

IN THE HIGH COURT OF JUDICATURE AT PATNA
COMMERCIAL APPEAL No.12 of 2024

Union of India through Senior Divisional Engineer, East Central Railway,
Sonpur, District- Saran.

... .. Appellant

Versus

M/s Mahnar Infratech Pvt. Ltd. having its office at House No. 275, Road No.
5, Rajput Nagar, Hajipur, Vaishali.

... .. Respondent

Appearance :

For the Appellant	:	Mr. Alok Kumar Agrawal, CGSC Mr. Rahul Kumar, Advocate
For the Respondent	:	Mr. Manish Sahay, Advocate Mr. Anil Kumar Sinha, Advocate Mr. Siddarth Aditya, Advocate Mr. Amrit Kirti, Advocate Mr. Aman Raj, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

and

HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 06-01-2026

Heard Mr. Alok Kumar Agrawal, learned counsel for the
appellant and Mr. Manish Sahay, learned counsel for the claimant-
respondent.

2. The present appeal has been preferred for setting
aside the order dated 04.07.2024 passed by learned District Judge,
Saran at Chapra (hereinafter ‘the learned court’) in Miscellaneous
Arbitration Case No. 05 of 2022 (hereinafter referred to as the
‘impugned order’).

3. By the impugned order, the learned court has been
pleased to reject the application preferred by the appellant under



Section 34 (1) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act of 1996' or '1996 Act') challenging the part of the arbitral award dated 12.05.2022 and additional award dated 08.08.2022. The dismissal of the application is solely based on the ground of limitation.

4. The learned court took a view that as per Section 34 (3) of the Act of 1996, the maximum period of limitation for filing an application for setting aside an award is three months, delay may be condoned only for a period of 30 days, but not thereafter. The learned court found that the arbitral award was passed on 12.05.2022 but the application for setting aside the award was filed on 05.11.2022 i.e. after more than 160 days of the passing of the award.

5. On perusal of the records, it is found that the plea of the appellant before the learned court that the appellant had filed an application under Section 33 of the Act of 1996 on 01.08.2022 before the learned Arbitral Tribunal which came to be disposed of on 08.08.2022, therefore, the limitation may start running only from 08.08.2022, has been rejected by the learned court.

Submissions on behalf of the appellant

6. Mr. Alok Kumar Agrawal, learned counsel for the appellant has assailed the impugned order on the ground that the



learned court could not appreciate the scheme of Sections 33 and 34 of the Act of 1996. According to him, in this case, the award was passed on 12.05.2022 but it was delivered on 24.05.2022, therefore, at first instance, the period of limitation of three months as prescribed under proviso to sub-section (3) of Section 34 of the Act of 1996 would start running from the date of delivery/receipt of the award and not from the date of passing of the award.

7. It is his further contention that after the arbitral award was received by the appellant, the appellant was advised to file an application under Section 33 of the Act of 1996 for carrying out certain corrections. This application was filed on 01.08.2022 which came to be disposed of only on 08.08.2022. Referring to the provision of Section 33 of the Act of 1996, Mr. Agrawal, learned counsel would submit that the date of disposal of the application under Section 33 being 08.08.2022, the period of limitation may be reckoned with only with effect from the said date and not before that. If the limitation is counted from 08.08.2022, the application under Section 34 (1) of the Act of 1996 would come within the period of three months and in such circumstance, there would be no reason to dismiss the application on the ground of the same being barred by limitation. Learned counsel relies upon a judgment of the Hon'ble Supreme Court in the case of **North**



Delhi Municipal Corporation Vs. S.A. Builders Ltd. reported in
AIR 2024 SC (Supp) 486.

