



2025:DHC:10027



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

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Date of Decision: 14.11.2025

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CM(M) 1864/2024**M/S RICHA CONSTRUCTIONS CO****.....Petitioner**Through: Ms. Madhumita Bhattacharjee and
Ms. Srija Choudhary, Advocates.

versus

M/S NBCC (INDIA) LTD**.....Respondent**Through: Mr. Vikrant Pachnanda, Advocate
(*through videoconferencing*).**CORAM: JUSTICE GIRISH KATHPALIA****ORDER (ORAL)**

1. Petitioner has assailed order dated 10.11.2023 of the learned trial court, whereby Objections under Section 34 of the Arbitration and Conciliation Act, filed by the present respondent, which had been dismissed in default on 19.11.2022, were restored. I have heard learned counsel for both sides.

2. Broadly speaking, the case set up by the present respondent before the trial court was that on 19.11.2022, counsel for the present respondent could not appear on account of her ill health and thereafter, the present respondent remained unaware about dismissal of the Objections in default. It is only in the month of January, 2023 that the present respondent came to know about

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the dismissal of the Objections in default, so moved an application for restoration of the Objections, which application was allowed by way of order impugned in this petition.

3. The only objection against the impugned order raised by the present petitioner is that the application for restoration of Objections under Section 34 of the Arbitration and Conciliation Act was filed beyond the time prescribed by law and without any application seeking condonation of delay. Learned counsel for petitioner submits that keeping in mind the object behind the Commercial Courts Act, where a party is not diligent, he is not entitled to any relief. It is argued that the timelines laid down by the legislature have to be strictly adhered to and in the present case, there being a delay of about seven months in filing the restoration application, the delay ought not to have been condoned without a formal application for delay condonation.

4. On the other hand, learned counsel for respondent supports the impugned order, taking me through the same.

5. To begin with, the restoration *per se* of the Objections is not opposed, since the dismissal in default was on account of illness of the erstwhile counsel. What is opposed by learned counsel for petitioner is that without there being formal application for condonation of delay, the court ought not to have entertained the restoration application especially because the present respondent is not an individual lay litigant, but a public sector undertaking.

6. As reflected from the impugned order and not disputed by either side,

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on 14.09.2022, which was the date prior to the date of dismissal of the Objections in default, the erstwhile counsel for the present respondent submitted before the trial court that she had not been keeping well and would return the brief. Going by that submission, the learned trial court found no reason to disbelieve that on 19.11.2022, counsel for the present respondent could not appear on account of illness. The learned trial court considered that circumstance as a reasonable explanation for default. On this, there is no dispute from the side of petitioner also.

7. The issue raised by learned counsel for petitioner is that the petitioner, being a public sector undertaking, ought to have filed a formal application seeking condonation of delay of seven months in filing the restoration application.

8. In my considered view, there is no requirement of a formal application for condonation of delay in filing any application or appeal. If from record, the court is satisfied about the circumstances that led to delay, the court can certainly condone the delay and adjudicate upon the main application. It is the cardinal principle of justice that disputes should be decided on merits and not defaults; where the party in default can be made to compensate the other side, the default must be condoned. In the present case also, the restoration application was allowed subject to costs.

9. But as regards costs, learned counsel for petitioner contends that the same is a very meagre amount of Rs. 7,500/- only. Cost is a matter of cost and not the quantum. Even otherwise, in the jurisdiction under Article 227



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of the Constitution of India, this Court would not delve deeper into the quantum of costs.

10. In view of above discussion, I am unable to find any infirmity, much less any perversity in the impugned order that would call for interference under Article 227 of the Constitution of India. So, the impugned order is upheld and the petition is dismissed.

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(JUDGE)**

NOVEMBER 14, 2025/dr

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