



2025:DHC:4267-DB



\$~153 & 154

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

Date of decision: 22.05.2025

(153)+FAO (COMM) 14/2025 & CM APPL. 3034/2025, CM APPL. 3035/2025, CM APPL. 3036/2025

(154)+FAO (COMM) 11/2025 & CM APPL. 2380/2025, CM APPL. 2382/2025

UNION OF INDIA

.....Appellant

Through: Mr.Sushil Kumar Pandey, SPC
with Ms.Richa Pandey,
Ms.Neha Yadav and
Mr.Vaibhav Soni, Advs.

versus

M/S AGRAWAL AND CO.

.....Respondent

Through: Ms.Risha Mittal, Ms.Simran
Mehrotra, Mr.Rohan Narula,
Mr.Sanchit Gupta and Mr.Md.
Adil Alam, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

1. These appeals have been filed challenging the Orders dated 09.08.2024 passed by the learned District Judge (Commercial-03), Patiala House, New Delhi in OMP (Comm) No.180/2023 (in FAO (COMM) 14/2025) and in OMP (Comm) No.181/2023 (in FAO (COMM) 11/2025), both titled *Union of India v. M/s Agrawal & Co.*, dismissing the applications filed by the appellant under Section 34 of



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the Arbitration & Conciliation Act, 1996 (hereinafter referred to as, “A&C Act”) as being barred by limitation and also being beyond the maximum condonable period as provided under Section 34 (3) of the A&C Act.

2. As both the appeals raise similar questions of fact and law, they are being disposed of by this common Judgment.

3. As a brief background of the facts in which the present appeals arise, it is an admitted position that the learned Sole Arbitrator pronounced the Awards in the respective disputes on 08.08.2023. It is also admitted that he communicated these Awards to the parties by way of a Letter dated 08.08.2023, sent *via* an e-mail on the same day. As the entire dispute turns on the said Letter, the same is reproduced hereinbelow:

“DISPUTES PERTAINING TO:

**1. CA NO CEDZ - 15A OF 2017-18:
PROVN OF FURNITURE ITEMS ON
INITIAL DEFICIENCY FOR OFFICERs,
JCOs AND ORs GOVT MD ACCN UNDER
GE (WEST) DELHI CANTT (A P No
374/2022)**

AND

**2. CA NO CEDZ - 16A OF 2017-18:
PROVN OF FURNITURE ITEMS ON
INITIAL DEFICIENCY FOR OFFICERs,
JCOs AND ORs GOVT MD ACCN UNDER
GE (EAST) DELHI CANTT (A P No
373/2022)**

AND

**3. CA NO CEDZ - 17A OF 2017-18:
PROVN OF CERTAIN FURNITURE FOR
MARRIED ACCOMMODATION PROJECT
(MAP) AT DELHI CANTT (A P No
375/2022)**



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Dear Sir (s)

1. Under the provision of arbitration clause of the above-mentioned contracts, I was appointed sole arbitrator by the Hon'ble HC Delhi vide its orders dated 28 Apr 2022 on A.P. Nos: 374 of 2022, 373 of 2022 and 375 of 2022 to adjudicate on disputes.

2. Having entered the reference & completed regular hearings, after completion of documentation as per the HC orders and to the satisfaction of both the parties, I have published my award in the subject disputes and a copy award in respect of each contract are attached herewith (Three award) for your further necessary action please

3. Original copies of awards are being retained by me for correction, if any, during correction period which is one month from the date of publication. After expiry of correction period, any of the above-mentioned party desirous of filing the award in the concerned court may collect the original copy on first come first serve basis.

4. Parties are also at liberty to inform the Hon'ble HC Delhi about publication of award by me in the above matter,

5. Please acknowledge.”

(Emphasis supplied)

4. A reading of the above Letter would show that the learned Sole Arbitrator had, though published the Awards and had also supplied copies thereof to the parties, at the same time, stated that the original copies of the Awards were being retained by him for corrections, if any, during the correction period, which he stipulated as one month from the date of publication. The learned Sole Arbitrator further stated that after the expiry of the correction period, any of the parties desirous of filing the Awards in the concerned Court, may collect the



original copy on 'first come first serve' basis.

