard copy of the petition and the applications were taken on record. On 21st November 2025, the parties were permitted to submit legible copies, as the pages of the e-filing history relied upon by the parties were illegible or overprinted with a stamp at the bottom of the pages. When the original notarised Interim Application (L) No. 3638 of 2025 was tendered in court, it was noted that the dates in the copy uploaded at the time of filing differed from those in the original notarised copy. The original notarised copy was neither signed by the advocate nor by the deponent. The original notarised copy of the application, without the signatures, was taken on record and marked 'X-1' for identification, and a photocopy of the uploaded PDF was taken on record and marked 'X-2' for identification. Accordingly, the learned Prothonotary and Senior Master was directed to make a necessary inquiry by calling for an explanation from the concerned notary.

4. In the meantime, the learned advocate for the applicant tendered a personal affidavit tendering an unconditional apology. The personal affidavit of the concerned notary tendering unconditional apology was also tendered in the court. In the personal affidavit of the learned advocate for the applicant, the explanation regarding uploading the signed copy of the notarised application is stated in paragraph no. 6, which reads as under:

“6. I further say that thereafter the said IA was e-filed by the clerk and I was under a bonafide impression that the same has been filed duly notarized as required as per the Original Side, Bombay High Court Rules and the E-filing Rules. In this backdrop, being unaware of the fact that signatures is not obtained on the said IA, the original copy of the same was submitted/tendered in this Hon’ble Court during hearing when this Hon’ble Court took cognizance of the same and directed the Ld. Prothonotary & Senior Master to issue notice to the notary advocate namely Adv. Obaidullah Azmi, which came as a shock and upon enquiry with my office clerk it was informed that being under pressure the said IA was e-filed by affixing impression of my signature as well as the signature of Mr. Naganand Hegde in the scan pdf copy of the said IA and had e-filed it but did not inform me about the same.”

5. Thus, the explanation given by the learned advocate is that his clerk at the time of e-filing affixed the impression of his signature and the signature of the deponent (applicant) in the scanned PDF copy of the interim application and e-filed it. It is necessary to record that, in addition to the signatures being affixed as impressions, the month of the Award mentioned in the notarised copy, and the PDF

differ. However, there is no explanation for the changes made to the Award month.

6. In the personal affidavit of the learned Notary tendering unconditional apology, he states that he has tendered his explanation before the learned Prothonotary and Senior Master. He has further stated that the action of not obtaining signatures on the original document was a mistake, which was purely due to oversight. In the written reply dated 11th December 2025, the notary has stated that the affidavit in support of the interim application is mentioned at Serial No. 42 of the notary register, and that the interim application for condonation of delay filed in the arbitration petition was affirmed and notarised by him, as can be seen at serial no. 41 on page 10 of the notary register. He further submits that the notary register mentions serial nos. 41 and 42, stating the interim application in the arbitration petition, there is only one verification in the interim application, which was notarised, against which the signature has been duly obtained as mentioned at serial no. 41 of the notary register, and on account of non-filing of an affidavit in support of the interim application, no signature is required at serial no. 42. The extract of the notary register is attached by the learned Prothonotary and Senior Master in his report.

7. Thus, as per the affidavit of the Notary, it appears that the signature of the Notary and the deponent is seen in the column against serial no. 41. Serial No. 42 shows the entry of the arbitration petition and affidavit-in-support of verification. However, no signature is recorded in the register at serial no. 42. A perusal of the record of the arbitration petition shows that the arbitration petition was affirmed on 30th December 2022 before the notary at Karnataka. The affidavit-in-support of the arbitration petition is also seen to have been notarised at Karnataka on 30th December 2022. Hence, the entry made by the learned Notary at serial no. 42 in his register as 'Arbitration Petition(L) No. 1683 of 2022 Affidavit-in-Support verification' conveys no meaning. The arbitration petition is allotted a lodging number on 18th January 2023. Hence, there appears to be no reason to make an entry of the affidavit-in-support verification of the arbitration petition in the register. The entries made in the register are therefore clear that, without verifying the documents and identifying the deponent, the learned notary has made entries in the register.

8. In the report dated 15th December 2025, prepared by the learned Prothonotary and Senior Master, all the particulars about the communication with the notary and his reply are mentioned with a remark that the learned notary has tendered his unconditional

apology with an explanation that, due to pre-occupation of his work inadvertently he has notarised the said document without obtaining signature of the advocate and party.

