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A.F.R.

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**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW
APPEAL UNDER SECTION 37 OF ARBITRATION AND
CONCILIATION ACT 1996 No. - 25 of 2025**

Union Of India, Ministry Of Railways, Thru.
Divisional Railway Manager/Engineer, And 5
Others

.....Appellant(s)

Versus

Gallant Ispat Ltd. Thru. General Manager
Navneet Jindal

.....Respondent(s)

Counsel for Appellant(s) : Deepanshu Dass
Counsel for Respondent(s) : Akash Mishra, Akash Mishra, Akber
Ahmad, Gaurav Mehrotra, Utkarsh
Vardhan Singh

Court No. - 1

HON'BLE RAJAN ROY, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

(Per: Hon'ble Abdhesh Kumar Chaudhary, J.)

1. By means of this appeal filed under Section 13 of the Commercial Courts Act, 2015 read along with Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act of 1996') the appellants-Union of India, through Ministry of Railways have sought to interdict the impugned order dated 05.06.2025 passed by the learned Commercial Court, Lucknow in Misc. Civil Case No.51 of 2024 (*Union of India and others Vs. Gallant Ispat Limited*) by virtue of which the objections filed by the Appellants under Section 34 of the Arbitration and Conciliation Act, 1996 against the Arbitral Award dated 08.12.2023, was dismissed on the sole ground of Limitation.

2. Briefly stated, the facts essential for the purposes of adjudication of the present Appeal would be that the respondent having an integrated steel plant situated at Tehsil- Sahjanwa, District- Gorakhpur required a private railway siding for movement of raw material from railway station- Sahjanwa towards its Unit. The

Respondent for that purpose required land admeasuring about 7702.07 square meters from the Appellant-railways on lease rent/ license fee.

3. Initially, the appellant-Railway Authorities fixed lease rent for an amount of Rs.15,87,527/- per year. However, the respondent realizing that the lease rent allegedly to be excessive, sought reduction of the same and ultimately the appellant-Railway Authorities fixed the lease rent taking into account 3660 sq mt. of the land in village Luchai to be non-agricultural (residential) and 4502 sq. mt. of the land in village Domhermafi to be agricultural and, as such, reduced the lease rent to Rs.9,60,684/- per year for use of the aforesaid land by the respondent-company.

4. Accordingly, an agreement was entered into between the appellant-Railway Authorities and the respondent-company on 16.06.2010 and an amount of Rs.9,60,684/- was also deposited by the respondent.

5. On expiry of tenure of the aforesaid agreement, a new agreement was proposed by the appellant-Railway Authorities on 02.06.2016 in which lease rent was enhanced to Rs.13,47,409/- with 7% service tax per year.

6. However, the aforesaid proposed enhancement of lease rent did not go well with the respondent-company and as such they started agitating the said enhancement and demanded reduction of the lease rent, resulting into dispute between the parties. Since the agreement contained an arbitration clause, the Respondent-company proposed for resolution of its dispute, primarily seeking for fixing of lease rent towards the lower end, through the mechanism of Arbitration.

7. Apparently, the parties failed to reach a common ground for appointment of a Sole Arbitrator and as such on an application filed under Section 11 of the Act of 1996, this Court intervened and a Sole Arbitrator came to be appointed by this Court vide an order 07.04.2022 passed in Civil Misc. Arbitration Application No. 22 of 2021 (*Gallant Ispat Limited V/s Union of India, Ministry of railways, New Delhi*).

8. The learned Arbitrator entered into reference and after considering the claims, counter-claims and documents relied upon by the parties, passed an Award dated December 08, 2023 wherein the claim of the

respondent-Gallant was allowed. The learned Arbitrator in the said Award directed the appellant-Railway Authorities for revision of the lease rent to Rs.1,23,300/- annually and also directed for refund of Rs.1,79,26,701/- with 8% interest on the amount already paid in excess.

9. Being aggrieved by the aforesaid Arbitral Award dated December, 08, 2023 the appellant-Railway Authorities filed application U/s 34 of the Act of 1996 before the competent Commercial Court, which was registered as Misc. Civil Case No.51 of 2024. Apparently, since there was a delay of 28 days in filing the said objection, an application for condonation of delay in terms of proviso to Section 34(3) of the Act of 1996 was also filed by the appellant-Railway Authorities.