5. On expiry of the one-month period, as stipulated by the learned Sole Arbitrator himself, the learned Sole Arbitrator then addressed a Letter dated 13.09.2023 to the parties, which reads as under:

"DISPUTES PERTAINING TO:

***1. CA NO CEDZ - 15A OF 2017-18:
PROVN OF FURNITURE ITEMS ON
INITIAL DEFICIENCY FOR OFFICERS,
JCOs AND ORs GOVT MD ACCN UNDER
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PROVN OF FURNITURE ITEMS ON
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373/2022)***

AND

***3. CA NO CEDZ - 17A OF 2017-18:
PROVN OF CERTAIN FURNITURE FOR
MARRIED ACCOMMODATION PROJECT
(MAP) AT DELHI CANTT (AP No
375/2022)***

Dear Sir (s)

1. Under the provision of arbitration clause of the above-mentioned contracts, I was appointed sole arbitrator by the Hon'ble HC Delhi vide its orders dated 28 Apr 2022 on A.P. Nos: 374 of 2022, 373 of 2022 and 375 of 2022 to adjudicate on disputes.

2. Having entered the reference & completed regular hearings, after completion of documentation as per the HC orders and to the satisfaction of both the parties, I have published my award in the subject disputes and a copy award in respect of each contract was sent to the parties duly e-signed vide email dated 08 Aug 2023.



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3. *Correction period has already expired and no correction has been brought to my notice, therefore originally published awards are final without any correction.*

4. *Original copies of awards pertaining to above mentioned contracts are being sent to the Respondents for safe custody and further necessary action as may be required.*

5. *Parties are at liberty to inform the Hon'ble HC Delhi about publication of award by me in the above matters."*

(Emphasis supplied)

6. The learned Sole Arbitrator, therefore, stated that as no applications seeking correction of the Awards had been received, the Award originally published should be considered as final.

7. The appellant claimed that they received the Letter dated 13.09.2023 only on 18.09.2023, and filed the application under Section 34 of the A&C Act before the learned District Judge on 15.12.2023, that is, within the period of limitation as prescribed under Section 34(3) of the A&C Act.

8. The learned counsel for the appellant submits that without prejudice to the above, even if the limitation is to be counted from 13.09.2023, there would be a delay of only two days in filing of the application under Section 34 of the A&C Act, which should have been condoned by the learned District Judge.

9. Placing reliance on the Judgment of the Supreme Court in ***Ved Prakash Mithal and Sons v. Union of India***, (2018) SCC OnLine SC 3181, he submits that it is immaterial for the purposes of Section 34(3) of the A&C Act, whether the Award is eventually corrected or not on an application moved by any of the parties. Even where an application



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for seeking correction in the Award is dismissed, the period of limitation would start only from the date on which an Order is passed by the learned Arbitral Tribunal in the application.

10. The learned counsel for the appellant further submits that the copy of the Awards that were served on the parties along with the Letter dated 08.08.2023 were not stamped, clearly evidencing that the Awards were not to be used but were only circulated for the purpose of seeking comments of the parties on any correction that needed to be made in the same.

11. On the other hand, the learned counsel for the respondent submits that in terms of Section 31(5) of the A&C Act, a signed copy of the Award is to be delivered to the parties. She submits that this may be delivered even as a scanned copy of the Award by way of an e-mail. In support, she places reliance on the Judgment of this Court in ***Ministry of Youth Affairs and Sports, Dept. of Ports, Govt. of India v. Ernst and Young Pvt. Ltd (Now Known as Ernst and Young LLP) & Anr.***, (2023) SCC OnLine Del 5182.

12. She submits that in the present case, therefore, the signed copy of the Awards were delivered by the learned Sole Arbitrator along with the Letter dated 08.08.2023. She submits that merely because the learned Sole Arbitrator also granted time to the parties to apply for corrections in the Awards, would not extend the period of limitation for filing of the application under Section 34 of the A&C Act.

13. She submits that it is also not necessary for the Arbitrator to send a stamped copy of the Award to the parties, as the same would be required only when an application under Section 36 of the A&C Act is



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filed by either of the parties, seeking enforcement of the Award.

