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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO (COMM) 32/2025**

SONY SONS & ORS.Appellants

Through:

Versus

DHANI LOANS AND SERVICES LIMITEDRespondent

Through: Mr. Ankit Banati, Mr. Vikas Maini &
Mr. Himanshu Gupta, Advs.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

% **28.04.2025**

CM No.6223/2025 (application for condonation of 195 days delay in filing the appeal)

1. The appellant has filed the present application seeking condonation of delay of 195 days in filing the present appeal. The reason set out in the present application for explaining the inordinate delay in filing the above-captioned appeal reads as under:

- “4. That it is submitted that the Ld. Executing Court dismissed the objection with regard to jurisdiction on 07.01.2025 and further proceeded to appoint the bailiff for execution of warrant of attachment and listed the matter for filing of report by bailiff for 07.02.2025.
5. That after the said order by the Executing Court, which is annexed with the appeal, the appellant approached the counsel on 18.01.2025, who informed that the appeal is the only remedy against the impugned order and as such the appellants without wasting any further loss of time preferred the present appeal.
6. That, however, in the mean time the statutory period of 90 days in filing the present appeal expired and there is a delay of 195 days in filing the present appeal.”



2. The said application was considered by a Coordinate Bench of this Court on 31.01.2025 and this court had passed the following order:

**“FAO (COMM) 32/2025 and CM APPL.6223/2025
(condonation of delay)”**

3. The present appeal under Section 37 of the Arbitration & Conciliation Act, 1996 (‘Act’) seeks to assail the order dated 16.04.2024 passed by the learned District Judge, Commercial Court-05 (Central District), Tis Hazari Courts, Delhi in O.M.P.(COMM) No.38/2023. Vide the impugned order, the learned Trial Court has rejected the application preferred by the appellant under Section 34 of the Act on the ground of delay.

4. The appeal is grossly barred by limitation and is accompanied by an application seeking condonation of 195 days’ delay in filing the appeal. Having perused the reasons set out in the application seeking condonation of delay, we are of the view that the reasons stated therein are not sufficient to condone this inordinate delay of 195 days in filing the present appeal. Learned counsel for the appellant seeks to urge that since the impugned award dated 03.01.2022 itself is in nullity having been passed by a Sole Arbitrator, who had been appointed unilaterally by the respondent, the same be set aside.

5. We are, however, of the view that before we take up the appeal for consideration on merits, the appellant must explain the delay in filing of the appeal. Learned counsel for the appellant prays for and is granted four weeks’ time to file an additional affidavit to explain the delay in filing the appeal.

6. List on 26.03.2025.”

3. Despite opportunity to the appellant to file an additional affidavit to explain the delay, the appellant has not done so. Clearly, the reasons as stated in the application do not set out a sufficient cause that prevented the appellant from filing the present appeal within time.

4. In *N.V. International v. State of Assam & Ors.: (2020) 2 SCC 109*, the Supreme Court had, taking cue from the proviso to Section 34(3) of the A&C Act, held that the court cannot condone a delay exceeding 30 days in



filing an appeal under Section 37 of the A&C Act. In ***Government of Maharashtra (Water Resources Department) Represented By Executive Engineer v. Borse Brothers Engineers and Contractors Pvt. Ltd.: (2021) 6 SCC 460***, the Supreme Court overruled the said decision. However, the Supreme Court also explained that it would not be apposite to take an elastic approach in matters of delay in filing appeals under Section 37 of the A&C Act or under the Commercial Courts Act, 2015. The relevant extract of the said decision is set out below: -

“58. Given the object sought to be achieved under both the Arbitration Act and the Commercial Courts Act, that is, the speedy resolution of disputes, the expression “sufficient cause” is not elastic enough to cover long delays beyond the period provided by the appeal provision itself. Besides, the expression “sufficient cause” is not itself a loose panacea for the ill pressing negligent and stale claims...

63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals filed under section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1-A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule....”

5. We find no reason to differ from the reasoning as expressed by the Coordinate Bench of this court in the order dated 31.01.2025 as stated above.

6. In view of the above, the application is dismissed.

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7. Consequent to dismissal of the application for condonation of delay in



filing the present appeal, the appeal as well as the pending application also stand dismissed.

8. We clarify that the dismissal of the present appeal would not prejudice the appellants in pursuing their objections in proceedings relating to the enforcement of the arbitral award, which was the subject matter of the application under Section 34 of the Arbitration & Conciliation Act, 1996 that was dismissed by the order impugned in the present appeal.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 28, 2025
'gsr'

Click here to check corrigendum, if any