10. The learned Commercial Court after considering the submission of the parties, did not find any sufficient cause having been explained by the Appellant-Railway seeking to condone the delay. Thus, the said Application under Section 34(3) of the Act of 1996 seeking condonation of delay was dismissed and consequently the objection itself filed against the impugned Award U/s 34 of the Act of 1996 was also rejected vide the impugned order dated 05.06.2025.

11. Being aggrieved by the aforesaid impugned order dated 05.06.2025 passed by the learned Commercial Court, the appellant-Railway Authorities have preferred the present appeal under section 13 of the Commercial Court Act, 2015 r/w Section-37 of the Arbitration & Conciliation Act, 1996.

12. Sri Deepanshu Dass, the learned Central Government Counsel led the arguments for and on behalf of the Appellant-railways. He would submit that it was neither legal nor proper for the learned Commercial Court to not have condoned the delay of only 28 days in filing the objections to the Award under Section 34 of the Act. He would submit that the said delay of 28 days was within the permissible limit of 30 days as has been permitted by the proviso to Section 34(3) of the Act. According to him, the delay of 28 days was well explainable and was primarily because of administrative exigency, which has been particularly explained in the affidavit filed in support of the Application seeking condonation of delay in preferring the Objections under Section 34 of the Act. The learned counsel has also strenuously tried to highlight that the Appellant as being a government entity may be given concession in Condoning delay in contrast to a private entity, as government entities are engaged in

various statutory functionality and administrative delay in processing of an application is a known procedural bottleneck for causing delay in all government departments.

13. The learned counsel has further submitted that the appellants have a good case on merits and the law of limitation cannot eclipse their meritorious submission in the present Appeal. Mr. Dass went on to explain that the law of limitation being basically a procedural law and a hand-maid of substantive law should not be allowed to overawe the merits of the present case. Highlighting the merits of the present appeal, the learned Counsel has tried to impress upon this Court that in a given case, on merits, a liberal approach has to be adopted for condoning the delay.

14. Rival submissions were made by Mr. Gaurav Mehrotra, learned Senior Counsel appearing for the Respondent-company. According to the learned Senior Counsel, no doubt the delay of 28 days is within the permissible limit of 30 days, however, the law remains that any delay within this permissible limit of 30 days is allowed only in case of 'sufficient cause' having been explained by the Appellant. Mr. Mehrotra after reading the proviso to Section 34(3) of the Act, took this Court on a voyage to the contents of the Affidavit filed by the Appellants in support of their Application seeking condonation of delay, to buttress his submission that neither any plausible nor any cogent grounds for delay have been mentioned therein, which could be qualified to be termed as 'sufficient cause' within the meaning of proviso to section 34(3) of the Act. The learned Senior Counsel has relied on the judgment of the Hon'ble Supreme Court, in the case of ***Basawaraj Vs Land Acquisition Officer***, reported in **(2013) 14 SCC 81**; to fortify his stand that the 'sufficient cause' mentioned in Proviso to Section 34(3) of the Act, would mean that the party ought not to have acted in a negligent manner. It has been submitted that the Appellants had miserably failed to explain and provide adequate reasons which prevented them from approaching this Court within the period of limitation, so that this Court would take an informed decision in exercising its discretion in condoning the delay of 28 days within the permissible limit of 30 days.

15. Thus, according to Mr. Mehrotra, the minimum threshold for triggering this Court or the learned Commercial Court for consideration of the delay application of the Appellants having been not met, the application for delay was rightly rejected vide the

impugned order. The learned Senior Counsel has vehemently submitted that merely because the Appellant is a State, no special concession can be accorded in condonation of delay in commercial matters on the ground of administrative bottle-necks. He would submit that the state as a litigating party has to be treated equally with a private party and put to equal terms while considering condonation of delay Application. The Learned Sr. Counsel referred to the judgments passed by the following judgment of the Supreme Court to buttress his aforesaid submission. (i) ***Government of Maharashtra (Water Resources Department) represented by Executive Engineer V/s M/S Borse Brothers Engineers & Contractors Pvt. Limited*** reported in **(2021) 6 SCC 460**; (ii) ***State of Madhya Pradesh V/s Bherulal***, reported in **(2020) 10 SCC 654**; (iii) ***The State of Madhya Pradesh & Anr. V/s Chaitram Maywade***, reported in **(2020) 10 SCC 667**; and (iv) a judgment dated 14.05.2019 passed in **(Special Appeal Defective No. 188 of 2019)** by a Division Bench of this Court in the case of ***State of U.P. v. Succha Singh***, reported in **2019 SCC OnLine All 7737**.