Submissions on behalf of the respondent

8. Mr. Manish Sahay, learned counsel for the claimant-respondent has put a strong contest to the submissions of learned counsel for the appellant. It is submitted that a bare perusal of Section 33 of the Act of 1996 would show that there is a period of limitation fixed for filing of an application by a party before the learned Arbitral Tribunal requesting the Tribunal to correct any computation errors, any clerical or typographical errors or any other errors of similar nature occurring in the award. Sub-section (1) of Section 33 provides that such application should be filed within a period of 30 days from the receipt of the arbitral award, unless another period of time has been agreed upon by the parties. In this case, it is not the case of the appellant that the parties had agreed for another period of time, hence, in this case, the period of limitation for filing of an application for correction of errors would be only 30 days. The appellants did not avail this opportunity within the prescribed period of limitation. They filed application for correction only on 01.08.2022 which was after about 2 months 8 days from the date of receipt of the arbitral award.



9. It is his submission that the learned Arbitral Tribunal has not been conferred with any power to extend the period of limitation or to condone the delay in filing of the application. By virtue of sub-section (2) of Section 29 of the Limitation Act, the provisions of Sections 5 to 24 of the Limitation Act would not apply where the legislatures have by bringing a provision in the special statute specifically excluded their application.

10. Learned counsel further submits that in the facts of this case, if the period of limitation would start from 08.08.2022, it would amount to extending the period of limitation for filing an application under Section 33 of the Act of 1996, even as there is no provision for the same in the statute and the order dated 08.08.2022 has attained finality. It is pointed out that the learned Arbitral Tribunal refused to entertain the application under Section 33 with a clear averment in its order dated 08.08.2022 that the time limit specified in the Act of 1996 and the conditions of contract (GCC) are over. The learned Tribunal treated the application of the appellant under Section 33 of the Act of 1996 as time barred. According to learned counsel, the observation of the learned Tribunal in its order dated 08.08.2022 that the decision of the learned Arbitral Tribunal shall form part of the original arbitral award shall not take away the effect of the statute. In such



circumstance, the learned District Judge, Saran at Chapra has not committed any error in taking a view that the application for setting aside of the award was barred by limitation. Learned counsel relies upon the judgments in the case of **Ved Prakash Mithal and Sons Vs. Union of India** reported in **2018 SCC OnLine SC 3181** and **Geojit Financial Services Ltd. Vs. Sandeep Gurav** reported in **2025 SCC OnLine SC 1811**.

Consideration

11. We have heard learned counsel for the parties at length and perused the records.

12. The solitary question which arises for consideration in the present case is as to whether the application filed under Section 33 of the Act of 1996 on 01.08.2022, disposed of on 08.08.2022 may be taken to have been filed in accordance with Section 33 of the Act of 1996. If it is held that the application filed on 01.08.2022 was satisfying the essential condition of Section 33 of the Act of 1996, then in that case, the date of disposal of the said application being 08.08.2022, the appellant would succeed in his plea that the application under Section 34 (1) of the Act of 1996 was preferred within a period of three months from the date of disposal of the application under Section 33 of the Act of 1996.



13. To appreciate the submissions of learned counsel for the appellant, this Court would first extract the relevant provisions of the statute which are under consideration in the present case. Section 33 and Section 34 of the Act of 1996 read as under:-

“33. Correction and interpretation of award; additional award.-1) Within thirty days from the receipt of the arbitral award, unless another period of time has been agreed upon by the parties—

(a) a party, with notice to the other party, may request the arbitral tribunal to correct any computation errors, any clerical or typographical errors or any other errors of a similar nature occurring in the award;

(b) if so agreed by the parties, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award.

(2) If the arbitral tribunal considers the request made under sub-section (1) to be justified, it shall make the correction or give the interpretation within thirty days from the receipt of the request and the interpretation shall form part of the arbitral award.

(3) The arbitral tribunal may correct any error of the type referred to in clause (a) of sub-section (1), on its own initiative, within thirty days from the date of the arbitral award.

(4) Unless otherwise agreed by the parties, a party with notice to the other party, may



request, within thirty days from the receipt of the arbitral award, the arbitral tribunal to make an additional arbitral award as to claims presented in the arbitral proceedings but omitted from the arbitral award.

