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

+ **FAO (COMM) 103/2024**

M/S BALAJI ENTERPRISESAppellant

Through: **Mr. Vikram Saini, Advocate.**

versus

CENTRODORSTROY (INDIA) PVT. LTD.Respondent

Through: **Mr. Ankur Singhal, Adv.**

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN

SHANKAR

ORDER

% **05.05.2025**

1. The present appeal has been filed challenging Order dated 26.02.2024 passed by the learned Commercial Court in OMP (COMM) No. 14/2021 rejecting the application filed under Section 34 of the Arbitration & Conciliation Act, 1996 ("**the Act**") on the ground that the said application is barred by limitation as prescribed under Section 34(3) of the Act.
2. One of the grounds taken in the appeal is that an application under Section 33 of the Act was filed by the Appellant before the Arbitrator and the time taken in disposing of the said application has to be taken into consideration while calculating the limitation under Section 34(3) of the Act. The Trial Court has found that there is nothing on record to show that such an application was filed.
3. It is stated by the learned counsel for the Appellant that the finding by the learned Trial Court in exercise of its jurisdiction under Section 34 of the Act that there is nothing in the arbitral record to



suggest that such an application under Section 33 of the Arbitration & Conciliation Act, 1996 had been filed or not, is incorrect.

4. Learned counsel for the Appellant prays for withdrawal of the present appeal with liberty to file a review petition before the concerned Court to correct the said finding.

5. Leave and liberty granted.

6. The appeal is dismissed as withdrawn.

7. It is made clear that this Court has not made any observations on the merits of the case.

SUBRAMONIUM PRASAD, J.

HARISH VAIDYANATHAN SHANKAR, J.

MAY 5, 2025/akc