16. Lastly, it has been submitted by the learned Senior Counsel for the Respondent that considering from any angle, the sole ground of movement of file from one table to another cannot be construed as a sufficient cause to condone delay and in that regard, has relied on the judgment of the Hon'ble Supreme Court in ***State of Uttar Pradesh V/s Satish Chand Shivhare & Brothers***, reported in **2022 SCC Online SC 2151**; and a judgment dated 15.03.2024 passed by a Division bench of this Court in ***Executive Engineer Drainage Division V/s M/s Ayush Construction & Another (Special Appeal Defective No. 89 of 2024)***.

17. We have patiently heard the learned Counsels for the parties and perused the material on records. Having given our thoughtful consideration to the contention raised by the parties, we find that the core issues falling for our consideration in this present Appeal is two-fold; (i) What is the scope of interference of this Court under Section 37 of the Arbitration and Conciliation Act, 1996; and (ii) Whether in the facts and Circumstances of the present case, a "sufficient cause" has been made out by the Appellants for exercising discretion of condoning the delay of 28 days within the permissible limit of 30 days, as is provided with in the proviso to Section 34(3) of the Act or in other words whether the impugned order passed by the Learned Commercial court is unsustainable in the eyes of law and requires

any interference by this Court.

18. Before proceedings any further, it would be apposite for this Court to refer Section 37 of the Arbitration and Conciliation Act, which *inter-alia* states as herein under:-

37. Appealable orders.—(1) *[Notwithstanding anything contained in any other law for the time being in force, an appeal] shall lie from the following orders (and from no others) to the Court authorised by law to hear appeals from original decrees of the Court passing the order, namely:—*

[(a) refusing to refer the parties to arbitration under Section 8;] [(b) granting or refusing to grant any measure under Section 9;] [(c) setting aside or refusing to set aside an arbitral award under Section 34.]

(2) *Appeal shall also lie to a court from an order of the arbitral tribunal*

(a) accepting the plea referred to in sub-section (2) or sub-section (3) of Section 16; or

(b) granting or refusing to grant an interim measure under Section 17.

(3) *No second appeal shall lie from an order passed in appeal under this section, but nothing in this section shall affect or take away any right to appeal to the Supreme Court.*

19. First and foremost, we must understand that the primary object of the Arbitration and Conciliation Act, 1996 is to provide speedy and inexpensive dispute resolution through arbitration with minimal Court intervention, as reflected in Section 5 of the said Act. Further, this minimal Court intervention is also to be exercised in a restrictive manner as is apparent from the provisions of Section 34 of the Act, which provides for limited grounds to challenge an arbitral award, such as incapacity, invalidity of the agreement, lack of notice, inability to present the case, award beyond the scope of arbitration, improper constitution of the tribunal, subject matter not capable of settlement, or conflict with public policy, patent illegality etc. Admittedly, beyond these grounds, the law stands settled that an arbitral award is not open to be challenged under Section 34, and Court intervention is limited.

20. No doubt section 37 of the Act provides for an Appeal against any order passed under section 34 of the Act. However, we find that as far as the scope of Section 37 juxtaposed to Section 34 of the Act is concerned, the power is more circumscribed and the recent trends of the court had been to not travel beyond the impugned order passed

under section 34 of the Act. A quick survey of the judgments holding the ground would bring us to the celebrated judgment of **MMTC Ltd. v. Vedanta Ltd.**, reported in **(2019) 4 SCC 163**; wherein the Apex court held that interference under Section 37 cannot go beyond the restrictions of Section 34. The Court went on to hold that in an Appeal under section 37, the appellate Court cannot undertake an independent assessment of the merits of the award. Further, interference cannot be made under Section 37 of the Act merely because an alternative view is possible, as has been delineated by the Hon'ble Supreme Court, in the case of **Konkan Railway Corpn. Ltd. v. Chenab Bridge Project**, reported in **(2023) 9 SCC 85**; wherein it was also held that the jurisdiction under Section 37 is akin to Section 34 of the Act.