(5) If the arbitral tribunal considers the request made under sub-section (4) to be justified, it shall make the additional arbitral award within sixty days from the receipt of such request.

(6) The arbitral tribunal may extend, if necessary, the period of time within which it shall make a correction, give an interpretation or make an additional arbitral award under sub-section (2) or sub-section (5).

(7) Section 31 shall apply to a correction or interpretation of the arbitral award or to an additional arbitral award made under this section.

34. Application for setting aside arbitral award.-(1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3).

(2) An arbitral award may be set aside by the Court only if -

(a) the party making the application

¹[establishes on the basis of the record of the arbitral tribunal that]-

1. Substituted by Act 33 of 2019, S. 7, for “furnishes proof that” (w.e.f. 30-8-2019).



(i) a party was under some incapacity, or

(ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law for the time being in force; or

(iii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or

(iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration:

Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside; or

(v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Part from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Part; or

(b) the Court finds that-

(i) the subject-matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or

(ii) the arbitral award is in conflict with the public policy of India.



¹[Explanation 1.-For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if,-

(i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81; or

(ii) it is in contravention with the fundamental policy of Indian law; or

(iii) it is in conflict with the most basic notions of morality or justice.

Explanation 2.-For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.]

²[(2A) An arbitral award arising out of arbitrations other than international commercial arbitrations, may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award:

Provided that an award shall not be set aside merely on the ground of an erroneous application of the law or by reappreciation of evidence.]

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

1. Substituted by Act 3 of 2016, S.18, for the Explanation (w.r.e.f. 23-10-2015).

2. Inserted by Act 3 of 2016, S.18 (w.e.r.f. 23-10-2015).



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.

(4) On receipt of an application under sub-section (1), the Court may, where it is appropriate and it is so requested by a party, adjourn the proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the opinion of arbitral tribunal will eliminate the grounds for setting aside the arbitral award.

¹[(5) An application under this section shall be filed by a party only after issuing a prior notice to the other party and such application shall be accompanied by an affidavit by the applicant endorsing compliance with the said requirement.

(6) An application under this section shall be disposed of expeditiously, and in any event, within a period of one year from the date on which the notice referred to in sub-section (5) is served upon the other party.]”

14. On going through the aforementioned provisions, it is crystal clear that an application for carrying out any correction in the award is required to be filed within 30 days from the date of receipt of the arbitral award, unless another period of time has

1. Inserted by Act 3 of 2016, S. 18 (w.r.e.f 23-10-2015).



been agreed upon by the parties. As per clause 64.(3)(b)(ii) of the Standard GCC-July 2014 - “A party may apply for corrections of any computational errors, any typographical or clerical errors or any other error of similar nature occurring in the award of a Tribunal and interpretation of a specific point of award to Tribunal within 60 days of receipt of the award”. Therefore, the admitted position is that in view of sub-section (1) of Section 33 of the Act of 1996, the application was required to be filed within 60 days from the date of receipt of the award i.e. 24.05.2022. The period of sixty days expired on 23.07.2022. Thus, the application under Section 33 was filed belatedly only on 01.08.2022.

15. Sub-section (3) of Section 34 of the Act of 1996 provides for filing of an application for setting aside the award but such an application, according to the provision of the statute, may not be made after three months have elapsed from the date on which the party making that 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 learned Arbitral Tribunal. The word ‘disposed of’ has come up for consideration in various judicial pronouncements on the subject, some of them are: **Ved Prakash Mithal and Sons Vs. Union of India** reported in **2018 SCC OnLine SC 3181** and **Geojit**



Financial Services Ltd. Vs. Sandeep Gurav reported in **2025 SCC OnLine SC 1811**.

