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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-5401-2023(O&M)
Date of Decision: 21.11.2025

PUNJAB STATE POWER CORPORATION LTD.

....Appellant(s)

Versus

**M/S A2Z MTC. AND ENGG. SERVICES PVT. LTD. THROUGH ITS
DIRECTOR**

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Brijeshwar Singh Kanwar, Senior Panel Counsel,
for the appellant.

Mr. Kunal Dawar, Senior Advocate with
Ms. Shruti Mandhotra, Advocate,
for the respondent.

JASGURPREET SINGH PURI, J. (Oral)

1. The present appeal has been filed challenging the impugned order dated 14.07.2023 passed by the learned Additional District Judge, Ludhiana, whereby the application filed by the appellant under Section 5 of the Limitation Act seeking condonation of delay in filing objections under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') was dismissed.

2. Learned counsel for the appellant submitted that although there is no dispute that the objections under Section 34 of the Act were filed with a delay of more than 2 years, but the delay occurred due to procedural



requirements, as the appellant is a Government undertaking and requisite permissions and approvals had to be obtained at various stages and the same constituted sufficient cause and therefore, an application under Section 5 of the Limitation Act was filed for condonation of delay. He submitted that in view of the above, the impugned order may be set aside.

3. On the other hand, Mr. Kunal Dawar, learned Senior Counsel with Ms. Shruti Mandhotra, learned counsel submitted that the law with regard to the applicability of Section 5 of the Limitation Act to the objections under Section 34 of the Act is well settled and he referred to a judgment of Hon'ble Supreme Court in **Mahindra and Mahindra Financial Services Limited versus Maheshbhai Tinabhai Rathod and others, (2022) 4 SCC 162** in this regard. He submitted that admittedly, the objections were filed after a delay of about 2½ years i.e. beyond the period of limitation of three months plus 30 days and therefore, the learned Additional District Judge, while hearing the application under Section 5 of the Limitation Act in the objections under Section 34 of the Act could not have condoned the delay in the present case and therefore, there is no illegality and perversity in the order passed by learned Additional District Judge.

4. I have heard the learned counsel for the parties.

5. The only issue involved in the present case is as to whether there can be any condonation of delay under Section 5 of the Limitation Act to the objections under Section 34 of the Act. The law in this regard is well settled. 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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6. In the present case, the award was passed by the learned Arbitrator on 16.05.2018, whereas the objections were filed on 24.12.2020 after a delay of about 2½ years. The only ground taken in the application by the appellant was that various permissions and approvals were required to be obtained at various stages. However, considering the law with regard to applicability of Section 5 of the Limitation Act to the objections under Section 34 of the Act, the learned Additional District Judge has dismissed the application under Section 5 of the Limitation Act.

7. In view of the aforesaid facts and circumstances and law laid down by Hon'ble Supreme Court as aforesaid, this Court is also of the considered view that once there was such a huge delay after the expiry of three months plus 30 days, learned Additional District Judge could not have condoned the delay under Section 5 of the Limitation Act because of non-applicability of Section 5 of the Limitation Act to objections under Section



34 of the Act. Therefore no illegality or perversity can be found in the impugned order.

8. Consequently, the present appeal is dismissed.

21.11.2025

(JASGURPREET SINGH PURI)

rakesh

JUDGE

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