21. Furthermore, Hon'ble Supreme Court in the case of **Bombay Slum Redevelopment Corpn. (P) Ltd. v. Samir Narain Bhojwani**, reported in **(2024) 7 SCC 218**; went on to reiterate its consistent stand that the appellate Court's jurisdiction under Section 37 is more constrained than under Section 34 of the Act. So, as far as power under Section 34 of the Act is concerned, there exists limited power of interference and the said limited power is further restricted and controlled in the appellate stage under Section 37 of the Act. In the same genre, we find that in the case of **Punjab State Civil Supplies Corpn. Ltd. v. Sanman Rice Mills**, reported in **2024 SCC OnLine SC 2632**; the Supreme Court held that intervention in arbitral matters is virtually prohibited except as envisaged under Section 34, and the appellate power under Section 37 is limited to checking if the Section 34, Court acted within its jurisdiction. The appellate Court cannot reappraise evidence or substitute its view for that of the court below.

22. A careful & meaningful reading of the aforesaid judgments passed by the Apex court in **Punjab State case (supra)** brings us to fore the evolution of law on interference at the appellate stage under Section 37 of the Act, as the judgment initially proceeds on the basis that the scope of appeal, which lies against an order setting aside or refusing to set aside an arbitral award, is "naturally akin to" and "limited to" the grounds enumerated under Section 34 of the Arbitration Act. However gradually in the subsequent paragraphs, the Court went on to hold that the appellate power under Section 37 is not akin to the normal appellate jurisdiction vested in the civil Courts owing to the limited scope of interference of the Courts with arbitral proceedings or awards which is confined to the grounds set out in

Section 34 of the Arbitration Act. The Court further holds that the scope of interference in an appeal under Section 37 is restricted and subject to the same grounds on which an award can be challenged under Section 34 of the Act and that the powers of an appellate Court are not beyond the scope of interference under Section 34. The Hon'ble Supreme Court after tracing the various judgments on the scope of Section 37, went on to conclude as follows:

*"20. In view of the above position in law on the subject, the scope of the intervention of the court in arbitral matters is virtually prohibited, if not absolutely barred and that the interference is confined only to the extent envisaged under [Section 34](#) of the Act. The appellate power of [Section 37](#) of the Act is limited within the domain of [Section 34](#) of the Act. It is exercisable only to find out if the court, exercising power under [Section 34](#) of the Act, has acted within its limits as prescribed thereunder or has exceeded or failed to exercise the power so conferred. The Appellate Court has no authority of law to consider the matter in dispute before the arbitral tribunal on merits so as to find out as to whether the decision of the arbitral tribunal is right or wrong upon reappraisal of evidence as if it is sitting in an ordinary court of appeal. **It is only where the court exercising power under [Section 34](#) has failed to exercise its jurisdiction vested in it by [Section 34](#) or has travelled beyond its jurisdiction that the appellate court can step in and set aside the order passed under [Section 34](#) of the Act. Its power is more akin to that superintendence as is vested in civil courts while exercising revisionary powers. The arbitral award is not liable to be interfered unless a case for interference as set out in the earlier part of the decision, is made out. It cannot be disturbed only for the reason that instead of the view taken by the arbitral tribunal, the other view which is also a possible view is a better view according to the appellate court.***

21. It must also be remembered that proceedings under [Section 34](#) of the Act are summary in nature and are not like a full-fledged regular civil suit. Therefore, the scope of [Section 37](#) of the Act is much more summary in nature and not like an ordinary civil appeal. The award as such cannot

be touched unless it is contrary to the substantive provision of law; any provision of the Act or the terms of the agreement."

(emphasis supplied)

23. Therefore, a plain reading of the *Punjab State* case (supra) would bring us to fore that the recent trend of the Courts had been to more marginalize the power of the Appellate Courts in interfering an Award and has technically switched over from appellate forum to superintendence forum. The Hon'ble Supreme Court clarified that this appellate power is more akin to the power of superintendence as is vested in civil Courts while exercising revisionary powers. Thus, it appears that the Court has in a way further dwindled the power by holding that the appellate power under Section 37 is only exercisable to find out whether the Court exercising power under Section 34 has acted within its limits as prescribed thereunder or has exceeded or failed to exercise the power so conferred. It has also in a way prescribed the condition precedent that it could exercise the power under Section 37 of the Act only where the court exercising jurisdiction under Section 34 fails to exercise the jurisdiction vested in it or travels beyond its jurisdiction. The Supreme Court in unequivocal terms has held that when these conditions are satisfied that the appellate Court can step in and set aside the order passed under Section 34 of the Arbitration Act.

