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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-4650-2025 (O&M)
Date of Decision: 06.11.2025

Union of India

....Appellant(s)

Versus

M/s. Subash Mahajan, Contractor and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Shiv Kumar Sharma, Senior Panel Counsel,
for the appellant-Union of India.

JASGURPREET SINGH PURI, J.(ORAL)

1. The present appeal has been filed challenging the impugned order dated 17.05.2025 passed by learned Civil Judge (Junior Division), Pathankot, whereby the objections filed by the appellant under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') have been dismissed.

2. The brief facts of the present case are that there was a contract between the appellant-Union of India and the respondent, who was the Contractor, for repair of Building No.NP-09 at Old Budhawar Enclave, Mamun Military Station. A dispute arose between the parties and a Sole Arbitrator was appointed, who heard both the parties and thereafter passed a detailed award dated 11.02.2021. Eight claims were raised by the claimant, out of which some were allowed by learned Arbitrator. Five claims were



raised by the appellant-Union of India who was the respondent before learned Arbitrator in the nature of counter claim but all of them were rejected. Learned Sole Arbitrator discussed each claim in detail on the basis of the contentions of both the claimant and the respondent and thereafter gave findings on each and every claim raised by both the parties.

3. The aforesaid award was challenged by the appellant before learned Civil Court under Section 34 of the Act, which was dismissed by way of impugned order.

4. Learned counsel for the appellant submitted that the learned Arbitrator has wrongly accepted the claims of the respondent-contractor without giving sufficient reasons, as no evidence was produced in support of those claims and even the interest awarded is not justified. He further submitted that the impugned order passed by learned Civil Judge (Junior Division), Pathankot was based upon conjecture and surmises and without any evidence and therefore, the same is liable to be set aside.

5. I have heard the counsel for the appellant.

6. A perusal of the award which has been attached with the present appeal would show that each and every claim of both the claimant and the appellant-Union of India was considered separately and in detail by learned Arbitrator.

7. A perusal of the impugned order passed under Section 34 of the Act would show that learned Civil Judge dismissed the objections both on the issue of limitation and on merits. On merits, it was observed that a challenge based on wrong appreciation of evidence cannot constitute a ground under Section 34 of the Act. It was further observed that unless a



ground specifically available under Section 34 of the Act is not taken, the award cannot be set aside merely on the basis of alleged misappreciation of evidence.

8. With regard to issue of limitation, the same was discussed in detail by the learned Civil Judge. The award is dated 11.02.2021. It was the case of the appellant-Union of India that it was received by it on 03.03.2021 and the objections under Section 34 of the Act were filed on 01.07.2021 and in this way, although there was a delay of three months but it was within a further period of 30 days and therefore, the delay could have been condoned. However, learned Civil Judge observed that if the appellant was to take the benefit of the date from which they had received the award which they claimed to be 03.03.2021, then they ought to have proved the same on the basis of documentary evidence but the appellant has not brought on record any document to show that the award was received by them on 03.03.2021. In the absence of the same, the date on which the award was dispatched which was rather proved by the respondent on the basis of the original registered cover which was dispatched on 13.02.2021 and in this way, the total period exceeded three months plus 30 days and therefore, the objections were barred by limitation. The law with regard to the application under Section 5 of the Limitation Act in the objections under Section 34 of the Act is no longer *res integra*. Hon'ble Supreme Court in **Mahindra and Mahindra Financial Services Limited's case (Supra)** observed as under:-

“9. The scope available for condonation of delay being self-contained in the proviso to Section 34(3) and Section 5 of Limitation Act not being applicable has been taken



note by this Court in its earlier decisions, which we may note. In Union of India vs. Popular Construction Co. it has been held as hereunder: (SCC pp.474-76, paras 12, 14 & 16)

“12. As far as the language of Section 34 of the 1996 Act is concerned, the crucial words are “but not thereafter” used in the proviso to sub-section (3). In our opinion, this phrase would amount to an express exclusion within the meaning of Section 29(2) of the Limitation Act, and would therefore bar the application of Section 5 of that Act. Parliament did not need to go further. To hold that the court could entertain an application to set aside the award beyond the extended period under the proviso, would render the phrase “but not thereafter” wholly otiose. No principle of interpretation would justify such a result.

