



\$~16

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

%

Date of Decision : 16.10.2025+ **FAO(OS) (COMM) 71/2024**

UNION OF INDIA

.....Appellant

Through: Mr Nitinja Chaudhary, CGSC, Mr
Keshav Sehgal, Mr Rahul Mourya
and Mr Aryan Kumar and Mr Shivam
Gaur, Advocates.

versus

M/S UEE ELECTRICALS ENGINEERS PVT LTDRespondent

Through: Mr Rajiv Kataria, Advocate, & Ms
Debjani Das P, Advocates.

CORAM:**HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MR. JUSTICE VINOD KUMAR****V. KAMESWAR RAO, J. (ORAL)**

21490/2024(condn of delay in re-filing);and
CM APPL. 21488/2024(condn of delay in filing)
both in FAO(OS) (COMM) 71/2024

1. These applications are filed by the appellant seeking condonation of delay of 16 days in re-filing and condonation of delay of 58 days in filing of the captioned appeal. Mr Rajiv Kataria submits that the number of the days calculated by the appellant is incorrect as the delay is more than 58 days, as we find and it is conceded by Mr Kataria, that the appellant had approached the Supreme Court against the impugned order dated 21.02.2023 passed by the learned Single Judge in OMP (COMM) No.383/2019 in the month of



October 2023, which was withdrawn by the appellant with liberty to approach this Court to avail remedy under Section 37 of the Arbitration and Conciliation Act, 1996 (the A&C Act) and also in view of the averments in the application seeking condonation of delay in filing, are primarily set out below, we condone the delay.

CM APPL. 21488/2024

“4. That based on legal advice received by the department, the Appellant filed a Special Leave Petition bearing SLP (Civil) Diary No. of 2023 titled as

“Union of India v. M/s UEE Electricals Engineers Pvt. Ltd.” inter-alia challenging the Impugned Judgment dated 23.02.2023. It is pertinent to mention that the said SLP was filed on 25.07.2023, and was listed for the first time before the Hon’ble Supreme Court on 13.10.2023.

5. That the Hon’ble Supreme Court vide Order dated 13.10.2023 was pleased to dispose off the said SLP by granting the Appellant, liberty to approach this Hon’ble Court under section 37 of the Arbitration Act.

6. That upon the liberty granted by the Hon’ble Supreme Court in terms of the Order dated 13.10.2023, the Appellant commenced the process for filing the present Appeal. It is respectfully submitted that the period from 21.02.2023 (i.e. the date of passing of the Impugned Judgment) to 13.10.2023 cannot be computed for the purposes of calculating the limitation as section 14 of the Limitation Act, expressly states that the period spent in prosecuting the claim in a court without jurisdiction, ought to be excluded for the purposes of calculating the limitation.

7. That the Appellant directed the In charge (Litigation), Delhi High Court to challenge the Arbitral Award by way of the present Appeal on



31.10.2023. That as per the Appellant's official procedure, the Legal Opinion of the Ministry of Law and Justice was sought vide letter dated 04.10.2023. Thus accordingly, the case was forwarded to Headquarters Civil Works Engineer (U) on 10.11.2023 seeking advise of Ministry of Law and Justice.

8. That thereafter, the case was forwarded to Chief Engineer Delhi Zone, Delhi Cantt. for further approval on 23.11.2023 and the same was received by the Litigation cell on 28.11.2023 itself.

9. That furthermore, the counsel on behalf of the Appellant was changed and the present counsel was engaged on 08.01.2023. Its is being stated for the sake of disclosure that the earlier counsel for the Appellant had filed an appeal challenging the Impugned Judgment and the Arbitral Award, however the same is not being pursued by the Appellant.

10. That the aforesaid facts and circumstances highlights that the there was a sufficient cause in the delay in approaching this Hon'ble Court.

11. That it is humbly submitted that a delay of 58 days be condoned by this Hon'ble Court as the said delay was not intentional and hence, the same may be condoned.

12. That the present application has been moved bona fide and in interest of justice. The delay was not intentional and hence, the same may be condoned.

13. That no prejudice will be caused to the Respondent if the present application is allowed."

CM APPL. 21490/2024

"2. That the present Appeal was filed on 09.02.2024 vide Diary No.384895/2024. However, the same was returned under objections on 12.02.2024 as defects were marked by the Registry of this Hon'ble Court.

3. That due to unavoidable circumstances, the official of the Appellant Department were not able to meet the



counsel for clearing of the defects as the concerned official was travelling for administrative and official purposes. Furthermore, the staff of the Appellant was also occupied with urgent fiscal reviews on account of the closing of Financial Year.