16. It has been the consistent view of the Hon'ble Supreme Court that whether an application under Section 33 of the Act of 1996 is allowed or dismissed is not the determinative factor. What is determinative is the date on which the said application stood disposed of. A harmonious construction of Section 34(3) and Section 33 of the Act of 1996 has been given by the Hon'ble Supreme Court in the case of **Ved Prakash Mithal and Sons** (supra).

17. The proviso to sub-section (3) of Section 34 makes clear the legislative intentment with regard to strict adherence to the period of limitation. The proviso clearly states that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the period of three months, it may entertain the application within a further period of 30 days, but not thereafter. The cluster of words "but not thereafter" are words of significance and it shows the legislative intention. At this stage comes into play sub-section (2) of Section 29 of the Limitation Act. We reproduce sub-section (2) of Section 29 hereunder for a ready reference:-

"29. Savings.- (2) Where any special or local law prescribes for any suit, appeal or



application a period of limitation different from the period prescribed by the Schedule, the provisions of section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law.”

18. Proviso to sub-section (3) of Section 34 of the Act of 1996 specifically excludes the provisions of the Limitation Act in the matter of condonation of delay.

19. In the case of **Geojit Financial Services Ltd.** (supra), the Hon’ble Supreme Court had occasion to consider Section 33 and Section 34 of the Act of 1996. Their Lordships of the Hon’ble Supreme Court having considered the interplay of the two provisions of the Act of 1996 took a view that the limitation period for preferring an application for setting aside, where a request was made by either party under Section 33 of the 1996 Act, commences from the date when such request made under Section 33 was ‘disposed’ of by the Arbitral Tribunal. While concluding its judgment in the case of **Geojit Financial Services**



Ltd. (supra), the Hon'ble Supreme Court held in paragraph '35' of its judgment as under:-

“35. We summarize our conclusion as under:-

(i) Where an application under Section 33 of the 1996 Act has not been filed, the legislature was conscious enough to state that it would be the date of the receipt of the award which would earmark the commencement of limitation for an application for setting aside of an award in terms of Section 34 of the 1996 Act. Whereas, in the case where an application under Section 33 of the 1996 Act has been filed, the legislature was conscious enough to lay down that it would be the date of disposal of such request or application, that would be the starting point for calculation of limitation.

(ii) Where such an application under Section 33 of the 1996 Act is filed, irrespective of whether the arbitral tribunal upon considering such application, either makes or does not make any correction or modification or choose to render or to not render an additional award in terms of Section 33 of the Act, 1996, the starting point for the period of limitation for challenging the same under Section 34 as per sub-section (3) would be the date of disposal of such application under Section 33 by the arbitral tribunal, as long as the application



under Section 33 of the 1996 Act had been filed within the prescribed period of limitation under sub-section (1) thereto AND with notice to the other party. Any other interpretation to the contrary, would do violence to plain and unambiguous language used in Section 34 sub-section (3) of the Act, 1996.

(iii) In the aforesaid scenario, neither the date of passing of the original award or date of receipt of the same by the party nor the date of receipt of the corrected award or date of receipt of the decision of the arbitrator disposing the application under Section 33 of the 1996 Act is of any significance. What is of significance, under Section 34 sub-section (3) of the Act, 1996 is the date on which the application or request under Section 33 came to be disposed by the arbitral tribunal.

(iv) In the same breath, where a request is made under Section 33 of the 1996 Act, it is immaterial for the purpose of computation of limitation under Section 34 sub-section (3) whether such request fell within the purview of the said provision or not. What is material is only that such request was made in the manner delineated under Section 33 i.e., it fulfilled the twin conditions of being made; (I) “within thirty days from the receipt of the arbitral award” and (II) “with notice to the other party” stipulated therein.”