9. It is shocking to note the manner in which the application was sought to be notarised and e-filed. It is grossly inappropriate for the Notary to affix his seal and stamp to the document/affidavit without first verifying it and without the deponent signing it. Under the Notaries Act, 1952, the function of notaries is to solemnise and administer oaths and verify documents and affidavits as contemplated under Section 8 of the Notaries Act, 1952. The duly notarised documents are presumed genuine, which may affect the rights of the parties concerned. The Notary, therefore, cannot act casually. Any casual or negligent act by the Notary cannot be acceptable and cannot be taken lightly. Such an act of the Notary of affixing the seal and his signature on the affidavit without the deponent signing it in the presence of the Notary is illegal and not in accordance with the law. Such acts can have serious repercussions. Hence, the unconditional apology tendered by the concerned Notary cannot be accepted. Learned Prothonotary and Senior Master shall forward copy of this order to the learned Under Secretary, Notary Cell, Department of Legal Affairs, Ministry of Law and Justice, Government of India for appropriate action, as contemplated under

the Notaries Act, 1952 and the rules framed thereunder.

10. There is another shocking aspect observed while dealing with this application. Because there is a discrepancy between the original notarised copy of the application and the PDF uploaded for e-filing, to verify the difference, when this court tried to access the file shared on the Google Drive, the files shared by the concerned department did not contain serial numbers. Accordingly, a query was made regarding why the files are shared without serial numbers, as it is time-consuming to search for the relevant file on Google Drive. Instead of providing an explanation for sharing the files without serial numbers, the concerned clerk changed the file names while this court was accessing the files on Google Drive. It is therefore shocking that the original court records that are compulsorily e-filed are accessed by the concerned department when the original record is in the custody of the court while conducting court hearings.

11. The learned Registrar of the concerned department shall therefore verify the relevant rules and the permission granted to the concerned department/clerk for accessing the court files after they are shared with the court for matters scheduled for hearing on a fixed date as per the causelist. If such access is granted to the concerned clerk, it is necessary to re-examine the procedure. When

a matter is physically filed, the original court record is in safe custody of the concerned department, and after it is transmitted to the Court, it cannot be accessed except with the leave of the Court. The learned Registrar of the concerned department shall therefore verify the procedural aspect and submit a report.

12. The application for condonation of the delay in filing the arbitration petition is pending. The date of filing the interim application is important. If the arbitration petition is accepted as filed on 5th January 2023, as contended on behalf of the petitioner, it would fall within the permissible extended time provided under the proviso to sub-section (3) of Section 34 of the Arbitration Act. However, if the date of filing is not accepted as 5th January 2023, but the date shown in the case status is accepted, the arbitration petition would be outside the period contemplated under the proviso to sub-section (3) of Section 34.

13. To support the petitioner's contention that the arbitration petition was filed on 5th January 2023, learned counsel for the petitioner has relied upon the printout of the e-filing history. He points out that the arbitration petition was notarised and was ready for filing on 30th December 2022. The court fees were paid on 4th January 2023. The printout of the challan generated after payment

of the court fee is annexed at page 30 of the arbitration petition. The challan shows that the court fee was paid on 4th January 2023. Learned counsel for the petitioner, therefore, submits that when the entire arbitration petition with payment of court fee was ready on 4th January 2023, there was no reason for the petitioner not to upload the entire e-file on 5th January 2023.

14. Learned counsel for the petitioner submits that the e-filing process was new for the advocates and litigants, and also the concerned department of this court. He relies on the e-filing history annexed at Exhibit B to the interim application. He points out that, in the 'progress through various stages' column, the filing's active date and time, as recorded in the history, show that the entire file was uploaded on 5th January 2023. However, it was pending acceptance until 17th January 2023. On 18th January 2023, the status was shown as 'pending scrutiny'. The defect column indicated the remark 'upload complete petition'. He submits that, in the case status annexed as Exhibit C, the date of filing is shown as 18th January 2023. However, neither the defects column nor the 'progress through various stages' shows the date of filing as 18th January 2023. He further points out that the entry dated 18th March 2023 shows the remark "filing section defective". He further points out that the column of uploaded documents mentions continuing serial

nos. 1 to 11 starting from 5th January 2023, which shows that all the documents from index up to exhibits and affidavit-in-support were uploaded on 5th January 2023. He therefore submits that none of the records maintained as the e-filing history would show the relevant date 18th January 2023 for accepting as the date of e-filing when the petition was lodged on 5th January 2023.

15. To explain the changes made to the e-filing process, learned counsel for the petitioner has tendered an affidavit of his filing clerk. In the said affidavit, the particulars regarding the e-filing process, all printouts of the e-filing process, and the stages and annexures show that, in the new e-filing portal, all documents uploaded are displayed with the dates and the names of the PDF files. He submits that this procedure was not available at the time the present arbitration petition was filed on 5th January 2023. He therefore submits that, as per the printout of the e-filing history, the petition was filed on 5th January 2023. Accordingly, the date of filing the petition must be accepted as 5th January 2023, and not 18th January 2023, as reflected in the case status.