24. Keeping in view the aforesaid limited scope of interference by this Court under section 37 of the Act, let's examine as to: -

(ii) Whether in the facts and Circumstances of the present case, a "sufficient cause" has been made out by the Appellants for exercising discretion of condoning the delay of 28 days within the permissible limit of 30 days, as is provided with in the proviso to Section 34(3) of the Act or in other words whether the impugned order passed by the Learned Commercial court is unsustainable in the eyes of law and requires any interference by this Court.

25. Section 34 (3) relating to the limitation for laying a challenge or filing an objection to an Arbitral Award says:

"(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:

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."

Apparently, there is no quarrel over the dates and time taken by the Appellants in preferring the objections to the Arbitral Award dated 08.12.2023. According to this Court the core issue is as to whether the Appellants had been successful in justifying its delay of 28 days in preferring their Objection within the extended period of "thirty days" as contained in proviso to Section 34(3) of the Act.

26. We find that the time period of "three months" has been ordinarily prescribed for preferring an application (say objection U/s 34 of the Act) for setting aside of an Arbitral Award and a discretion has been provided to the courts to entertain the said Application within a further period of third days, with a condition that the said court exercising its discretion ought to be satisfied that the applicant was prevented by sufficient cause from making the application within the prescribed period of three months. Therefore, we have three major take-away from a reading of the Section 34(3) and its proviso:

Firstly, the limit for filing an application for setting aside an Arbitral Award is three months from the receipt of a signed copy of the said Award;

Secondly, a further period of thirty days has been provided for preferring the aforesaid Application. However, the same is subject to the satisfaction of the court that the applicant was prevented by sufficient cause from making the application within the said period of three months;

Thirdly, the issue boils down to what bundle of facts could be termed as 'sufficient cause'.

27. According to this Court, the third take-away is the bone of contention in the present Appeal, wherein on the one hand the Appellants have contended that there existed sufficient cause to condone the delay whereas on the other hand the Respondent has contested that there is no sufficient cause to condone the delay. Before, we go any further, let us first examine the explanation appended by the Appellants in support of their contention that sufficient cause has been made by them in delaying the filing of the Application. We find that the explanation has been made in four paragraphs of the Affidavit filed in support of the Application seeking

condonation of delay. The said relevant paragraphs are being extracted herein below:

"4. That after passing of the award dated 08-12-2023, the Learned Counsel for the Respondents/Petitioners Mr. Anuj Dayal duly informed the concerned department of the Railways that Railways has loosed the case and submitted the copy of the award with a Legal opinion dated 29-01-2024. True photocopy of the legal opinion dated 29-01-2024 is being annexed herewith as Annexure No. 1.

5. That after that the Concerned authority of DRM Engineering sent on 12-02-2024 the whole file with copy of award to Law Department of the Railway, Lucknow so that a legal opinion may be for further action.

6. That after that on 29-2-2024 the concerned authority of the Legal Department submitted his opinion that there is need to challenge the impugned order of the award before the Hon'ble Commercial Court. A true photocopy of the decision of the Legal officer dated 29-02-2024 is being annexed herewith as Annexure No.2.

7. That after that the whole file with the opinion of the Legal Officer submitted before the Competent authority who nominated on 13-03-2024 to present counsel Mr. Rajesh Kumar Singh on 14-03-2024. After that the Learned Counsel Mr. Rajesh Kumar Singh the collect the whole file on 18/03/2024 go to whole file and read and prepare the same so that this petition may be filed before Hon'ble Commercial Court. A true photocopy of the nomination dated 14-03-2024 is being annexed herewith as Annexure No.3."

28. Thereafter, we find that even in the present memo of Appeal, the Appellant has tried to explain the condonation of delay in preferring the Objections under section 34 of the Act from paragraph 16 to 20 of the Appeal. Paragraphs 18 and 19 makes for an interesting read, which *inter-alia* states:

"18. That the application under section 34 of Arbitration and Conciliation Act 1996 was prepared by the concerned counsel and the entire paper book was sent to the authorities for signing on 18/03/2024.

19. That the duly signed paper book of application under

section 34 of Arbitration and Conciliation Act 1996 was received by the concerned counsel who filed the same on 05/04/2025."