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14. Here the history and scheme of the 1996 Act support the conclusion that the time-limit prescribed under Section 34 to challenge an award is absolute and unextendible by court under Section 5 of the Limitation Act. The Arbitration and Conciliation Bill, 1995 which preceded the 1996 Act stated as one of its main objectives the need “to minimise the supervisory role of courts in the arbitral process”. This objective has found expression in Section 5 of the Act which prescribes the extent of judicial intervention in no uncertain terms:

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16. Furthermore, Section 34(1) itself provides that recourse to a court against an arbitral award may be made only by an application for setting aside such award “in accordance with” sub-section (2) and sub-section (3). Sub-section (2) relates to grounds for setting aside an award and is not relevant for our purposes. But an application filed beyond the period mentioned in Section 34, sub-



section (3) would not be an application “in accordance with” that subsection. Consequently by virtue of Section 34(1), recourse to the court against an arbitral award cannot be made beyond the period prescribed. The importance of the period fixed under Section 34 is emphasised by the provisions of Section 36 which provide that

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9.1 Further, in State of H.P. v. Himachal Techno Engineers, it was noted and held as hereunder: (SCC pp.211-12, paras 2 & 5)

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5. Having regard to the proviso to Section 34(3) of the Act, the provisions of Section 5 of the Limitation Act, 1963 will not apply in regard to petitions under Section 34 of the Act. While Section 5 of the Limitation Act does not place any outer limit in regard to the period of delay that could be condoned, the proviso to sub-section (3) of Section 34 of the Act places a limit on the period of condonable delay by using the words “may entertain the application within a further period of thirty days, but not thereafter. Therefore, if a petition is filed beyond the prescribed period of three months, the court has the discretion to condone the delay only to an extent of thirty days, provided sufficient cause is shown. Where a petition is filed beyond three months plus thirty days, even if sufficient cause is made out, the delay cannot be condoned.”

9.2 The same view was taken by this Court in P. Radha Bai v. P. Ashok Kumar, wherein this Court held as follows: (SCC pp.457-58, para 33)

“33.2. The proviso to Section 34 (3) enables a court to entertain an application to challenge an award after the three months’ period is expired, but only within an additional period of thirty dates, “but not thereafter”. The use of the phrase “but not thereafter” shows that the 120 days’ period is the outer boundary for challenging an award. If



Section 17 were to be applied, the outer boundary for challenging an award could go beyond 120 days. This Court has consistently taken this view that the words “but not thereafter” in the proviso of Section 34(3) of the Arbitration Act are of a mandatory nature, and couched in negative terms, which leaves no room for doubt.

9.3 The observations of this Court in different decisions relating to nonapplicability of Section 5 of the Limitation Act in condoning the delay and extending the limitation prescribed under Section 34(3) of Act 1996 was taken note of by a bench of three Hon’ble Judges of this Court with approval, in Chintels (India) Limited v. Bhayana Builders Ltd.”

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9. A perusal of the award would show that all the claims were adjudicated on the basis of the evidence produced before learned Arbitrator. The appellant could not seek re-appreciation of evidence, which is impermissible under Section 34 of the Act. So far as the issue of limitation is concerned, this Court finds no ground to interfere with the findings of the learned Civil Judge. The award is dated 11.02.2021. As per the appellant, the award was received on 03.03.2021. If that is so, then the filing of the objections on 01.07.2021 was certainly within the period of three months plus 30 days. However, if the appellant wishes to take the benefit of the date of receipt of the award for calculating the period of limitation, then the onus was on the appellant to produce some record or document in support of that claim. As per the observations made by the learned Civil Judge, the appellant has not placed on record any document whatsoever to show that the award was received on 03.03.2021. In this way, the period of limitation is to be reckoned from 13.02.2021, when the award was dispatched by way



of postal registered cover. In this regard, the original registered cover was produced by the respondent showing that the award was dispatched by the Arbitrator on 13.02.2021. Therefore, this Court is of the considered view that the period of limitation will be reckoned from 13.02.2021. The period of three months would therefore expire on 13.05.2021 and further period of 30 days would expire on 13.06.2021. However, the objections under Section 34 of the Act were filed on 01.07.2021, which is clearly beyond of the aforesaid period.

10. In view of the aforesaid facts and circumstances and law laid down by Hon'ble Supreme Court as aforesaid, this Court is of the considered view that there is no merit in the present appeal and there is no ground available with the appellant for intervention by this Court.

11. Consequently, the present appeal is dismissed.

06.11.2025

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**(JASGURPREET SINGH PURI)
JUDGE**

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No