16. To support his submissions, learned counsel for the petitioner has relied upon the decision of this court in the case of ***NBK Films LLP Vs Reliance Industries Limited¹***. This court has taken a view

1 Interim Application (L) No. 8410 of 2023 in Commercial Suit No. 178 of 2022 dt.18/1/2024
Page no. 10 of 32

that under the e-filing rules of the High Court Bombay Rules, 2022, when “action” is electronically received in the registry, it shall be considered as the date of e-filing. He points out the relevant rules of the e-filing process, which define ‘action’ in Rule 2.1. He therefore submits that in view of the action of e-filing generated by the petitioner on 5th January 2023, the same date must be considered as the date of filing.

17. Learned counsel for the petitioner, therefore, submits that if the date of filing is accepted as 5th January 2023, the petitioner’s explanation for the condonation of the delay of 25 days must be examined as it would be covered under the extended period of thirty days as per the proviso to sub-section (3) of Section 34. Hence, the reasons stated in the application be accepted and the delay in filing arbitration petition be condoned. He relies upon the explanation in paragraph no. 3 of the application, where the petitioner has contended that after receiving the ex parte award on 10th September 2022, the petitioner had addressed various e-mails through the advocate requesting the Arbitrator to provide the entire record of the arbitration proceedings. Despite several follow-ups, the said record was not provided. Hence, it took some time to brief his advocate for preparing the arbitration petition. He therefore submits that the reasons stated in the application be accepted and the delay of 25

days in filing the arbitration petition be condoned.

18. Learned counsel for the respondent vehemently opposes the delay condonation application on the ground that the date of e-filing has to be accepted as the date shown on the case status of the arbitration petition. He points to the e-filing history and submits that it is clear that, on 5th January 2023, only one page of the index was uploaded, as evidenced by the e-filing history. He further submits that the e-filing history, that is, the date of progress through various stages, has to be read with the particulars of the defects and the particulars of the defects cured. If both the particulars are read together, it would be clear that on 5th January 2023, the entire documents were not uploaded. He relies on the entries in the defects column, which, according to him, indicate that the complete petition was not uploaded. He points out that, as of 17th January 2023, as shown in Item No. 4 of the defects history, none of the documents had been uploaded before that date.

19. According to the learned counsel for the respondent, the case status reflects the correct date of filing, 18th January 2023. On 5th January 2023, only the EC number was generated, and only after all the documents were uploaded, the concerned filing department accepted e-filing and generated the filing number. Since the filing

number was not generated until 18th January 2023, there is no basis to accept the date of e-filing as 5th January 2023. To support his submissions, learned counsel for the respondent relied upon the following decisions:

1. *Pragati Construction Consultants Vs. Union of India and Anr*²
2. *Container Corporation of India Vs. Shivhare Road Lines*³
3. *SKS Power Generation(Chhattisgarh) Ltd Vs. ISC Projects Pvt Ltd*⁴
4. *NBK Films LLP Vs. Reliance Industries Ltd*⁵
5. *Ozone Research Applications Pvt Ltd Vs. Ahluwalia Contracts(India) Ltd*⁶
6. *Rajesh Chandrakant Shingade Vs. State of Maharashtra and Ors*⁷
7. *Yogesh Mehra Vs. Principal Comm. CGST & Ors*⁸
8. *R.K. Transport Co. Vs. BALCO*⁹
9. *State of H.P. and Anr Vs. Himachal Techno Engineers and Anr*¹⁰
10. *Union of India Vs. Popular Construction Co.,*¹¹

2 205 SCC OnLine Del 636

3 2024 SCC OnLine Del 5490

4 2019 SCC Online Del 8006

5 IA(L) No. 8410 of 2023 in Comm. Suit No. 178 of 2022

6 2025 SCC Online Bom 1741

7 2024 SCC Online Bom 920

8 WP No. 1632 of 2024, Bombay High Court

9 2025 SCC Online SC 717

10 (2020) 12 SCC 210

11 (2001) 8 SCC 470

11. ***Simplex Infrastructure Limited Vs. Union of India***¹²

20. Learned counsel for the respondent has tendered a compilation of judgments dealing with the applications for condonation of delay in filing the petition under Section 34 of the Arbitration Act. He submits that the full bench of the Delhi High Court in the case of ***Pragati Construction Consultants*** held that the limitation clock stops running when a Section 34 application is filed with mere “procedural defects” but not one which is “non-est”. He therefore submits that non-est filing is “so deficient as not to be considered as a filing at all”. He further relies upon the rules for online electronic filing affirmed by the Delhi High Court. He submits that even the decision in ***Pragati Construction Consultants*** ***addresses*** the procedural aspect, which includes compulsory e-filing. He relied on the Delhi High Court's decision in ***Container Corporation of India***. He submits that the Delhi High Court has held that if an application under Section 34 is filed merely with the index, synopsis, proforma, and the petition, without annexing a copy of the award, it cannot be considered to have been filed within time under Section 34.