4. That due to the aforesaid facts and circumstances, the Appellant was not able to refile the present Appeal within the prescribed time.

5. That the Chapter IV Rule 3 of the Delhi High Court (Original Side) Rules, 2018 lays down that a defective pleading has to be re-filed within a maximum period of thirty (30) days and if the pleading is being filed beyond the said period, it has to be accompanied with an application seeking condonation of delay in refiling the said pleading. The relevant extract of the said rule is reproduced herein below with ready reference of this Hon'ble Court:

3. Defective pleading/ document.-(a) If on scrutiny, the pleading/ document is found defective, the Deputy Registrar/ Assistant Registrar, In charge of the Filing Counter, shall specify the objections, a copy of which will be kept for the Court Record, and return for amendment and re-filing within a time not exceeding 7 days at a time and 30 days in aggregate.

(b) If the pleading/ document is not taken back for amendment within the time allowed under sub-rule (a), it shall be registered and listed before the Court for its dismissal for non-prosecution.

(c) the pleading/ document must be accompanied with an application for condonation of delay in re-filing of the said pleading/ document.

(d) Any party aggrieved by any order made by the Registrar under this Rule may, within fifteen days of the making of such order, appeal against it to the Judge in Chambers.

6. That the defects were marked by the registry on



12.02.2024 and the present Appeal was filed on 30.03.2024. Hence it is humbly submitted that the delay of sixteen (16) days in re-filing the Appeal be condoned by this Hon'ble Court as the said delay was not intentional and thus the Appellant has preferred the present application.

7. That the present application has been moved bona fide and in interest of justice. The delay was not intentional and hence, the same may be condoned.

8. That no prejudice will be caused to the Respondent if the present application is allowed.”

2. In this regard, we may note that judgment of the Supreme Court in ***Government of Maharashtra (Water Resources Department) Represented By Executive Engineer v. Borse Brothers Engineers and Contractors Pvt. Ltd.:* (2021) 6 SCC 460**, wherein the Supreme Court has held as under 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 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....”

3. Applications are disposed of.

FAO(OS) (COMM) 71/2024 CM APPL. 21487/2024(Stay)



4. As noted above, this appeal is filed under Section 37 of the A&C Act against the impugned order dated 21.02.2023 passed by the learned Single Judge in OMP (COMM) No.383/2019 dismissing the petition under Section 34 of the A&C Act filed by the appellant.

5. There is no cavil that the challenge under Section 34 of the A&C Act was with respect to the findings of the learned Sole Arbitrator against the claims no.1,8,10 & 11. The said claims as noted by the learned Single Judge in paragraphs no.30 to 33 of the impugned order are reproduced below:-

“30. Claim No. 1 pertained to an amount of Rs.83,56,700/- towards payments against final bill of work done and material lying at the site as on cancellation of the Contract and the Sole Arbitrator in his observation and conclusion has awarded an amount to the tune of Rs. 1797731.56 and thus, the finding has been challenged by the petitioner herein.

31. Claim No.8 pertained to the loss suffered on account of non release of FDR submitted towards the standing security including Order for release of the FDR. Pertinent to this claim, the Sole Arbitrator has held as under:

“(a) Since the cancellation has been found to be wrongful, there is no further reason for the UOI to withhold the FDR and the same should be immediately released to the Second Party.

(b) No substantive and clear evidence with supporting documents was produced before the Arbitrator as to where the money, if released would have been invested/utilized to earn the claimed interest of 18%. Therefore, the interest given as per the prevalent rates by the bank on the TDR is considered as a just return and I award 'NIL' to the Second Party against this claim.”

32. Claim No. 10 pertained to the amount of interest and a request was made therein by the Petitioner to award past & pendente lite interest on Claims No 1 to 8 @ 12% from the



date of cancellation of the contract till the date of publication of award and also future interest @12% till the date of realisation. It was held as under:

"It is an established law that the interest is to be paid on any compensation resulting from breach of a contract by a party to a Contract, awarded to the other party. However, the amount wrt Claims 1 to 8 of UOI admitted by me has already been accounted for against deduction in the final bill or reduction in Claims of the Contractor. No interest is thus admissible. I therefore award 'Nil' against Claim No 10 of UOI."

