2025:PHHC:106783

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5444-2022
Date of decision: 18.08.2025

PUNJAB STATE WAREHOUSING CORPORATION LTD.
...Petitioner(s)

VERSUS

M/S GURU RAM DASS RICE MILLS AND ORS.
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Parambir Singh, Advocate
for the petitioner.

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JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 09.08.2022 (Annexure P-4), whereby the application filed by the petitioner under Section 5 of the Limitation Act for condonation of delay in filing the petition under Section 34 of the Arbitration and Conciliation Act, 1996 against the award dated 20.02.2017 has been dismissed by the learned Additional District Judge, Ferozepur.

2. Learned counsel for the petitioner submitted that in the present case, by way of the impugned order dated 09.08.2022 (Annexure P-4) passed by the learned Additional District Judge, Ferozepur, the objections filed by the petitioner under Section 34 of the Arbitration and Conciliation Act, 1996 have been dismissed on the ground of delay. He further submitted that the Award was

passed on 20.02.2017 and the objections under Section 34 of the Arbitration and Conciliation Act, 1996 were filed on 08.11.2017 and although there was a delay of about 8½ months in filing the objections but the same was due to the counsel's failure to file the objections on time and therefore, that constituted a sufficient cause for condoning the delay even beyond the prescribed period of 3 months plus 30 days. He also submitted that since there was no fault of the petitioner-Corporation, the aforesaid impugned order is liable to be set aside.

3. I have heard the learned counsel for the petitioner.

4. It is a case where the Award was passed on 20.02.2017 and the objections under Section 34 of the Arbitration and Conciliation Act, 1996 were filed on 08.11.2017 i.e. after a period of about 8½ months. The statutory period for filing the objections as contained in Section 34(3) of the Arbitration and Conciliation Act, 1996 is three months. However, by virtue of the proviso contained in aforesaid sub-section 3, another 30 days can be granted subject to explaining to the Court whether there exists any sufficient cause or not. However, there is no such provision for further extending the period of limitation beyond the further period of 30 days. In other words, the maximum period of limitation within which the objections can be filed is only 3 months plus 30 days, whereas in the present case, the petitioner filed the objections much beyond the aforesaid period of 3 months plus 30 days i.e. after a period of about 8½ months.

5. A perusal of the aforesaid impugned order would show that the petitioner did not mention any specific date when the copy of the Award was received by it and therefore, the date on which the Award was passed was taken

as the starting point of the period of limitation. A further perusal of the aforesaid impugned order would show that rather the entire law pertaining to the applicability of Section 5 of the Limitation Act has been considered by the learned Additional District Judge, Ferozepur. Therefore, it is not understandable as to how even after knowing the legal position that there can be no condonation of delay after 3 months plus 30 days and the same has been so incorporated in the impugned order also, the petitioner-Corporation which is a Public Sector Undertaking has filed the present petition. The law with regard to the aforesaid applicability of Section 5 of the Limitation Act is no longer *res intergra*.

6. Hon'ble Supreme Court in ***Mahindra and Mahindra Financial Services Limited versus Maheshbhai Tinabhai Rathod and others, (2022) 4 SCC 162*** held 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. (2001) 8 SCC 470 it has been held as hereunder:*
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> > *"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 subsection (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.*
> >
> > *xxx-xxx-xxx-xxx*

> *14. Here the history and scheme of the 1996 Act support the conclusion that the timelimit 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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> *xxx-xxx-xxx-xxx*
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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" subsection (2) and sub section (3). Subsection (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, subsection (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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> *xxxxx.. If there were any residual doubt on the interpretation of the language used in Section 34, the scheme of the 1996 Act would resolve the issue in favour of curtailment of the court's powers by the exclusion of the operation of Section 5 of the Limitation Act.*

9.1 Further, in State of Himachal Pradesh & Anr. vs. Himachal Techno Engineers & Anr. (2010) 12 SCC 210 it was noted and held as hereunder:

> *xxx-xxx-xxx-xxx*
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> *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 subsection (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 vs. P. Ashok Kumar (2019) 13 SCC 445 wherein this Court held as follows:*
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> > *"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.*
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> *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 vs. Bhayana Builders Private Limited (2021) 4 SCC 602."*

xxx-xxx-xxx-xxx

7. From the perusal of the order as aforesaid, it is very clear that the legal position has been so stated in the impugned order and still the petitioner-Corporation which is a Public Sector Undertaking has chosen to file the present

petition. Therefore, *ex facie* the present petition is not only vexatious but also amounts to an abuse of the process of law.

8. In view of the aforesaid facts and circumstances, the present petition is dismissed with Rs.10,000/- (Rupees Ten Thousand) as costs, which will be paid by the petitioner-Corporation to the Senior Medical Officer, Civil Dispensary, Punjab and Haryana High Court, Chandigarh, in the shape of medicines/medical equipments, as required in the Dispensary, within a period of two months from today.

9. The Registry is directed to list this case after two months for compliance purposes.

(JASGURPREET SINGH PURI)
JUDGE

18.08.2025
Chetan Thakur

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