

02.03.2026.
Court No. 13
Item No. 3.
sp

F.M.A.T. (ARB Award) No. 51 of 2025

Union of India & Anr.

Versus

M/s. Raj Shekhar Construction Pvt. Ltd.

Mr. Sukanta Ghosh,
Mr. Subrata Roy,
Mr. Rohan Chamria.

..for the appellants.

Mr. Ajay Singhal.

..for the respondent.

1. Leave is granted to the learned advocate on record for the appellants to correct the address of the respondent in the cause title.
2. The appeal is directed against order dated 11th July, 2025 passed by the learned Judge, Commercial Court at Siliguri.
3. By the said order being No. 16, Misc. Arb. (Com.) 21 of 2024, challenged the award passed by the Arbitrator dated 8th December, 2023 along with the application under Section 34 of the Act of 1996, an application for condonation of delay was filed.
4. The Trial Judge on the first date called upon the appellants to file a certified copy of the award dated 8th December, 2023. The same was not filed by the appellants. A xerox copy was filed. By the impugned order dated 11th July, 2025, the Trial Court held that Section 34 of the Act of 1996 read with Section 31(5) would make it mandatory upon the appellants, the applicant under Section 34 to file either a certified

copy or the original signed copy or a copy of the signed copy of the award along with the application under Section 34. In the absence of the same, the Trial Judge was of the view that there is no application in the eye of law under Section 34 filed by the appellants.

5. Reference is made by the Trial Judge, inter alia, to a 2-Judge Bench decision of the Delhi High Court in the case of ***Brahmaputra Cracker and Polymer Ltd. Vs. Raj Shekhar Construction Pvt. Ltd.*** reported in **2024 SCC Online Delhi 4141** and a decision of a 3-Judge Bench of Delhi High Court in ***Pragati Construction Consultants Vs. Union of India & Anr.*** reported in **2025 SCC Online Delhi 636**.

6. Learned counsel for the appellants, however, has placed a unreported decision of a Co-ordinate Bench dated 26.08.2025 in ***AO-COM 30 of 2025 (M/s. India Builders Vs. Union of India)***. The Co-ordinate Bench analyzing the Delhi High Court decision and a decision of the Supreme Court in the case of ***Gayatri Balasamy Vs. Novasoft TEchnologies Limited*** reported in **(2025) 7 SCC 1** held that filing of a certified copy of signed copy or a copy signed copy or the original award was not the mandate of Section 34. The requirement of Section 34 would be complied if an award is filed along with the application. It is for the respondent/award holder to contend that the award annexed to the application was not the award passed by the learned Arbitrator. Learned counsel for the

respondent/award holder has not made any such submission before this Court or before the Trial Court.

7. Having regard to the decision of the Co-ordinate Bench dated 26.08.2025 (supra), this Court is inclined to agree with the same and holds that the Trial Judge committed error in insisting on filing of a certified copy or a signed copy or a copy of signed copy of the award by the appellants.

8. The application for condonation of delay in filing Section 34 must be deemed to have been allowed by the Trial Court.

9. In view of the aforesaid discussion, the impugned order dated 11th July, 2025 is erroneous and is, therefore, liable to be set aside. The Trial Judge shall proceed to decide the application under Section 34 filed by the appellants on its merits as expeditiously as possible, preferably within a period of 6 months of communication of a copy of this Court.

10. The deposit made by the appellants shall remain in an interest bearing account with the Registrar General of this Court and shall abide by the final result of the proceedings challenging the award taken out by the appellants.

11. The finding of the Trial Court that the absence of statement of truth and the defect in the application, alleged by the Trial Judge although not answered in so many terms in the impugned order is answered hereinbelow. The same is a curable defect. The

appellants shall be entitled to file an affidavit regarding statement of truth before the Trial Court within a period of 3 weeks from date mandatorily and positively.

12. Let objection be filed by the respondent to the appellants' application under Section 34 within a period of 2 weeks from date, if not already filed. Reply, if any, be filed within a week thereafter.

13. In view of the aforesaid, FMAT (ARBAWARD) No. 51 of 2025 shall stand disposed of.

14. Consequently, all other connected applications shall also stand disposed of.

15. There shall be no order as to costs.

16. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Md. Shabbar Rashidi, J.)