



\$~74, 75, 76

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

+ O.M.P. (COMM) 277/2018, I.A. 8632/2018, I.A. 8633/2018, I.A. 8634/2018

SOUTH DELHI MUNICIPAL CORPORATIONPetitioner

Through: Mr Rajan Tyagi and Mr Harpreet
Singh Sodhi, Advocates

versus

AEROSTRAL AIR SERVICES PVT LTDRespondent

Through: Mr. Pratap Singh, Mr. Shivank Panta
and Mr. Navneet Sharma, Advocates.

+ O.M.P. (COMM) 284/2018, I.A. 8808/2018, I.A. 8809/2018, I.A. 8811/2018

SOUTH DELHI MUNICIPAL CORPORATIONPetitioner

Through: Mr Rajan Tyagi and Mr Harpreet
Singh Sodhi, Advocates

versus

AEROSTRAL AIR SERVICES PVT LTDRespondent

Through: Mr. Pratap Singh, Mr. Shivank Panta
and Mr. Navneet Sharma, Advocates.

+ O.M.P. (COMM) 285/2018, I.A. 8814/2018, I.A. 8815/2018, I.A. 8817/2018

SOUTH DELHI MUNICIPAL CORPORATIONPetitioner

Through: Mr Rajan Tyagi and Mr Harpreet
Singh Sodhi, Advocates

versus

AEROSTRAL AIR SERVICES PVT LTDRespondent

Through: Mr. Pratap Singh, Mr. Shivank Panta
and Mr. Navneet Sharma, Advocates.



CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER
20.03.2025

%

1. The present petitions under Section 34 of the Arbitration and Conciliation Act, 1996 have been filed by the Petitioner challenging the Award dated 25.07.2017 passed by the Ld. Sole Arbitrator.
2. It is the case of the Petitioner that they received a copy of the Award from the Arbitrator only on 13.11.2017, a fact which is disputed by the learned Counsel for the Respondent. Even if 13.11.2017 is taken as the *terminus a quo* for calculating the limitation, the Award should have been challenged on or before 13.02.2018. A further grace period of 30 days is given under Section 34(3) of the Arbitration and Conciliation Act, 1996 and the same would come to an end on 15.03.2018. Though the Award has been challenged by the Petitioner on 13.03.2018, however, the same was without a copy of the Award. The Award has been filed only on 20.03.2018 that is beyond the maximum period prescribed under Section 34 of the Arbitration and Conciliation Act, 1996.
3. A Full Bench of this Court in Pragati Construction Consultants vs. Union of India and Another, **2025 SCC OnLine Del 636** has held that a challenge to an Award without the copy of the Award amounts to *non-est* filing. Recently, the Full Bench Judgment has been followed by a Division Bench of this Court in Ircon International Limited v. M/s PNC-Jain Construction Co. (JV), **2023 SCC OnLine Del 534**, holding that a challenge to the Award sans a copy of the Award is a *non est* filing.
4. The Apex Court has held that Limitation Act is not applicable to the



proceedings under the Arbitration and Conciliation Act, 1996 and the delay beyond the maximum period prescribed under Section 34 of the Arbitration Act cannot be condoned by a Court.

5. In view of the fact that the Award has been challenged beyond the maximum period prescribed under Section 34 of the Arbitration and Conciliation Act, 1996 rendering the filing *non est*, this Court is not in a position to entertain the present petitions.

6. The petitions are accordingly dismissed, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

MARCH 20, 2025

S. Zakir