33. Claim No. 11 pertained to the cost of the arbitral reference and it was prayed by the petitioner therein that rather than accepting the natural, contractual and legal claims of the petitioner, the respondent has dragged the petitioner to various litigations and arbitration proceedings, and therefore, the petitioner was entitled to the cost of the arbitration. It was held as under:

"Since cancellation of the contract by UOI was wrongful leading to the current dispute and the contractor having to seek redressal through hon'ble Delhi High Court and arbitration, it is only fair that they themselves bear the costs of reference. Therefore, I award 'Nil' to UOI against Claim No 11."

6. We find that in the appeal under Section 34 of the A&C Act the appellant has raised several grounds in its challenge to the arbitral award, more particularly the aforesaid claims.

7. The learned Single Judge while dismissing the petition under Section 34 of the A&C Act has drawn the conclusion in paragraphs no.36 onwards, which we reproduce as under:-

"36. The legislative intent behind enacting the Act is to make justice delivery simple, inexpensive, party-led and time-bound as well as to take the burden of a big chunk of commercial cases off the conventional Courts. This being the



motivation and expectation, the finality of the Arbitral Award gains enormous importance.

37. However, it is a deplorable fact that appealing the award granted by the Arbitrator/Arbitral Tribunal has become a routine practice for the aggrieved party whose claims are not allowed. Subsequently, the challenge petition becomes pending, further adding to the burden of the Courts and at the same time posing a looming threat to the finality of the Award, thus defeating the ends for which the Act had been legislated, and Arbitration as an Alternative Dispute Resolution mechanism has been introduced.

38. The remedy provided in Section 34 against an Arbitral Award is in any case not the same as an appeal. The intention behind incorporating Section 34 was to make the result of the annulment procedure prescribed therein potentially different from that in an appeal. In appeal, the decision under review not only may be confirmed, but may also be modified. In annulment, on the other hand, the decision under review may either be invalidated in whole or in part or be left to stand if the plea for annulment is rejected. Section 34 provides for annulment only on the grounds affecting legitimacy of the process of decision as distinct from substantive correctness of the contents of the decision.

39. As discussed in the foregoing paragraphs, the scope of interference and intervention by a Court in an Arbitral Award is limited in view of the legislative intent behind the enactment of the Act, and even if raised, a challenge to an Arbitral Award must satisfy the test laid down in the Arbitration Act as well as that interpreted by the Hon'ble Supreme Court.

40. In the case at hand, it is evident from the perusal of the impugned Award running into 103 pages that the Sole Arbitrator has appreciated the entire material produced as well as the oral proceedings conducted before it, and thereafter, passed the Award, wherein the findings have been made in the favour of the respondent, directing the petitioner to make necessary payment and reimbursement to the respondent.



41. Therefore, upon consideration of facts and circumstances, submissions made on behalf of the parties and observations and findings in the Award, this Court finds that there is no merit in the instant petition and the challenge therein to the impugned Award dated 20.05.2019.

42. Accordingly, the instant petition is dismissed for being devoid of merit.

43. Pending applications, if any, also stand dismissed.”

8. A bare perusal of the conclusion drawn by the learned Single Judge would reveal that the learned Single Judge has not dealt with the challenge made to the claims no.1,8,10 & 11 and has summarily on the basis of the settled position of law, more particularly the scope of the Section 34 of the A&C Act and by referring to the various judgments of the Supreme Court on the scope of judicial review under Section 34 of the A&C Act, has dismissed the petition. This, according to us, is clearly untenable as the learned Single Judge was required to consider the merits of the challenge to the claims no.1,8,10 & 11 and see the applicability of the facts to the law, as noted and draw a conclusion whether the challenge to the arbitral award under Section 34 of the A&C Act is justified or not, which admittedly he has not done.

9. In the facts of this case, we have no other no alternative, but to set aside the impugned order dated 21.02.2023 passed in OMP (COMM) No.383/2019 and remand the matter back to learned Single Judge, who shall decide the challenge to the claims no.1,8,10 & 11 of the arbitral award. We revive the OMP (COMM) 383/2019 on the file of the learned Single Judge/Roster Bench for a decision of the same in accordance with law.

10. At this stage, Mr Kataria, learned counsel for the respondent would submit that a direction be given to the learned Single Judge to decide the



petition under Section 34 of the A&C Act at an early date. Suffice to state, liberty shall be with the parties to make a request to the learned Single Judge, for early disposal.

11. Accordingly, list the OMP(COMM) No.383/2019 before the Roster Bench on 10.11.2025. Both the parties shall appear before the learned Single Judge on the date fixed.

12. The appeal is allowed in the aforesaid terms. The pending application stands dismissed as having become infructuous. No order as to cost.

V. KAMESWAR RAO, J

VINOD KUMAR, J

OCTOBER 16, 2025

M