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

+ **FAO(OS) (COMM) 22/2025**

CHIEF ENGINEER NATIONAL

HIGHWAYS DIVISION UPPWD

.....Appellant

Through: Mr. Parivesh Singh, Mr. Prem
Parkash and Mr. Abhay Singh
Chauhan, Advocates.

versus

MAHAKALESHWAR INFRATECH

PRIVATE LIMITED

.....Respondent

Through: Mr. Jayant Mehta, Sr. Advocate with
Mr. Suvir Sharma, Ms. Tina Aneja,
Ms. Anushka Nahar, Mr. Shiv Azad
Sharma, Mr. Syed Meesam and
Mr. Charchit Talwar, Advs.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

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10.02.2025

CM APPL. 7916/2025

1. For the reasons stated in the application, the delay of 80 days in
refiling the appeal is condoned.

2. The application stands disposed of.

FAO(OS) (COMM) 22/2025 & CM APPL. 7914-7915/2025

3. The appellant has filed the present appeal under Section 37(1)(c) of
the Arbitration and Conciliation Act, 1996 (hereafter *the A&C Act*)
impugning an order dated 06.09.2024 (hereafter *the impugned order*) passed
by the learned Single Judge in O.M.P. (COMM) 382/2024, whereby the
appellant's application under Section 34 of the A&C Act was rejected on the



ground of delay.

4. The facts as noted in the impugned order are not in dispute. The appellant had assailed the arbitral award dated 17.10.2023 rendered in the context of the disputes that had arisen between the parties. Admittedly, the impugned award was received by the appellant on the same date, that is, on 17.10.2023. Thereafter, the respondent who is claimant before the learned arbitrator moved an application under Section 33 of the A&C Act, which was allowed by the learned arbitrator on 30.01.2024. This order (referred to as additional award in the impugned order) was also received by the appellant on the same date, that is, 30.01.2024.

5. The appellant had filed an application under Section 34(3) of the A&C Act for setting aside the impugned award on 07.08.2024. The appellant also moved an application seeking condonation of delay in filing the said application.

6. In terms of Section 34(3) of the A&C Act, the application to set aside an arbitral award may be moved within a period of three months from the date of receipt of the award, which in this case expired on 30.03.2024. The application was thus clearly beyond the period of limitation as prescribed under Section 34(3) of the A&C Act.

7. In terms of the proviso to Section 34(3) of the A&C Act, the court can condone a delay of 30 (thirty) days subject to the applicant satisfying the court that it was prevented by sufficient cause from filing the said application within the prescribed period of three months. The court has no jurisdiction to condone the delay beyond the period of thirty (30) days as specified in the proviso to Section 34(3) of the A&C Act. This issue is no longer *res integra* and is covered by the authoritative decision of the



Supreme Court in *Union of India vs Popular Construction Co.: (2001) 8 SCC 470*.

8. The learned Single Judge has noted that the application filed beyond the period of thirty (30) days cannot be condoned by the court and accordingly dismissed the appellant's application to set aside the impugned arbitral award on the ground of limitation. We find no infirmity in the impugned order passed by the learned Single Judge.

9. The appeal is unmerited and, accordingly, dismissed. Pending applications are also disposed of.

VIBHU BAKHRU, J.

ANOOP KUMAR MENDIRATTA, J.

FEBRUARY 10, 2025

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Click here to check corrigendum, if any