21. So far as the decision relied upon by the learned counsel for the petitioner in the case of ***NBK Films LLP*** is concerned, learned

12 (2019) 2 SCC 455

counsel for the respondent submits that this court was dealing with the case where the defendant in the commercial suit filed a written statement electronically, but there was some minor procedural defect in the said filing. In view of the facts of this case, the said decision would not assist the arguments made on behalf of the petitioner for accepting 5th January 2023 as the date of e-filing.

22. Learned counsel for the respondent relies upon the decision of this court in the case of *Ozone Research Applications Pvt Ltd*, to support his contention that when all the documents for e-filing are uploaded, that date is accepted as the date of filing. According to the learned counsel for the respondent, a minor procedural defect would not preclude the application from being considered for filing. However, if not all documents are uploaded, the filing must be treated as a non-est filing. On a similar proposition, he also relies upon the decision of this Court in the case of *Rajesh Chandrakant Shingade*. Learned counsel for the respondent further relies upon the decision of the Hon'ble Apex court in the case of *Union of India Vs. Popular Construction Co.*, to point out that the statutory period of three months and 30 days under Section 34(3) is mandatory and cannot be extended. Learned counsel for the respondent therefore vehemently opposes the delay condonation application mainly on the ground that the date of filing cannot be accepted as 5th January

2023.

23. I have considered the rival submissions made on behalf of the parties. I have perused the e-filing history and the defects history from the printout annexed to the application. For a better understanding of the entries made in the e-filing history, a copy of the printout is reproduced hereunder:

04/07/2023, 12:41

NEAR - High Courts

eFiling History

Back

eFiling No.	Case No. & Cause Title	Type	Submitted By
EC-HCBM02-00099-2023	NAVODAYA ENTERPRISES THROUGH ITS PARTNER MR. NAGANAND HEGDE Vs. TATA MOTORSTATA MOTORS FINANCE SOLUTIONS LIMITED FINANCE SOLUTIONS LIMITED	New Case	MOHAMMED ZAIN KHAN (https://efiling-mh.ecourts.gov.in/profile/view/8433324373.2D18D03DE727103B91655A1E4FB)



Progress through various Stages

Uploaded Documents

#	Stage	Active from	Active Upto
1	Draft	05-01-2023 06:09:49 PM	06-01-2023 11:48:49 AM
2	Pending Acceptance	06-01-2023 11:48:49 AM	06-01-2023 01:07:02 PM
3	Not Accepted	06-01-2023 01:07:02 PM	06-01-2023 01:46:50 PM
4	Pending Acceptance	06-01-2023 01:46:50 PM	06-01-2023 02:20:00 PM
5	Not Accepted	06-01-2023 02:20:00 PM	10-01-2023 03:47:40 PM
6	Pending Acceptance	10-01-2023 03:47:40 PM	10-01-2023 03:49:59 PM
7	Not Accepted	10-01-2023 03:49:51 PM	10-01-2023 04:23:01 PM
8	Pending Acceptance	10-01-2023 04:23:01 PM	11-01-2023 03:59:37 PM
9	Not Accepted	11-01-2023 03:59:37 PM	17-01-2023 04:06:12 PM
10	Pending Acceptance	17-01-2023 04:06:12 PM	18-01-2023 11:20:33 AM
11	Pending	18-01-2023	

#	Document
1	INDEX (https://efiling-mh.ecourts.gov.in/documentIndex/viewIndexItem/9)
2	INDEX (https://efiling-mh.ecourts.gov.in/documentIndex/viewIndexItem/9)
3	INDEX (https://efiling-mh.ecourts.gov.in/documentIndex/viewIndexItem/9)
4	PROFORMA (https://efiling-mh.ecourts.gov.in/documentIndex/viewIndexItem/9)
5	SYNOPSIS (https://efiling-mh.ecourts.gov.in/documentIndex/viewIndexItem/9)
6	PETITION (https://efiling-mh.ecourts.gov.in/documentIndex/viewIndexItem/9)

True Copy

Advocate

04/07/2023, 12:41

	Scrutiny	11:20:33 AM	06:34:59 PM
12	Pending	18-01-2023	18-03-2023
	Scrutiny	06:34:59 PM	09:43:02 PM
13	Filing Section	18-03-2023	
	Defective	09:43:02 PM	

