

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

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

AO (COM) 59 of 2025

Union of India

vs.

M/s. S. Chaturvedi & Company

With

CAN 1 of 2025

For the Appellant : Mr. Indrajeet Dasgupta, Sr. Adv.,
Mr. Guddu Singh

For the Respondent : Mr. Amales Ray, Sr. Adv.,
Ms. Mousumi Bhowal
Mr. Ishan Bhattacharya

Heard & Judgment on : **January 29, 2026**

Debangsu Basak, J.:-

1. The appeal is at the behest of a party assailing an Award under Section 34 of the Arbitration and Conciliation Act, 1996.
2. Appeal is directed against the Order No. 8 dated July 30, 2025 passed in Misc. Arbitration (Commercial) Case No. 2 of 2025.
3. By the impugned order, learned Commercial Court, Siliguri held that the petition under Section 34 of the Act of 1996 was barred by limitation.

4. Supplementary affidavit filed in Court be taken on record.
5. Learned advocate appearing for the appellant submits that, the appellant never received the original Award. He submits that, the Award was initially published on May 2, 2024. It was corrected subsequently on August 30, 2024 and again on October 28, 2024. He refers to the supplementary affidavit and submits that the petition under Section 34 of the Act of 1996 was filed electronically on February 22, 2025. Therefore, the petition under Section 34 of the Act of 1996 was well within the period of limitation considering the last date of the Award to be October 28, 2024.
6. Learned Senior advocate appearing for the respondent submits, on instructions, that his client does not dispute that the petition under Section 34 of the Act of 1996 was filed electronically on February 22, 2025. However, he points out that the averments made in the petition under Section 34 of the Act of 1996. He submits that, the appellant did not explain the cause for delay for the period between the dates when three months were over from the date of receipt of the Award till the date of filing of the application under Section 34 of the Act of 1996. He submits that the appellant proceeded on the basis that the Award was received on August 30, 2024. On such basis taking the date of filing of the petitioner

under Section 34 of the Act of 1996 to be February 22, 2025, then the same is ex facie barred by limitation.

7. Learned Senior advocate appearing for the appellant submits that, without prejudice to the aforesaid contention that in the event, the Court is pleased to take into account that the Award was ultimately corrected on October 28, 2024, then also, the petition under Section 34 of the Act of 1996 does not contain any averment explaining the delay in making and filing the application under Section 34 of the Act of 1996.
8. It appears from the records that the initial Award is dated May 2, 2024. It was corrected on August 30, 2024. It was again corrected on October 28, 2024.
9. Petition under Section 34 of the Act of 1996 was filed on February 22, 2025. Therefore, taking the sequence of events as noted above and taking the date of the Award to be October 28, 2024, which the last date of the correction thereof, then the petition under Section 34 of the Act of 1996 is well within the period of limitation of three months plus thirty days as provided under Section 34 (2) of the Act of 1996.
10. During the hearing of the present petition, it transpires from the submissions of the respective parties that the original Award is not with any of the two parties. A Coordinate Bench in **AO-COM 30 of 2025 (M/s.**

India Builders vs. Union of India) decided on August 26, 2025 observed that there is no mandatory requirement to file a signed copy of an arbitral Award along with an application for setting aside such Award under Section 34 of the Act of 1996.

11. In the facts and circumstances of the present case, the application under Section 34 of the Act of 1996 is accompanied by a copy of the Award as was received by the appellant. The copy of the Award received by the appellant does not contain the original signature of the Arbitrator. Respondent also claims that he did not receive the Award containing the original signature of the Arbitrator.
12. That being the position, we are of the view that the learned Judge erred in dismissing the application under Section 34 of the Act of 1996 purely on the ground of limitation.
13. Impugned Order No. 8 dated July 30, 2025 is set aside.
14. During the pendency of the appeal, we passed an interim order dated December 4, 2025 requiring the appellant to deposit the awarded amount with any Nationalized Bank in a Fixed Deposit bearing interest with the Fixed Deposit receipt to be made over to the learned advocate on record for the respondent.

15. We are informed that the appellant complied with the direction dated December 4, 2025.

16. Since the petition under Section 34 of the Act of 1996 is yet to be finally decided, we deem it appropriate that the Fixed Deposit opened by the appellant will remain to the credit of the petition under Section 34 of the Act of 1996. It will abide by the result of the decision under Section 34 of the Act of 1996. Appellant will continue to keep the Fixed Deposit renewed from time to time till the disposal of the petition under Section 34 of the Act of 1996.

17. The respondent will not create any third party interest or lien in respect of the Fixed Deposit receipt in any manner whatsoever.

18. In view of these directions, the same may be treated as compliance under Section 36 of the Act of 1996. Respondent will not execute the Award till the final decision under Section 34 of the Act of 1996.

19. **AO (COM) 59 of 2025** and the connected application being **CAN 1 of 2025** are **disposed of** without any order as to costs.

(Debangsu Basak, J.)

20. I agree

S.D.

(Md. Shabbar Rashidi, J.)