(emphasis supplied)

29. Apparently, the Arbitral Award dated 08.12.2023 was received on the same date as we do not find any submission or averment to the effect that the signed copy or otherwise the Award was not received on the said date or any later date. In the absence of any such contention, it has to be construed that the Award was received on the same date as on 08.12.2023 and the prescribed three months period stands ticking from the said date, which according to this Court lapses on 07.03.2024. From the averment of the aforesaid Affidavit, which has been quoted herein above, we find that it took almost more than 51 days for the learned Counsel, Anuj Dayal to form an opinion and send a legal opinion dated 29.01.2024 for challenging the said Award. Thereafter, it took almost 14 days for the concerned department to send the entire case file to the legal department, Lucknow on 12.02.2024, wherein the department took almost 16/17 days to form a second opinion to challenge the award on 29.02.2024. Admittedly, the department took over more than two weeks to nominate a counsel, namely Mr. Rajesh Kr. Singh, on 14.03.2024 to file the objections/Application, which got prepared on 18.03.2024 and was sent to the authorities for their signing. These time-gaps between the events sufficiently exhibits the casual approach and non-seriousness attitude to challenge the arbitral award dated 08.12.2023.

30. However, the most sterling time-gap and negligence on the part of the authority is still to come, wherein this Court finds that although the objection was sent for signing to the competent authority at Lucknow on 18.03.2024, however the said authority took almost 17 days to sign and send the signed papers to the concerned Counsel, as we see that the application came to be filed only on 05.04.2024 before the commercial court at Lucknow. Thus, it took 17 days for movement of file in the same city and there has been no explanation what so ever from the end of the Appellant for such a lackadaisical attitude, especially when this Court finds that admittedly the prescribed three months had already lapsed on 07.03.2024 and the appellants ought to have sprinted for filing of the said Application within the shortest available time. It is rather deliberate and negligent on the part of the Appellant that when they had full knowledge of the

said time-period having lapsed, to have behaved in a very lackluster manner as it took 17 days to send the signed papers across to the Counsel for filing, although the Competent Authority and the Commercial Court were located in the same place i.e. Lucknow. We are afraid this indifferent attitude of the concerned officials in delaying the signing and sending it across for filing and taking almost 17 days cannot be termed to be a sufficient cause for condoning the delay and has to be termed nothing short of negligent.

31. Further, we have also tested the explanation offered by the Appellant in their condonation of delay application as well as the memo of appeal, on the anvil of the recent decision of Hon'ble Supreme Court, in the case of ***Shivamma (Dead) by LRS vs. Karnatka Housing Board and another***, reported in ***2025 SCC OnLine 1969***; we do not find any reason to condone the said delay. The Hon'ble Supreme Court has held in the case of ***Shivamma (Dead) (supra)*** that the expression "sufficient cause" is not itself a loose panacea for the ill of pressing negligent and stale claims. The expression is to be construed with justice-oriented flexibility so as not to punish innocent litigants for circumstances beyond their control. Courts must not condone gross negligence, deliberate inaction, or casual indifference, for to do so would undermine the maxim *interest reipublicae ut sit finis litium* and destabilize the certainty that limitation law seeks to secure. The expression 'sufficient cause' must be construed in a manner that advances substantial justice while preserving the discipline of limitation. The Courts are not to be swayed by sympathy or technical rigidity, but rather by a judicious appraisal of whether the applicant acted with reasonable diligence in pursuing the remedy. Where explanation is bona fide, plausible, and consistent with ordinary human conduct, Courts have leaned towards condonation. Where negligence, want of good faith, or a casual approach is discernible, condonation has to be refused. In the present case, the appellants have not acted with reasonable diligence nor is the explanation offered by them plausible and consistent with ordinary human conduct. There is negligence, want of good faith and casual approach on their part for the reasons already noticed herein-above in taking 17 days for signing and filing an application, which was already delayed.

32. The summation of our aforesaid discussion is that the proof of sufficient cause is a condition precedent for exercising of the discretionary jurisdiction as provided under proviso to Section 34(3)

of the Act. If sufficient cause is not proved the matter should rest, then and there. It is only when sufficient cause is shown then only the Court enquires into the various competing factual matrix to satisfy itself in exercising its discretion of condoning the delay. Alas, in the present facts and circumstances, the Appellants have failed to bring the explanation into the realms of sufficient cause, so as to enable this Court or the learned Commercial Court in exercising its judicial discretion of condoning the delay.