NEAR - High Courts

- 7 VAKALTNAMA (<https://efiling-mh.ecourts.gov.in/documentIndex/viewIndexItem/8/>)
- 8 MEMORANDUM OF ADDRESS (<https://efiling-mh.ecourts.gov.in/documentIndex/viewIndexItem/9/>)
- 9 LIST OF DOCUMENT (<https://efiling-mh.ecourts.gov.in/documentIndex/viewIndexItem/9/>)
- 10 EXHIBITS (<https://efiling-mh.ecourts.gov.in/documentIndex/viewIndexItem/9/>)
- 11 AFFIDAVIT IN SERVICE (<https://efiling-mh.ecourts.gov.in/documentIndex/viewIndexItem/9/>)



Payment History

Offline Fee

Show

Search:

entries

#	Fee Type	No. Dated	Amount(₹)	Receipt Uploaded On
1	CC FEE	MH013233315202223P 04-01-2023	40215	File : Challan (https://efiling-mh.ecourts.gov.in/courtFee/offline/viewReceipt/73363332438) Date : 06-01-2023 11:33:18 AM

Showing 1 to 1
of 1 entries

Previous 1 Next

Defects

#	Defects Date	Defects	Defects Cure Date
1	06-01-2023 01:07:02 PM	1. IF THIS IS A ARBITRATION PETITION SO SELECT CASE TYPE ACCORDINGLY...2. MENTION ACT AND SECTION ALSO...3. UPLOAD COMPLETE PETITION...	06-01-2023 01:46:50 PM
2	06-01-2023	1. IF THIS IS A ARBITRATION PETITION SO SELECT CASE TYPE ACCORDINGLY...2. MENTION ACT AND SECTION ALSO...3. UPLOAD COMPLETE PETITION...	10-01-2023

Copyright © 2020 e-Committee, Supreme Court of India. All rights reserved.
<https://efiling-mh.ecourts.gov.in/history/filing>

3/4

04/07/2023, 12:41

NEAR - High Courts

	02:20:00 PM	UPLOAD COMPLETE PETITION... 2. IF SECTION IS 34 THEN SELECT CASE TYPE ARBP... MENTION VALUATION..	03:47:40 PM
3	10-01-2023 03:49:51 PM	1.PETITION INCOMPLETE... ONLY INDEX PAGES UPLOADED KINDLY UPLOAD COMPLETE PETITION... 2. IF SECTION IS 34 THEN SELECT CASE TYPE ARBP... MENTION VALUATION..	10-01-2023 04:23:01 PM
4	11-01-2023 03:59:37 PM	1.PETITION INCOMPLETE... ONLY INDEX PAGES UPLOADED KINDLY UPLOAD COMPLETE PETITION... 2. IF SECTION IS 34 THEN SELECT CASE TYPE ARBP... MENTION VALUATION..	17-01-2023 04:06:12 PM
5	07-02-2023 11:40:29 AM	1. 1 Synopsis as per Practice Note NO.43 and 51 and flagging should be done with thick paper, book marking should be done----- 2 Pls Check Court fee----- 3 Averments List of Documents Relied upon ----- 4 Limitation - IA for delay condonation ----- 5 Whether Vakalatnama / Note of Appearance is filed as per O.S. Rule----- 6 Whether Exhibits are legible and unmarked If not provide Legible /Unmarked Typed copies of Page NO. EXHIBITS FROM EX-B TO EX-000, HAVING SMALL WORDS, BLACKISH COPY, replace all with clear readable copies ----- 7 Exhibits to be Certify as True Copy by the Advocate or parties in Person----- 8 File Praecipe for Compliance as per office order dated 31/10/2018----- 9 Para no.76 - Blank ----- 10 Page nos. 73, 119, 173, EX-R ,NN and other pages which are reversely scanned-----	

Allocation Details

#	Allocated to	Allocated On	Reason	IP
1	NAMRATA CHALKE	06-01-2023 11:48:49 AM		103.179.195.4

Back



CERTIFIED TO BE A TRUE COPY
True Copy
Advocate

https://nashg.nls.ac.in/arbp/arbp/

44

24. The entries with the heading “progress through various stages” on the right side show the column of the uploaded documents. The stages are identified serially with the numbers mentioned on the left side, chronologically from item no. 1. Similarly, the column document on the right side shows the documents serially with the number starting from item no. 1 upto item no. 11. There appears to be no correlation of serial number in the column of uploaded documents with the date of the stages and the dates and timing active from serial number 2 on the left side.

