



2026:DHC:3081



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision: 13th April, 2026**

+ CS(OS) 56/2025 & O.A. 86/2026, I.A. 9988/2026

SHIVA BUILDTECH PVT. LTD. & ORS.Plaintiffs

Through: Mr. Ramesh Kumar, Adv.

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versus

AGGCON EQUIPMENTS INTERNATIONAL PVT. LTD. & ORS.

....Defendants

Through: Mr. Santosh Kumar Chaurihaa, Adv.
(Through VC)

Mob: 9811193843

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J (ORAL):

O.A. 86/2026 & I.A. 9988/2026

1. The present chamber appeal has been filed under Rule 5 Chapter II of the Delhi High Court (Original Side) Rules, 2018, against the order dated 20th November, 2025, passed by the learned Joint Registrar (Judicial) in I.A. 18293/2025, whereby, the delay in filing the written statement by defendant nos. 1 to 3 was not condoned.

2. In the impugned order dated 20th November, 2025, the learned Joint Registrar (Judicial) has held as follows:

“xxx xxx xxx

7. Perusal of record shows that the defendant nos. 1 to 3 were served with the summons of the suit through email by the Registry on 20.03.2025 and were also served through ordinary mode on 26.03.2025. Thereafter, the said defendants filed the written statement vide diary no.5063338 on 24.07.2025, which was returned under objection. Perusal of record further shows that the defendants have



filed their written statement after expiry of extended period of 120 days. Since the condonable period for filing written statement is already over, the captioned IA is dismissed.

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3. Perusal of the aforesaid order shows that it is the clear finding of the learned Joint Registrar (Judicial) that the written statement of defendant nos. 1 to 3 has been filed after the expiry of the extended period of 120 days.

4. This Court notes that the present suit is governed by the Delhi High Court (Original Side) Rules, 2018, wherein, as per Chapter VII Rule 2, the period for filing of the written statement is counted from the date of service of the summons. Rule 2 of the Chapter VII of the the Delhi High Court (Original Side) Rules, 2018, reads as under:

“xxx xxx xxx

2. Procedure when defendant appears.—If the defendant appears personally or through an Advocate before or on the day fixed for his appearance in the writ of summons:—

***(i) where the summons is for appearance and for filing written statement, the written statement shall not be taken on record, unless filed within 30 days of the date of such service or within the time provided by these Rules, the Code or the Commercial Courts Act, as applicable.** An advance copy of the written statement, together with legible copies of all documents in possession and power of defendant, shall be served on plaintiff, and the written statement together with said documents shall not be accepted by the Registry, unless it contains an endorsement of service signed by such party or his Advocate.*

(ii) the Registrar shall mark the documents produced by parties for purpose of identification, and after comparing the copies with their respective originals, if they are found correct, certify them to be so and return the original(s) to the concerned party.

xxx xxx xxx”

(Emphasis Supplied)

5. Further, Rule 4 of Chapter VII of the Delhi High Court (Original Side) Rules, 2018, clearly stipulates that the written statement has to be filed within a period of 30 days of receipt of the summons and the Court on being



shown sufficient cause, can extend the time for filing the written statement for a further period not exceeding 90 days, but not thereafter. Rule 4 of Chapter VII of the Delhi High Court (Original Side) Rules, 2018, reads as under:

“xxx xxx xxx

4. Extension of time for filing written statement:- If the Court is satisfied that the defendant was prevented by sufficient cause for exceptional and unavoidable reasons in filing the written statement within 30 days, it may extend the time for filing the same by a further period not exceeding 90 days, but not thereafter. For such extension of time, the party in delay shall be burdened with costs as deemed appropriate. The written statement shall not be taken on record unless such costs have been paid/ deposited. In case the defendant fails to file the affidavit of admission/ denial of documents filed by the plaintiff, the documents filed by the plaintiff shall be deemed to be admitted. In case, no written statement is filed within the extended time also, the Registrar may pass orders for closing the right to file the written statement.

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(Emphasis Supplied)

6. Accordingly, it is manifest that the written statement has to be filed within the outer limit of 120 days from the service of the summons. This Court can condone delay beyond 30 days only for a further period not exceeding 90 days, i.e., the Court has the authority and power to condone delay in filing of written statement, which has been filed within the outer limit of 120 days, with the caveat that sufficient cause has been shown by the defendant for not filing within the period of 30 days.

7. The usage of the words ‘but not thereafter’ in Rule 4 of Chapter VII of the Delhi High Court (Original Side) Rules, 2018 clearly shows that this Court does not have any power to condone the delay in filing the written statement beyond the stipulated period of 120 days.