33. There is another aspect of the matter, in as inasmuch the learned Counsel for the Appellant has strenuously tried to highlight that the Appellant as being a government entity may be given concession in Condoning delay, in contrast to a private entity as government entities are engaged in various statutory functionality. We are afraid that we cannot accord any attention to the aforesaid submission of the learned Counsel for the Appellant. Different yard-sticks cannot be employed for a government entity and a private body for deciding an application for condonation of delay. The law of limitation applies in equal force to both the litigating parties. Whether it is a government body or a private, the parties have to show existence of "sufficient cause" in their favour, before the discretionary power of the court could be triggered for condoning the delay. The said understanding of this court gathers specific significance in the wake of section 18 of the Arbitration & Conciliation Act, which mandates for equal treatment of the parties.

34. The Hon'ble Supreme Court in the case of ***Shivamma (Dead) by LRS (Supra)*** has also considered as to whether there was any room for largesse for State lethargy and leisure under Section 5 of the Limitation Act. After considering various earlier decisions on the subject, ultimately, the Supreme Court opined that prior to the decision of ***Postmaster General vs. Living Media India Ltd.***, reported in **(2012) 3 SCC 563**; the approach was characterized by judicial sympathy towards the State and its instrumentalities in matters of condonation of delay, owing to the peculiar nature of their functioning. At the same time, there also existed contrary views such as ***State of W.B. vs. Administrator, Howrah Municipality***, reported in **(1972) 1 SCC 366**; and ***Lanka Venkateswarlu (D) by LRS vs. State of A.P. and ors.***, reported in **(2011) 4 SCC 363**; which held that, irrespective of whether the litigant is a Government entity or a private individual, the provisions of limitation would apply uniformly, and any leeway shown by the Courts would also remain the same.

The law as it presently stands post the decision of ***Postmaster General*** (*supra*) as unambiguous and clear. Condonation of delay is to remain an exception, not the rule. Governmental litigants, no less than private parties, must demonstrate bona fide, sufficient, and cogent cause for delay. Absent such justification, delay cannot be condoned merely on the ground of the identity of the applicant. Hon'ble Supreme Court has further observed that on a combined reading of ***State of Rajasthan & Anr. vs. Bal Kishan Mathur (Dead) through Legal Representative***, reported in **(2014) 1 SCC 592**; and ***Sheo Raj Singh vs. Union of India***, reported in **(2023) 10 SCC 531**; it is equally manifest that the ratio of *Postmaster General* (*supra*) is, in essence, twofold. First, that State or any of its instrumentalities cannot be accorded preferential treatment in matters concerning condonation of delay under Section 5 of the Limitation Act. The State must be judged by the same standards as any private litigant. To do otherwise would compromise the sanctity of limitation. Secondly, that the habitual reliance of Government departments on bureaucratic red tape, procedural bottlenecks, or administrative inefficiencies as grounds for seeking condonation of delay cannot always, invariably accepted as a "sufficient cause" for the purpose of Section 5 of the Limitation Act. If such reasons were to be accepted as a matter of course, the very discipline sought to be introduced by the law of limitation would be diluted, resulting in endless uncertainty in litigation.

35. This court also finds that the learned Counsel for the Appellant Mr. Depanshu Dass has tried to persuade and also make a last-ditch effort to convince us by submitting that the Appellant has a very good case on merits and as such the discretionary power of this Court in condoning the delay may be exercised liberally. We are clear in our minds that every objection predicated on limitation raises, in one sense, is pertinently a question anterior to the merits. However, the Court is called upon, not to examine whether the challenge is well-founded or not, but whether it is one which the statute permits within the permissible limitation. The Supreme Court in ***M/s Borse Brothers Engineers & Contractors*** (*Supra*) clearly held that merely because the government is involved, a different yardstick for condonation of delay cannot be laid down. The aforesaid proposition had been vividly held by the Supreme Court in the case of ***Post Master General*** (*Supra*), wherein it was held as follows:

"27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

36. Echoing the same principle, recently the Hon'ble Supreme Court in the aforesaid ***Shivamma (Dead) by LRS (Supra)*** has also observed that the Courts must be mindful that strong case on merits is no ground for condonation of delay. When an application for condonation of delay is placed before the Court, the inquiry is confined to whether "sufficient cause" has been demonstrated for not filing the appeal or proceeding within the prescribed period of limitation or not. The merits of the underlying case are wholly extraneous to this inquiry. If Courts were to look into the merits of the

matter at this stage, it would blur the boundaries between preliminary procedural questions and substantive adjudication, thereby conflating two distinct stages of judicial scrutiny. The purpose is not to determine whether the claim is legally or factually strong, but only whether the applicant had a reasonable justification for the delay. Test of "sufficient cause" cannot be substituted by an examination of the case on merits.