25. A reading of all the entries date-wise from item no.1 in the left column shows various dates and also has serial numbers on the left side, which has no correlation with the entries on right side column of documents. There is no corresponding entry seen date-wise to show that the uploaded documents were uploaded on different dates. If it is accepted that each document was uploaded on a separate date, the entries in the documents column do not correspond to the date-wise rows of the stages. Thus, the e-filing history does not indicate that the documents were uploaded on different dates. Even if the entries in the defects column are compared with the stages shown in the e-filing history, there is no correlation to show that only one page was uploaded on 5th January

2023.

26. The middle column of the defect history contains instructions for uploading the complete petition. The wording in the middle column starts with '1. IF SECTION IS 34 THEN SELECT CASE TYPE ACCORDINGLY... 2. MENTION ACT AND SECTION ALSO... 3.UPLOAD COMPLETE PETITION...' . Further entries also start with the words " If Section 34 THEN SELECT CASE TYPE ARBP... MENTION VALUATION..". Though the entry OF 11th January 2023 records that the "petition incomplete.... Only index pages uploaded kindly upload complete petition", it further records instructions stating that "2. IF SECTION 34 THEN SELECT CASE TYPE ARBP....MENTION VALUATION". Thus, there is no clarity as to whether only one page was uploaded and the remaining pages were not. Even otherwise, the date of 18th January 2023, as seen in the case status, cannot be correlated with the e-filing history or stages of defects. Item no. 12, in the particulars of progress through various stages, indicates that the entry is 'pending scrutiny', and the last column continues with the particulars of the documents serially from numbers 1 to 11, which commenced on 5th January 2023. Although the case status shows the filing date as 18th January 2023, the particulars of progress through the various stages indicate that item no. 13 is marked "filing section defective," and the

corresponding column shows the date as 18th March 2023.

27. Therefore, if the entries with the heading “progress through various stages” are seen, the date of 18th January 2023 cannot be accepted as the date of e-filing. On 5th January 2023, an EC number was generated; thus, there can be no dispute that the petitioner initiated e-filing on that date. However, the active time is shown “06:09:49 pm” which is after the court hours. Then, if the next entry dated 6th January 2023 is considered, it shows pending acceptance, but the entries in the right side column of “document” start with serial no. 1 from 5th January 2023, showing as “Index” that continues in chronology upto serial no. 11 showing “AFFIDAVIT IN SERVICE”. Thus, if the column of “document” is seen, it appears that the entry of all the documents starts from 5th January 2023, with serial no. 1 ending with serial no. 11. Therefore, there is no reason to disbelieve that all documents were uploaded on 5th January 2023.

28. The defect history, when read together with the progress through the various stages, does not reflect the date of acceptance for filing, which is 18th January 2023. In view of this factual aspect as reflected from the printout of e-filing history, the view taken by this court in the decision of **NBK Films LLP** would squarely apply to this case. In the facts of the said case, where the issue was regarding

the date of filing the written statement, this court has explained the e-Filing Rules of The High Court of Bombay 2022 ('said Rules') and the relevant definitions in the said Rules. After reproducing the definition under rule 2.1 and 2.10 for "Action" and "Objections", this court has reproduced rule 14 of the said Rules. This court therefore held that rule no. 14 is sufficiently clear that the date of e-filing will be the date when 'action' is electronically received in the registry within the prescribed time of any working day. The relevant extract of the observations of this court in paragraph no. 11 reads as under:

"11] The Rules also set out the procedure for formatting as well as obtaining the digital signatures. Rule 14 provide for computation of time and since it throws light on how the limitation/timelines shall be computed for 'actions' through e-filing, and it must reproduced :-

"14.1 Wherever limitation/time limits apply, it will be the responsibility of the party concerned to ensure that the filing is carried out well before the cut-off date and time. The date of e-filing will be taken as that date when the Action is electronically received in the Registry within the prescribed time on any working day. For computing the time at which e-filing is made, Indian Standard Time (IST) will apply.

14.2 E-filing through Designated Counters will be permissible to 16.00 hours on any court working day. On-line e-filing carried out after working hours on any day, will be treated as the date which follows the actual filing date provided it is a

court working day. Actions filed on a day declared as gazetted holiday or on a day when the court is closed, will be regarded as having been filed on the next working day. For the computation of limitation, on-line e-filing shall be subject to the same legal regime as applicable to physical filing, save and except as provided herein above.

14.3

14.4 Provision for limitation governing on-line e-filing will be the same as those applicable to physical filing. The period of limitation for such actions will commence from the date when e-filing is made as per the procedure prescribed in these Rules.”

The above Rule make it sufficiently clear that the date of e-filing will be taken as that date when the ‘Action’ is electronically received in the Registry, within the prescribed time on any working day. However, since e-filing through the designated counter is only permissible upto 16.00 hours on any court working day, e-filing after working hours on any day will be treated as the date, that follows the date of actual filing of computation of limitation.