8. In this regard, reference may be made to the judgment of the Supreme Court in the case of ***P. Radha Bai and Others Versus P. Ashok Kumar and***



Another, (2019) 13 SCC 445, wherein, while interpreting the words ‘but not thereafter’, it has been held as follows:

“xxx xxx xxx

32.4. *The limitation provision in Section 34(3) also provides for condonation of delay. Unlike Section 5 of the Limitation Act, the delay can only be condoned for 30 days on showing sufficient cause. **The crucial phrase “but not thereafter” reveals the legislative intent to fix an outer boundary period for challenging an award.***

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33.2. *The proviso to Section 34(3) enables a court to entertain an application to challenge an award after the three months' period is expired, but only within an additional period of thirty days, “but not thereafter”. **The use of the phrase “but not thereafter” shows that the 120 days' period is the outer boundary for challenging an award. If Section 17 were to be applied, the outer boundary for challenging an award could go beyond 120 days. The phrase “but not thereafter” would be rendered redundant and otiose. This Court has consistently taken this view that the words “but not thereafter” in the proviso of Section 34(3) of the Arbitration Act are of a mandatory nature, and couched in negative terms, which leaves no room for doubt.** (State of H.P. v. Himachal Techno Engineers [State of H.P. v. Himachal Techno Engineers, (2010) 12 SCC 210 : (2010) 4 SCC (Civ) 605] , Assam Urban Water Supply & Sewerage Board v. Subash Projects & Mktg. Ltd. [Assam Urban Water Supply & Sewerage Board v. Subash Projects & Mktg. Ltd., (2012) 2 SCC 624 : (2012) 1 SCC (Civ) 831] and Anilkumar Jinabhai Patel v. Pravinchandra Jinabhai Patel [Anilkumar Jinabhai Patel v. Pravinchandra Jinabhai Patel, (2018) 15 SCC 178 : (2019) 1 SCC (Civ) 141] .)*

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35. *This Court in Popular Construction case [Union of India v. Popular Construction Co., (2001) 8 SCC 470] followed the same approach when it relied on the phrase “but not thereafter” to hold that Section 5 of the Limitation Act was expressly excluded: (SCC pp. 474-75, para 12)*

“12. As far as the language of Section 34 of the 1996 Act is concerned, the crucial words are “but not thereafter” used in the proviso to sub-section (3). In our opinion, this phrase would amount to an express exclusion within the meaning of Section 29(2) of the Limitation Act, and would therefore bar the application of Section 5 of that Act. Parliament did not need to go further. To hold that the court could entertain an application to set aside the award beyond the extended period under the proviso, would render the phrase “but



not thereafter” wholly otiose. No principle of interpretation would justify such a result.”

xxx xxx xxx”

(Emphasis Supplied)

9. Reference is also made to the judgment of the Division Bench of this Court in the case of ***Manhar Sabharwal Versus High Court of Delhi and Others, 2024 SCC OnLine Del 5945***, wherein, while interpreting the words ‘but not thereafter’, it has been stated that the same means that beyond the period as stipulated in the statute, the Court does not have the authority to condone the delay beyond the extended period as noted therein. Thus, it has been held as follows:

“xxx xxx xxx

10. In Chapter VII, Rule 4 of the DHC Original Side Rules, the phrase ‘but not thereafter’ is used, to stipulate that the period of filing written statement may be extended beyond the period of thirty days, for a further period not exceeding ninety days, but not thereafter. The phrase ‘but not thereafter’, as used in various Legislations, and interpretation of the said phrase, as given in various judgments, have been dealt with by the Division Bench of this Court in the case of Ram Sarup Lugani v. Nirmal Lugani, wherein, it has been held, as under:

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15. This is not the first time that the phrase, “but not thereafter” have been used in the statute. The said preemptory words have been used in other provisions that have come up for interpretation before the Supreme Court. In Union of India v. Popular Construction Co., (2001) 8 SCC 470, the words “but not thereafter” were used in relation to the power of the court to condone the delay in challenging the award beyond the period prescribed under Section 34 of the Arbitration and Conciliation Act, 1996 and the Supreme Court observed as below:—

“12. As far as the language of Section 34 of the 1996 Act is concerned, the crucial words are “but not thereafter” used in the proviso to sub-section (3). In our opinion, this phrase would amount to an express exclusion within the meaning of Section 29(2) of the Limitation Act, and would therefore bar the application of Section 5 of that Act. Parliament did



not need to go further. To hold that the court could entertain an application to set aside the award beyond the extended period under the proviso, would render the phrase “but not thereafter” wholly otiose. No principle of interpretation would justify such a result.

