

**IN THE HIGH COURT AT CALCUTTA
COMMERCIAL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

**AO-COM/9/2026
WITH
IA NO: CAN/1/2026**

**UNION OF INDIA
VS
M/S HARPAL SINGH ENGINEERS & CONTRACTORS**

For the Appellant :Mr. Indrajeet Dasgupta, Advocate
Mr. Guddu Singh, Advocate

For the Respondent :Mr. Dipankar Das, Advocate

Heard & Judgment on: June 11, 2026

Debangsu Basak, J.

1. Appeal is directed against Order No. 4 dated December 20, 2025 passed in Misc. Arbitration (Commercial) Case No.07 of 2025 by the learned Judge, Commercial Court, Siliguri.

2. By the impugned order, learned Judge, dismissed a petition under Section 34 of the Arbitration and Conciliation Act, 1996 holding the same to be barred by limitation.
3. Learned advocate appearing for the appellant submits that, the present appeal is maintainable. He relies upon **(2021) 4 SCC 602 [Chintels India Limited vs. Bhayana Builders Private Limited]**, in support of such contention.
4. Referring to the issue with regard to the limitation, learned advocate appearing for the appellant submits that, the award is dated April 29, 2025. Appellant received a copy of the award by Electronic Mail on April 30, 2025. Appellant received the physical copy of the award on May 5, 2025. The petition under Section 34 of the Act of 1996 was filed on August 13, 2025.
5. Referring to Section 34 of the Act of 1996, learned advocate appearing for the appellant submits that, the appellant was entitled to 3 months from the date of receipt of the award to file the petition under Section 34 of the Act of 1996 without any explanation being required to be filed. In terms of the proviso to Section 34(3) of the Act of 1996, appellant was entitled to a further period of 30 days if adequate explanation was given.
6. In the facts and circumstances of the present case, learned advocate appearing for the appellant submits that, since the physical copy of the award was received on May 5, 2025, the period of 3 months expired on August 4, 2025. The petition under Section 34 of the Act of 1996 was filed within the next 30 days from the date of expiry of 3 months from the date of receipt of the award.
7. Learned advocate appearing for the appellant draws the attention of the Court to the application for condonation of delay. He submits that, adequate explanation was furnished by the appellant. Learned trial

Judge did not consider such explanation and erred in dismissing the petition.

8. Respondent is represented.

9. **Chintels India Limited (supra)** is of the view that, an appeal under Section 37(1)(c) of the Act of 1996 is maintainable against an order refusing to condone delay in filing an application under Section 34 of the Act of 1996 to set aside an award.

10. Since the impugned order dismissed a petition under Section 34 of the Act 1996, filed for setting aside an award, by refusing to condone the delay, the present appeal is maintainable under Section 37(1)(c) on the strength of the ratio of **Chintels India Limited (supra)**.

11. This brings us to the next question as to whether or not, learned Trial Judge erred in dismissing the petition under Section 34 of the Act of 1996 on the ground of limitation.

12. Records made available before us, establish that, the award is dated April 29, 2025. A copy of the award was received by the appellant through electronic mail on April 30, 2025. Physical copy of the award was received by the appellant on May 5, 2025. Dates of receipt of the electronic mail and physical copy are not in dispute.

13. Therefore, according to us, the time to file the petition under Section 34 of the Act of 1996 commenced on and from May 5, 2025 when, the appellant received the physical copy of the award, in terms of Section 34(3) of the Act of 1996. The 3 months period prescribed to file in such petition expired on August 4, 2025. The petition under Section 34 of the Act of 1996 was filed on August 13, 2025.

14. Proviso to Section 34 (3) of the Act of 1996 allows the appellant to seek condonation of delay in filing the petition under Section 34 of the Act of 1996 within 3 months from the date of receipt of the award, for the next period of 30 days on adequate cause being shown.

15. In the facts of the present case, the appellant filed a petition under Section 5 of the Limitation Act, 1963 for condonation of delay. In such petition, the appellant took the date of initial receipt of the award through Electronic Mail on April 29, 2025 to be the date for commencement of the period of limitation prescribed under Section 34 of the Act of 1996. It calculated a period of 3 months therefrom and averred that, the same came to an end on July 30, 2025. A further period of 30 days would take the appellant to August 29, 2025.
16. In the petition for condonation of delay, the appellant stated that, the authorized officer sought sanction of the Ministry to file the challenge petition under Section 34 of the Act of 1996. The sanction was received on August 8, 2025. The petition under Section 34 of the Act of 1996 was filed on August 13, 2025.
17. Averments in the petition under Section 5 of the Limitation Act, 1963 cannot be brushed aside. Plausible and acceptable explanation for the delay was put forward by the appellant in not filing challenge petition under Section 34 of the Act of 1996 within 3 months from the date of receipt of the award through Electronic Mail. The challenge petition was filed on August 13, 2025 within the period of 30 days permissible subsequent to expiry to 3 months under Section 34(3) of the Act of 1996.
18. In such circumstances, we are of the view that the learned Trial Judge erred in holding that the challenge petition under Section 34 of the Act of 1996 of the appellant was barred by limitation. We, therefore, set aside the impugned order.
19. The petition for condonation of delay is allowed. Challenge petition under Section 34 of the Act of 1996 filed by the appellant be registered by the learned Trial Court if not done already. Learned Trial Judge is requested to hear and dispose of such petition on merits.

20. **AO-COM/9/2026** along with the connected application are **disposed of** without any order as to costs.

(Debangsu Basak, J.)

21. I agree

(Md. Shabbar Rashidi, J.)

De