The above provision offers sufficient clarity on the aspect and when the documents annexed alongwith the additional Affidavit are perused, it is apparent, that two e-filings are generated on the Website on 08.03.2023, one at 6:41:57 PM IST and other at 7:05:53 PM IST. It reflect, that the mail is generated from the e-filing account of the Advocate for filing miscellaneous documents in case of Reliance Industries Limited vs. NBK Films, LLP and is pending for ‘final submit’.

The e-filing history, reflect it to be a 'draft' pending acceptance from 08.03.2023 and on the subsequent dates.

The scrutiny is shown to have taken place on 24.03.2023, but on 28.03.2023 it is still showing 'pending scrutiny'.

In the index of the documents, the document uploaded on 08.03.2023 at 6:06:46:44 PM is shown to be Written Statement alongwith Exhibits A to F. It is, only on 01.07.2023, the lalcunae raised is as under :-

W/statement not in time, get the delay condoned".

29. Even in the present case, as per the e-filing history, the time on 6th January 2023, within the court working hours, is required to be accepted as the date of e-filing. As discussed above, the date in the case status shown as 18th January 2023 is not supported by the e-filing history. Pursuant to the order dated 21st November 2025, passed by this court, the concerned e-filing department has placed on record a report dated 9th December 2025. However, the report refers only to the circular dated 16th August 2024, which notifies that this court has migrated to the E-filing Module 3.0. The report further refers to the certificate generated on 17th January 2023. In the certificate, the date of the court fee challan dated 4th January 2023 is uploaded on 6th January 2023. Though the certificate generated on 17th January 2023 is shown as e-verified on 17th January 2023, the date of uploading the documents is not reflected. Hence, the

certificate does not reflect or explain why the date of 18th January 2023 is shown as the date of e-filing in the case status. The certificate does not explain the basis for accepting 18th January 2023 as the e-filing date.

30. Paragraph 4 of the report states that the original arbitration petition was lodged via the e-filing portal on 6th January 2023. It further states that the office raised an objection as the arbitration petition case type is required to be selected and upload a complete petition. If the report also states that the arbitration petition was lodged through e-portal on 6th January 2023 there cannot be any basis to accept the date 18th January 2023 as the date of filing and not 6th January 2023 when the petition was lodged through e-filing portal. The reason given in paragraph no. 4 is that on 11th January 2023, the filing department rejected the document, raising objections as “petition incomplete”. However, it cannot be correlated with the e-filing history, which reflects progress through various stages and uploaded documents with item nos. 1 to 11, starting from 6th January 2023. Hence, the OTP generated e-file certificate, does not reflect the particulars or any basis for accepting the date of e-filing as 18th January 2023.

31. As held by this court in **NBK Films LLP**, the date of e-filing is

the date on which the registry electronically receives the action. Thus, in the present case, the petition was electronically received, as evidenced by the e-filing history, on 6th January 2023, which falls within the definition of 'action' and constitutes the date of e-filing. I find it necessary to record that, when the litigant approaches the court for physical filing, the entire document is physically reviewed by the relevant filing clerk, who accepts the physical filing. Hence, if a petition is presented for filing with only a copy of the index, the petition would not be accepted by the filing department. However, with respect to the compulsory e-filing process, except for reliance on the e-filing history, there is no indication whether only one page was submitted for e-filing or the entire document was submitted for filing. However, as discussed above, based on the e-filing history, the serial numbers listed in the document column are recorded in chronological order from serial no. 1 to serial no. 11 starting on 5th January 2023. Hence, all the documents appear to have been uploaded on 5th January 2023.

32. As rightly pointed out by the learned counsel for the petitioner, the e-filing procedure was introduced from 1st January 2023. Hence, the concerned advocates, litigants, as well as the filing department were not well equipped with the entire process. According to the report filed by the relevant department, the filing module has

changed, effective 16th August 2024. Prior to the migration to the new e-filing module, the present petition was filed through the first e-filing module. In view of the rules as explained by this court in the case of **NBK Films LLP**, I do not see any reason to take a different view in the present petition.

33. The decision of Delhi High Court in **Pragati Construction Consultants**, deals with the controversy whether an application under Section 34 of the Arbitration Act can be treated as a non est filing for want of statement of truth. The Delhi High Court held that it would be a curable defect, thereby not making the application under Section 34 to be non est for the purpose of considering limitation period. It is held that if the defects cumulatively leads the court to form an opinion that the initial filing was not done with a bonafide intent but only to stop the period of limitation the court will be free to declare such filing non est.