14. She submits that even otherwise, the appellant in the application under Section 34 of the A&C Act, had not taken the plea that limitation would not start from 08.08.2023 and, therefore, is estopped from raising such a contention in the appeal. In support of her submissions, she places reliance on the Judgments of the Supreme Court in ***Rama Kt. Barman v. Mohd. Mahim Ali***, (2024) SCC OnLine SC 4083; ***M. Anasuya Devi & Anr. v. M. Manik Reddy & Ors.***, (2003) 8 SCC 565; and ***State of Maharashtra v. Hindustan Construction Co. Ltd.***, (2010) 4 SCC 518; and of this Court in ***NCS Sugars Ltd. & Anr. v. PEC Ltd.***, (2024) SCC OnLine Del 2252; and ***M. Sons Enterprises (P) Ltd. v. Suresh Jagasia & Anr.***, (2011) SCC OnLine Del 82.

15. We have considered the submissions of the learned counsels for the parties.

16. It is not disputed that though the Awards were pronounced by the learned Sole Arbitrator on 08.08.2023, *vide* the abovementioned and above-quoted Letter dated 08.08.2023, he kept the original of the Awards with himself and called upon the parties to apply for corrections of the Awards, if any, within one month of the date of the publication of the Awards. Significantly, such a procedure is not prescribed in the A&C Act, which raises a question about the finality of the Awards published on 08.08.2023.

17. Upon an examination of the learned Sole Arbitrator's communications that have been reproduced hereinabove, the only intent that can be ascribed to the learned Sole Arbitrator, therefore, is



that he did not treat the Awards that were given to the parties along with his Letter dated 08.08.2023 to be final at that stage, and hence, gave the opportunity to the parties to seek corrections in the same, if any were required. It is only after the expiry of this self-imposed period, that the final copy of the Awards were circulated by the learned Sole Arbitrator with his Letter dated 13.09.2023.

18. Section 31(5) of the A&C Act reads as under:

“31. Form and contents of arbitral award.

xxxxx

(5) After the arbitral award is made, a signed copy shall be delivered to each party.”

19. It is a statutory obligation cast on the Arbitrator to have a signed copy of the Award delivered to each of the parties. Crucially, the Award has to be complete in all respects and must reflect the Arbitrator’s final determination for the parties to consider it as final.

20. In the present case, as stated by the learned counsel for the appellant, the copy of the Awards that were circulated by the learned Sole Arbitrator along with his Letter dated 08.08.2023, were not even stamped, presumably because the learned Sole Arbitrator himself was not considering those Awards to be final.

21. The scheme under Section 34(3) of the A&C Act is clear; it prescribes the period of limitation within which an application under Section 34 of the A&C Act may be made. It reads as under:

“34. Application for setting aside arbitral award.

xxxxx

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that



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application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal:

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter”

22. Therefore, an application under Section 34 of the A&C Act may be made only within a period of three months of the receipt of the Arbitral Award and not later. It is only the receipt of the final Award (not to be confused with an *interim* Award *versus* a final Award but as an Award which is final and represents the Arbitrator's conclusive determination), that would initiate the commencement of the period of limitation.

23. In the present case, as the Letter dated 08.08.2023 does not indicate the intention of the learned Sole Arbitrator to treat the Awards as final in all respects, rather it contemplates further modification during the correction period of one month, in our opinion, the period of limitation did not commence with the Letter dated 08.08.2023. The period of limitation could have commenced only when the final Awards were circulated by the learned Sole Arbitrator along with his Letter dated 13.09.2023, wherein he declared the Awards to be “final without any correction”.

24. We find no merit in the submission of the learned counsel for the respondent that the appellant is taking new plea in the present appeals. The appellant, on the admitted facts, has stated that the



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Impugned Orders dismissing their applications under Section 34 of the A&C Act have proceeded on an incorrect basis in law.

25. Accordingly, we set aside the Impugned Orders dated 09.08.2024 passed by the learned District Judge, and remand the matter back to the learned District Judge to consider the applications filed by the appellant under Section 34 of the A&C Act, being OMP (Comm) No.180/2023 & OMP (Comm) No.181/2023, afresh. The learned District Judge is requested to expedite the consideration of the applications.

26. Let the said applications be listed before the learned District Judge on 14th July, 2025. As both the parties are appearing before us, there would be no necessity to give a fresh notice of these applications to the parties.

27. As there is also a dispute as to whether the Letter dated 13.09.2023 was received by the appellant on 18.09.2023, we leave this question open to be determined by the learned District Judge, in case the respondent wishes to challenge the same and the effect thereof.

28. The appeals alongwith the pending applications stand disposed of in the above terms.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

MAY 22, 2025/sg/SJ

Click here to check corrigendum, if any