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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 14.05.2025

+ FAO (COMM) 223/2024 & CM APPL. 67266/2024

NATIONAL SEEDS CORPORATION LTD

.....Appellant

Through: Mr Yashvardhan, Ms Smita Kapil, Ms
Kritika Nagpal, Mr Pranav Das and
Mr Gyanendra Shukla, Advocates.

versus

ASSOCIATED JUTE INDUSTRIES

.....Respondent

Through: None.

CORAM:**HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MR. JUSTICE TEJAS KARIA****VIBHU BAKHRU, J. (ORAL)**

1. The appellant has filed the above captioned appeal under Section 37(1)(c) of the Arbitration and Conciliation Act, 1996 [A&C Act] impugning an order dated 05.10.2023 [impugned order] passed by the learned Commercial Court in OMP (Comm) No.17/2021 captioned *M/s. Associated Jute Industries v. National Seeds Corporation Limited* allowing the application filed by the respondent under Section 34 of the A&C Act and setting aside the Arbitral Award dated 06.11.2020 [impugned award].

2. The impugned order was passed on 05.10.2023. The present appeal has been filed after an inordinate delay of 315 days. The appellant has filed



this application [CM APPL. 67266/2024] seeking condonation of the said delay. The only reason furnished for explaining the delay is that the appellant had sought instructions of the relevant Department as well as its counsel which took time. It has also entered into negotiations to resolve with the respondent to amicably resolve the disputes, which too took some time.

3. It is stated that immediately on becoming aware of the impugned order, the appellant sought legal opinion from its team and thereafter sought instructions from the necessary department to institute the appeal. It is stated that it took time to obtain instructions from the necessary department.

4. It is material to note that neither any date nor any timeline has been indicated in the said application. The appellant states that after receiving the impugned order, it instructed his advocate to prepare the appeal. However, in the meanwhile appellant received a letter dated 29.04.2024 from the respondent inviting the appellant to explore the possibility of settling the matter outside court.

5. It is material to note that as on 29.04.2024, the time for filing present appeal had long expired. The impugned order was pronounced on 05.10.2023 and the time for filing the appeal, that is, sixty days expired on 05.12.2023. The respondent's letter dated 29.04.2024 was sent almost after twice the time otherwise available for filing the present appeal, had expired.

6. The appellant states that after receiving communication from the respondent it sought legal opinion regarding further course of action which was received on 09.05.2024. A meeting between the parties was held after almost a month thereafter, that is, on 05.06.2024. It is stated that the



proposal/offer made by the respondent was discussed at various levels of the appellant which took time. Finally, the appellant decided to reject the proposal on 08.10.2024.

7. We find it difficult to accept that the time taken by the appellant to consider the proposal of the respondent, which exceeds four months, could be considered as a sufficient cause that prevented the appellant from filing the present appeal within the stipulated time.

8. The timeline stipulated in matters involving the commercial disputes are not flexible enough to accommodate such inordinate delay. Although, it is contended that the delay is of 315 days, but when considered in the perspective of the time available for filing the appeal, it is noted that it is five times the stipulated period for filing the appeal in the first place. It would not be in consonance of the legislative intent if such an inordinate delay is countenanced.

9. In *N.V. International v. State of Assam: (2020) 2 SCC 109*, the Supreme Court had expressed the view that the time available for filing an appeal under Section 37 of the A&C Act is rigid and the Court has no jurisdiction to condone the delay beyond the period of thirty days as stipulated under proviso to Section 34(3) of the A&C Act. The said decision was overruled by 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*. The Supreme Court held that the proviso to Section 34(3) of the A&C Act would not be applicable to the appeals under Section 37 of the A&C Act, the



powers of the Court to condone the delay was not confined to period of thirty days. However, the Court also explained that the expression “sufficient cause” was not flexible to accommodate the inordinate delays. We consider it apposite to set out the relevant extract of the said decision. The same is set out as under: -

“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...

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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....”

10. The fact that the appellant was negotiating with the respondent for an amicable settlement – the conclusion of which was also delayed on account of an inordinately long period of over four months taken by the respondent to reject the proposal – did not preclude the appellant from filing the above captioned appeal. Thus, the same could not be considered as ‘sufficient cause’, which prevented the appellant from filing the present appeal.

11. In view of the above, we are not persuaded to accept that the inordinate delay in filing the above captioned appeal ought to be condoned.



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The application is, accordingly, dismissed.

12. Consequently, the above captioned appeal is also dismissed.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 14, 2025

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Click here to check corrigendum, if any