37. Further, if merits are considered, a litigant with a stronger case may be favoured with condonation despite negligence, while a weaker case may be rejected even if sufficient cause is made out. This would lead to an inequitable and inconsistent application of the law, undermining the uniform standard that the doctrine of limitation is designed to maintain. Yet another practical reason has been given by the Hon'ble Supreme Court as to why merits must not be considered at the stage of delay condonation that is it risks prejudicing the mind of the Court against one party even before the matter is substantively heard. By glancing into merits prematurely, the Court may inadvertently form a view that colours the fairness of the subsequent adjudication. The judicial discipline required at this stage demands that only the cause for delay be scrutinized, and nothing more. Therefore, we cannot consider the merits of the matter at this stage.

38. Thus, now the issue remains as to whether the impugned order is unsustainable in the eyes of law and requires any interference by this court.

39. As aforesaid, we have ourselves taken the arduous task of examining the case on the aspect as to whether the appellants were able to explain a 'sufficient cause', which prevented them in filing the Application for setting aside the Award or not. Unfortunately, we could not subscribe to the cause of taking more than 17 days by the Appellants authority in signing and sending the Application for filing, wherein both the authority and the Court meant for filing were located in the same place i.e. Lucknow. Obviously, the said delay cannot be encompassed within the meaning of "sufficient cause" in view of the aforesaid provisions of law propounded by the Hon'ble Supreme Court in the case of **Shivamma (Dead)** (*supra*). The affidavit filed by the appellants explaining the delay is inadequate and insufficient. No effort has been made to explain the delay of 28 days, so as to come within the periphery of "sufficient cause". The explanation offered is nothing but a lame excuse. The Appellant were negligent in

approaching the court and their explanation of delay seems to not bonafide and does not meet the minimum threshold required for this court to exercise its discretion in condoning the delay of 28 days within the extended period of 30 days.

40. We find that the learned Commercial Court has also returned a finding that the delay caused cannot be condoned as it fell foul of being a "sufficient cause". The learned Commercial Court nowhere missed the woods for the tree in returning a finding that the discretion available in view of proviso to Section 34(3) of the Act cannot be exercised in the given facts and circumstances. Additionally, the cavalier attitude of the Appellants was highlighted further by noting that the objection to the Award were filed with a delay of 28 days and was also inadequately stamped and since the requisite stamp came to be paid only on 15.02.2025 i.e. after more than 10 months and 10 days, the Objections came to be heard and decided only thereafter.

41. Keeping in view the limited scope of its interference under Section 37 of the Arbitration and Conciliation Act, 1996 and the deficient explanation in seeking condonation of delay in filing the Application for setting aside the Award under Section 34 of the Act, we are in complete agreement with the order dated 05.06.2025 passed by the learned Commercial Court, Lucknow.

42. Before we part with, we must also understand that any court while exercising its discretion to condone a delay on the ground of having shown a "sufficient cause" by a party not only takes into consideration the diligence and genuineness of the cause explained by the said party, but also balances the same with the right accrued in favour of the contesting party. The aforesaid view was taken by the Hon'ble Supreme Court in the case of *Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai*, (2012) 5 SCC 157 wherein the Court held that:

"23. What needs to be emphasised is that even though a liberal and justice oriented approach is required to be adopted in the exercise of power under [Section 5](#) of the Limitation Act and other similar statutes, the courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost.

24. What colour the expression "sufficient cause"

would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay."

43. As a sequel to our discussion made herein above and for all the reasons, the present Appeal fails and as such the same being devoid of any merit is accordingly ***dismissed***.

44. There shall be no order(s) as to cost.

July 29, 2026
MVS/-

(Abdhesh Kumar Chaudhary,J.) (Rajan Roy,J.)