20. It is evident from clause (ii) of paragraph '35' as quoted hereinabove that the starting point for challenging the same under Section 34 as per sub-section (3), the date of disposal of the application under Section 33 by the Arbitral Tribunal would be significant as long as the application under Section 33 of 1996 Act had been filed within the prescribed period of limitation under sub-section (1) thereto. (emphasis supplied)

21. Again, the Hon'ble Supreme Court made it clear in clause (iv) under paragraph '35' of its judgment that what is material is only that such request was made in the manner delineated under Section 33. The twin conditions under Section 33 have been noticed by the Hon'ble Supreme Court as "(I) within 30 days from the receipt of the arbitral award, and (II) with notice to the other party stipulated therein".

22. In the present case since the application under Section 33 of the Act of 1996 was beyond the period mentioned under the said section, the appellant would not get the benefit of the period from 24.05.2022 till 08.08.2022 for purpose of counting of Limitation in terms of sub-section (3) of Section 34 of the Act of 1996.

23. Mr. Alok Kumar Agrawal, learned counsel for the appellant has relied upon a judgment of the Hon'ble Supreme



Court in the case of **North Delhi Municipal Corporation Vs. S.A. Builders Ltd.** reported in **AIR 2024 SC (Supp) 486**.

24. We have carefully gone through the said judgment. The said case arose out of an application under Section 20 of the Arbitration Act, 1940 in which a question arose with respect to award of interest for the post award period. The aggrieved party had preferred an appeal under Section 37 of the 1996 Act before the Hon'ble Division Bench assailing the order passed by learned Single Judge where the award was challenged, however, the Hon'ble Division Bench of the High Court of Bombay had dismissed the appeal whereafter the matter went to the Hon'ble Supreme Court and the Hon'ble Supreme Court dismissed the Special Leave Petition. In the execution case, an issue was framed by the learned Single Judge with respect to post award interest under Section 31(7) of the Act of 1996. Considering that a large volume of litigation on this point were before the Court, the learned Single Judge referred the matter to the Division Bench to clarify the position in this regard. This is how the matter travelled to the Hon'ble Division Bench where the respondent sought leave to approach the learned Arbitrator for seeking the clarification as to whether the interest awarded in the award was under Section 31(7)(a) of the 1996 Act or not? The Hon'ble Division Bench vide



the order dated 03.01.2005 granted such permission to the respondent with clarification that the permission so granted should not be understood to contain any expression of opinion of the Hon'ble Division Bench about payment of interest under Section 31(7)(a) or Section 31(7)(b) of the 1996 Act.

25. In the facts of the said case, the Hon'ble Supreme Court was considering the scope and ambit of Section 33 of the Act of 1996 and it was ultimately held that on a cumulative assessment of the attendant facts and circumstances, the clarification sought for and issued by the learned Arbitrator would be covered by the expression "unless another period of time has been agreed upon by the parties as appearing in Section 33(1) of the 1996 Act." The Hon'ble Supreme Court found that this is a case where Court had permitted the respondent to seek clarification from the learned Arbitrator beyond the initial period of 30 days whereafter the appellant had fully participated in the clarificatory proceeding.

26. We understand that the judgment of the Hon'ble Supreme Court in the case of **North Delhi Municipal Corporation** (supra) has been rendered in a completely different fact situation. In the case of **Bharat Petroleum Corpn. Ltd. and Another Vs. N.R. Vairamani and Another** reported in (2004) 8



SCC 579, the Hon’ble Supreme Court has observed that the judgment of this Court be not cited like an Euclid’s theorem as a slight change in the facts of the case would make a sea difference in the opinion of the Court. We find that the observations of the Hon’ble Supreme Court as occurring in paragraph ‘9’ of the judgment would be fully applicable to distinguish the present case from that of the case of the **North Delhi Municipal Corporation** (supra).

27. In the entire facts and circumstances as also the law on the subject duly discussed in the judicial pronouncements as referred hereinabove, the learned District Judge, Saran at Chapra has not committed any error in rejecting the application for setting aside of the award on the ground of its being barred by limitation.

28. This appeal has no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

(Shailendra Singh, J)

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Uploading Date	08.01.2026
Transmission Date	

