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

+ **FAO(OS) (COMM) 191/2024, CM APPL. 49293/2024, CM APPL. 49294/2024**

UNION OF INDIA THROUGH CCE/(NEP)/CHABUA

.....Appellant

Through: Mr. Vineet Dhanda, CGSC with Mr. Vikrant Goyal and Mr. Saksham Seth, Advs.

versus

M/S NCC LIMITED

.....Respondent

Through: Dr. Amit George, Ms. Rupam Jha, Ms. Ibansara Syiemlieh, Ms. Suparna Jain, Ms. Medhavi Bhatia, Mr. Adhishwar Suri, Mr. Dushyant Kishan Kaul and Mr. Arkaneil Bhaumik, Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE RENU BHATNAGAR

ORDER

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25.02.2025

1. The present appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (the Act) read with Section 13 (1) of the Commercial Courts Act, 2015 seeks to assail the judgment dated 23.02.2024 passed by the learned Single Judge in OMP (COMM) 66 of 2023. Vide the impugned order, the learned Single Judge has rejected the application preferred by the appellant, under Section 34 of the Act, as being barred by limitation after noticing the fact that a copy of the award had not been filed with the



application as originally filed.

2. Learned counsel for the appellant is not in a position to deny that a copy of the award was not filed within the period of 120 days from the date of the impugned order. In the light of this admitted position, we find no reason to differ from the view taken by the learned Single Judge that the application under Section 34 of the Act as filed by the appellant without a copy of impugned award as also other relevant documents would have to be treated as *non-est* filing. In this regard, reference may be made to the recent decision of a Full Bench of this Court in 2025 SCC Online Del 636 ***Pragati Construction Consultants Vs. Union of India and Another***, the relevant extracts thereof read as under:

“97.

a) Non-filing of the Arbitral Award alongwith an application under the Section 34 of the A & C Act would make the said application liable to be treated and declared as non-est, and the limitation prescribed under Section 34 (3) of the A& C Act shall continue to run in spite of such filing;”

3. In the light of the aforesaid we find no merit in the appeal which along with all pending applications is, accordingly, dismissed.

REKHA PALLI, J

RENU BHATNAGAR, J

FEBRUARY 25, 2025/ab