



2026:DHC:4032-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO (COMM) 134/2026, CM APPLs. 30636/2026, 30637/2026, 30638/2026, 30639/2026 & 30640/2026**

BHARAT SANCHAR NIGAM LIMITEDAppellant

Through: Mr. M.C. Kochhar and Ms. Nikaasha Dogra, Advs.

versus

ROYAL INDIA TECHNOPROJECTS LIMITEDRespondent

Through:

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% **07.05.2026**

C. HARI SHANKAR, J.

1. This appeal assails orders dated 5 September 2023 and 27 November 2025, passed by the learned District Judge (Commercial Courts-03) South West, Dwarka Courts, New Delhi¹.

2. An arbitral award, rendered in arbitral proceedings between the appellant and the respondent, was challenged by the appellant under Section 34 of the Arbitration and Conciliation Act, 1996² by way of OMP (Comm) 35/2023 before the learned Commercial Court. On 5 September 2023, the said OMP was dismissed as withdrawn by learned Counsel for the appellant. The order dated 5 September 2023

¹ "learned Commercial Court", hereinafter

² "1996 Act", hereinafter



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read thus:

“Ld. Counsel for the petitioner has stated that he has been authorized by the petitioner to state that the petitioner may be allowed to withdraw the present petition with liberty to take appropriate legal recourse. The present petition may, thus, be dismissed as withdrawn, with the liberty as aforesaid.

Statement of Sh. Diptimaan Acharya, Ld. Counsel for the petitioner, to the above effect, has been separately recorded.

Heard. In view of the aforesaid, the present petition is dismissed as withdrawn, with liberty to the petitioner to take appropriate legal recourse.”

3. 575 days after the aforesaid order was passed, the appellant filed Misc DJ 246/2025 seeking restoration of the OMP.

4. In the first place, the said restoration application was not even maintainable, as an order passed disposing of a petition under Section 34 of the 1996 Act is only appealable under Section 37 thereof.

5. Besides, the only explanation tendered for filing the restoration application 575 days after the Section 34 petition had been disposed of was that the Counsel for the appellant informed the appellant that he was required to re-file the petition in some other forum. This submission was apparently merely made for the sake of having the restoration application entertained, as it is not even the appellant's case that, in terms of the purported advice given by its Counsel, the appellant moved any other forum.

6. The learned Commercial Court, by order dated 27 November 2025, dismissed the restoration application, observing that the

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appellant had miserably failed to assign any reason for delay in filing the restoration application. Administrative lethargy and laxity in the office of the appellant, it was noted, could not constitute a legitimate basis to condone delay as inordinate as 575 days.

7. The appellant has now preferred the present appeal challenging the orders dated 5 September 2023 and 27 November 2025 *supra* passed by the learned Commercial Court.

8. The appeal is accompanied by CM Appl. 30639/2026, seeking condonation of delay in filing the present appeal. The application, which is all of five paragraphs, reads thus:

“1. That the accompanying appeal against the orders dated 05.09.2023 and orders dated 27.11.2025 passed by the Ld. District Judge in OMP (Comm) No. 35/2023 and in Misc DJ No. 246/2025 in OMP (Comm) No. 35/2023 in the case titled as "Bharat Sanchar Nigam Limited vs Royal India Techno projects Ltd.". The contents of the appeal may be read as a part and parcel of the present application and are not repeated for the sake of brevity.

2. That the present appeal has been preferred by the Appellant as the counsel for the Appellant without being authorized to withdraw the appeal, made a statement on behalf of the Appellant to withdraw the appeal and in fact withdrew the appeal without any reason leaving appellant in a state which is causing irreparable loss and injury.

3. That in fact on account of counsel conduct, the appellant had to hire a new advocate and gave the brief after arranging complete file who in turn prepared and filed this appeal. The filing of appeal unfortunately has been delayed by 809 days and there is delay in filing the appeal of days.

4. That the present application is being made in the interest of justice and is bonafide in nature.

5. That the appellant will suffer irreparable loss and injury if the delay is not condoned by this Hon'ble Court.

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PRAYER

In the above stated facts and circumstances, it is therefore most respectfully prayed that this Hon'ble Court may be pleased to:

- a) Condone the delay of 809 days in filing the present appeal on behalf of the Appellant,
- b) Pass any other/further orders as this Hon'ble Court may deem fit in the facts and circumstances of the captioned proceedings.”

9. It is obvious that the appellant is least interested in prosecuting these proceedings. Court after Court have been moved merely for the sake of formality.

10. As there is no tenable explanation for the condonation of delay of 575 days in filing the restoration application before the learned Commercial Court which, even otherwise, was not maintainable in law, we decline to entertain any challenge to the order dated 5 September 2023, 809 days after the order has been passed.

11. The only challenge which is within time, therefore, is to the challenge to the order dated 27 November 2025, whereby the learned Commercial Court dismissed the restoration application on delay.

12. No sustainable ground for entertaining such a challenge exists. The application was itself not maintainable in the first instance. Moreover, the learned Commercial Court has correctly observed that there was no explanation worth the name for condonation of delay of 575 days.



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13. We may note that, in commercial matters, the Supreme Court has held in *Jharkhand Urja Utpadan Nigam Limited v. Bharat Heavy Electricals Limited*³ and *Government of Maharashtra v. Borse Brothers Engineers & Contractors Pvt Ltd*⁴, that delay has to be viewed seriously and has to be completely explained with cogent material on record. The latitude which a Court may otherwise display while dealing with applications for condonation of delay in ordinary suits or appeals cannot be exercised while dealing with the commercial matters.

14. We, therefore, are of the view that no case is made out for issuance of the notice in this appeal. The challenge to the order dated 5 September 2023 is hopelessly barred by time. The order dated 27 November 2025 is correct and does not call for any interference for us.

15. The appeal is accordingly dismissed in *limine*.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

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³ 2025 SCC OnLine SC 910

⁴ (2021) 6 SCC 460