



2025:DHC:207-DB



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

Date of decision: 16.01.2025

+ **FAO(OS) (COMM) 292/2024**

HEAVY ENGINEERING CORPORATION LIMITED

.....Appellant

Through: Mr. Rajiv Shankar Dwivedi,
Mr. S. K. Sarkar and Mr.
Rishabh Jain, Advs.

versus

RAMPUR ENGINEERING CORPORATION LIMITED

.....Respondent

Through: Ms. Cauveri Birbal and Ms.
Muskan Gupta, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (ORAL)

CM APPL. 74392/2024 (Exemption)

1. Allowed, subject to all just exceptions.

FAO(OS) (COMM) 292/2024, CM APPL. 74391/2024. CM APPL. 74393/2024, CM APPL. 2561/2025 & CM APPL. 2562/2025

2. This appeal has been filed by the appellant, challenging the Order dated 20.09.2024 passed by the learned Single Judge of this Court in OMP (COMM) 168/2019 titled *Heavy Engineering Corporation Limited v. Rampur Engineering Corporation Limited*, dismissing the application, being I.A. 6053/2019, filed by the



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appellant herein seeking condonation of delay in filing of the aforesaid application under Section 34 of the Arbitration and Conciliation Act, 1996 (in short, 'A&C Act').

3. The appellant had filed the abovementioned application under Section 34 of the A&C Act challenging the Arbitral Award dated 18.04.2018 passed by the learned Sole Arbitrator. The application under Section 34 of the Act was filed by the appellant only on or about 27.03.2019.

4. The learned Single Judge, in the Impugned Order, has held that the learned Sole Arbitrator passed the Arbitral Award on 18.04.2018 and on the same day, sent a copy of the Award to the appellant at its Delhi address as well as its Ranchi address. On perusing the arbitral record, the learned Single Judge also found a copy of the courier receipt showing that the Award was duly served upon the appellant at its Delhi address and its Ranchi address. Though the learned Single Judge in paragraph 6 of the Impugned Order states that 'the Speed Post receipt' also shows that the appellant refused to accept the service of the courier on 20.04.2018, the same is, in fact, the tracking report of the courier sent by the learned Sole Arbitrator.

5. In the appeal that has been filed before us, vague grounds have been taken without specifically challenging the above findings of the learned Single Judge. We may quote from the appeal as under:-

"D. Because the Ld. Single Judge while dismissing the Petition of the Appellant under Section 34 of the Act lost sight of the fact and failed to consider that the Appellant was not provided with opportunity to prove that it had never received the copy of the ex-parte



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arbitral award and hence on this count alone, the delay in filing the application under section 34 of the act should have been condoned.”

6. The other grounds raised by the appellant show that it is invoking the general principles for condonation of delay, without appreciating that under Section 34(3) of the A&C Act, a specific period of limitation is prescribed and the power of the Court to condone the delay is also restricted, with it being provided that a delay of not more than 30 days can be condoned by the Court.

7. In the present case, as there is no specific challenge to the finding of the learned Single Judge that the Sole Arbitrator had sent a copy of the Arbitral Award to the appellant at its Delhi and Ranchi address, which had been duly delivered to the appellant, the application under Section 34 of the A&C Act, had been filed by the appellant much beyond the maximum period by which the delay in filing such an application Act can be condoned by the Court.

8. In view of the above, we do not find any infirmity in the Impugned Order dated 20.09.2024.

9. The learned counsel for the appellant submits that in the present case, the learned Sole Arbitrator had been unilaterally appointed by the respondent and, therefore, the Award passed would be a nullity. We need not express any opinion on the same, and we leave this question open for the appellant to agitate in the appropriate proceedings.



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10. In view of the above, we do not find any merit in the appeal. The same, along with the pending applications, is accordingly dismissed with the above observations.

NAVIN CHAWLA, J

SHALINDER KAUR, J

JANUARY 16, 2025/ss/sk/SJ

Click here to check corrigendum, if any