34. In the decision of Delhi High Court in **Container Corporation of India limited**, legal principles in **Pragati Construction Consultants**, are referred. It is further held that the application which is wholly and substantially inadequate and insufficient or is fraught with defects that are fundamental, would necessarily have to be considered as non est and of no consequence. Considering the facts of that case it

was held that initial filing was only for the purpose of overcoming the period of limitation. Similarly, in case of ***SKS Power Generation(Chhattisgarh) Ltd.***, the Delhi High Court held that there was no explanation about the petition filed, without the signature on the petition and without a Vakalatnama or the affidavit of authorisation or the impugned award; hence, the defects were not accepted for the period of limitation on the ground that the defects were deliberate and were intended only to stop the period of limitation from running.

35. This court in the decision of ***Ozone Research Applications Pvt Ltd***, held that the provisions of limitation governing online e-filing will be the same as those applicable to physical filing. It is thus, held that the Rule 14 of the said Rules make it clear that the date of e-filing will be taken as the date when 'Action' is electronically received in the registry within the prescribed time or any working day. Thus, this court held that it would be possible that on the "Action" being generated there may be certain objections which will have to be notified on a subsequent date as in the case of physical filing and time shall be given to cure the objections. But the filing date would not get postponed till the removal of the office objections and thus, it was held that for all purpose initial date shall be the date on which the proceedings are for the first time tendered in the

registry. This court in the case of ***Rajesh Chandrakant Shingade***, by discussing various legal principles held that procedural compliance can never defeat the substantive remedy and right to pursue substantive challenge and proceedings when filed within the limitation period. With reference to the facts in that case it is held that the procedural deficiency noted as “Document not serial” after it was electronically filed and registration of the Election Petition online on 20th November 2023, cannot be held to be as the petition being not filed within the limitation period. The Division Bench of this court in the case of ***Yogesh Mehra***, held that any deficiency in filing appeal/application like failure to file physical document, cannot make the appeal, which was registered on the online portal within the prescribed period of limitation, to be labeled and/or held to be barred by limitation. It was thus, held that the parties would necessarily have an opportunity to remove the deficiencies, if any, which may prevail at the time of filing of the proceedings. Hence, it was held that the procedural compliance can never defeat the substantive remedy/right to pursue any proceedings when filed within limitation.

36. The decisions of the Hon’ble Apex Court relied upon by the learned counsel for the respondent in the case of ***R.K. Transport Company***, and ***the State of Himachal Pradesh and Anr***, did not

address any controversy regarding e-filing procedure as is involved in the present case. In the present case, e-filing history and the defects history does not reveal any major deficiency that can treat the filing as non est. Even otherwise, the entries in Item No. 5 of the defects history refers to certain objections raised on 7th February 2023, which is after the date of 18th January 2023, recorded as the date of filing in the case status. Hence, none of the decisions relied upon by the learned counsel for the respondent would support the arguments for accepting the date as 18th January 2023 to be the correct date of filing.

37. The decisions relied upon by the learned counsel for the respondent regarding the applications for delay condonation decided by the Delhi High Court would not apply to the controversy in the present case. The said decisions do not address the controversy in the present case regarding which date is to be accepted as the date of e-filing under the Rules of 2022, as framed by this court.

38. On the point of condonation of delay, the respondent has not filed any affidavit-in-reply to oppose or deny the grounds raised by the petitioner in the application for condonation of delay explaining the reasons for 25 days delay in filing the petition. The petition was

affirmed at Karnataka on 30th December 2022, and court fees were also paid on 4th January 2023. Hence, there is no reason to disbelieve the petitioner's contention that e-filing was done on 5th January 2023. However, the time recorded in the e-filing history on 5th January 2023 falls outside the court hours. Accordingly, 6th January 2023 must be accepted as the date of e-filing.

39. However, the petitioner has not affirmed the statements made in the application for condonation of delay, as evidenced by the original application on record. Considering the personal affidavit filed by the learned advocate for the petitioner, tendering an unconditional apology, it would be appropriate to grant one opportunity to the petitioner to support the contentions of the application for condonation of delay by filing a fresh affidavit-in-support. Hence, the petitioner shall file an affidavit in support of the interim application, duly affirmed before the concerned officer of this court.

40. In the personal affidavit filed by the learned advocate for the petitioner, he has taken responsibility for the mistake of his clerk in the procedure adopted for uploading the PDF file of the application. The explanation for pasting the signature on the PDF file regarding the discrepancy between the original notarised application and the

PDF file, and the merits of the application for delay condonation, shall be considered on the next date.

41. A copy of this Order shall be forwarded to the learned Prothonotary and Senior Master for compliance with the directions issued in paragraph no.9 of this Order.

42. To enable the learned advocate for the petitioner to file the necessary affidavit of the petitioner, list the petition on 22nd December 2025.

43. To be listed first on board as 'part-heard'.

(GAURI GODSE, J.)