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

+ **FAO (COMM) 70/2025, CM APPL. 14071/2025 (Stay)**

M/S POLO MACHINERY PVT. LTD & ORS

.....Appellants

Through: **Mohammad Ikram, Adv.**

versus

M/S S.E. INVESTMENT LIMITED & ANR.

.....Respondents

Through: **Mr. Apratim Animesh Thakur,
Mr. Lakshya Sachdeva, Mr.
Yash Pratap and Ms. Ankita
Rawat, Adv. for R-1.
Ms. Vaishali Gupta, PC (Civil),
for R-4/GNCTD.**

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

ORDER

% **07.03.2025**

CM APPL. 14072/2025 (Ex.)

Allowed, subject to all just exceptions.

Application shall stand allowed.

FAO (COMM) 70/2025, CM APPL. 14071/2025 (Stay)

1. This appeal is directed against the order passed by the Commercial Judge dismissing a petition under Section 34 of the Arbitration & Conciliation Act, 1996 [‘Act’] on the ground of the same having been instituted after the maximum period of limitation as prescribed. The Commercial Judge has on facts found as follows:

“13. It emerges from the impugned award that the petitioners herein were aware of the arbitration proceedings and were



appearing before the Ld. Arbitral Tribunal. Further, the addresses of the petitioners No. I and 3 herein are the same as mentioned in the impugned award. Thus, this court is of the view that the impugned award would have been sent to the correct address of the petitioners. Further, it has also been brought to the notice of this court that Respondent No. 1 tiled an execution petition bearing No. P. 314/20 13 titled **"S.E. Investment Ltd Versus M/s Polo Machinery Pvt. Ltd and Others"** before the Hon'ble Delhi High Court seeking enforcement of the impugned award wherein the petitioners herein were regularly appearing since 2014.

14. Undisputedly, the petitioners were appearing before the Hon'ble Delhi High Court since 2014 in the execution petition, and therefore it lucidly manifests that the petitioners were well aware of the passing of the impugned award. Nevertheless, taking the petitioners' submission at face value, the passing of the impugned award came into their knowledge on 27.05.2016 after getting a certified copy from the Hon'ble Delhi High Court. In view of the submission, the limitation to file the present petition commenced on 27.05.2016, and the statutory period for filing a petition under Section 34(3) of the Act expired on 27.08.2016. The present petition was filed on 27.04.2017, which was beyond the statutory and extended limitation period under Section 34(3) of the Act.

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16. In the light of the extensive discussion above, this court is of the considered view that the statutory limitation to file the petition under Section 34 of the Act expired on 27.08.2016 and the extended period of 30 days also expired on 26.09.2016; thus, this court has no discretion to condone the delay beyond 30 days after the expiry of three months period of limitation in filing the petition/application under Section 34 of the Act, whereby the period of limitation commences from 27.05.2016, the date of receipt of the impugned award. Even otherwise, as aforesaid, the filed petition under Section 34 of the Act is well beyond the available statutory three months period for filing a petition or application under Section 34 of the Act and even beyond the period of subsequent 30 days.”

2. The record would reflect that although the Award is dated 01 August 2013, the petition under Section 34 was filed only on 28 April 2017. The Commercial Judge has computed the period of limitation as prescribed under Section 34(3) from the date when the appellant is alleged to have derived information and knowledge of the Award.



Even when tested on the aforesaid basis, it has come to conclude that the time for institution of the petition under Section 34 would have expired on 26 September 2016. In view of the aforementioned undisputed facts which emerge, we find no justification to interfere with the order impugned.

3. The appeal fails and shall stand dismissed.

YASHWANT VARMA, J

HARISH VAIDYANATHAN SHANKAR, J

MARCH 7, 2025/akc