16. Furthermore, Section 34(1) itself provides that recourse to a court against an arbitral award may be made only by an application for setting aside such award “in accordance with” subsection (2) and sub-section (3). Sub-section (2) relates to grounds for setting aside an award and is not relevant for our purposes. But an application filed beyond the period mentioned in Section 34, sub-section (3) would not be an application “in accordance with” that sub-section. **Consequently by virtue of Section 34(1), recourse to the court against an arbitral award cannot be made beyond the period prescribed. The importance of the period fixed under Section 34 is emphasised by the provisions of Section 36 which provide that**

“where the time for making an application to set aside the arbitral award under Section 34 has expired ... the award shall be enforced under the Civil Procedure Code, 1908 in the same manner as if it were a decree of the court”.

This is a significant departure from the provisions of the Arbitration Act, 1940. Under the 1940 Act, after the time to set aside the award expired, the court was required to “proceed to pronounce judgment according to the award, and upon the judgment so pronounced a decree shall follow” (Section 17). Now the consequence of the time expiring under Section 34 of the 1996 Act is that the award becomes immediately enforceable without any further act of the court. If there were any residual doubt on the interpretation of the language used in Section 34, the scheme of the 1996 Act would resolve the issue in favour of curtailment of the court's powers by the exclusion of the operation of Section 5 of the Limitation Act.”

16. In *Singh Enterprises v. Commissioner of Central Excise, Jamshedpur*, (2008) 3 SCC 70, on interpreting Section 35 of the Central Excise Act, which contains similar provisions, the Supreme Court has observed as under:

“8. The Commissioner of Central Excise (appeals) as also the Tribunal being creatures of statute are not vested with jurisdiction to condone the delay beyond the permissible period provided under the statute. The period up to which the prayer for condonation can be accepted is statutorily provided. It was submitted that the logic of Section 5 of the Limitation Act, 1963 (in short “the Limitation Act”) can



be available for condonation of delay. The first proviso to Section 35 makes the position clear that the appeal has to be preferred within three months from the date of communication to him of the decision of order. However, if the Commissioner is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days. In other words, this clearly shows that the appeal has to be filed within 60 days but in terms of the proviso further 30 days time can be granted by the appellate authority to entertain the appeal. The proviso to sub-section(1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The language used makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning delay only up to 30 days after the expiry of 60 days which is the normal period for preferring appeal. Therefore, there is complete exclusion of Section 5 of the Limitation Act. The Commissioner and the High Court were therefore justified in holding that there was no power to condone the delay after the expiry of 30 days' period."

17. After referring to the above decision, in *Commissioner of Customs and Central Excise v. Hongo India Private Limited*, (2009) 5 SCC 791, the Supreme Court went on to observe as under:

"30. In the earlier part of our order, we have adverted to Chapter VI-A of the Act which provides for appeals and revisions to various authorities. Though Parliament has specifically provided an additional period of 30 days in the case of appeal to the Commissioner, it is silent about the number of days if there is sufficient cause in the case of an appeal to the Appellate Tribunal. Also an additional period of 90 days in the case of revision by the Central Government has been provided. However, in the case of an appeal to the High Court under Section 35-G and reference application to the High Court under Section 35-H, Parliament has provided only 180 days and no further period for filing an appeal and making reference to the High Court is mentioned in the Act.

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32. As pointed out earlier, the language used in Sections 35, 35-B, 35-EE, 35-G and 35-H makes the position clear that an appeal and reference to the High Court should be made



within 180 days only from the date of communication of the decision or order. In other words, the language used in other provisions makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning the delay only up to 30 days after expiry of 60 days which is the preliminary limitation period for preferring an appeal. In the absence of any clause condoning the delay by showing sufficient cause after the prescribed period, there is complete exclusion of Section 5 of the Limitation Act. The High Court was, therefore, justified in holding that there was no power to condone the delay after expiry of the prescribed period of 180 days.

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35. It was contended before us that the words “expressly excluded” would mean that there must be an express reference made in the special or local law to the specific provisions of the Limitation Act of which the operation is to be excluded. In this regard, we have to see the scheme of the special law which here in this case is the Central Excise Act. The nature of the remedy provided therein is such that the legislature intended it to be a complete code by itself which alone should govern the several matters provided by it. If, on an examination of the relevant provisions, it is clear that the provisions of the Limitation Act are necessarily excluded, then the benefits conferred therein cannot be called in aid to supplement the provisions of the Act. In our considered view, that even in a case where the special law does not exclude the provisions of Sections 4 to 24 of the Limitation Act by an express reference, it would nonetheless be open to the court to examine whether and to what extent, the nature of those provisions or the nature of the subject-matter and scheme of the special law exclude their operation. In other words, the applicability of the provisions of the Limitation Act, therefore, is to be judged not from the terms of the Limitation Act but by the provisions of the Central Excise Act relating to filing of reference application to the High Court.”

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19. In *P. Radhabai v. P. Ashok Kumar*, (2019) 13 SCC 445, while construing the phrase, “but not thereafter” used in the proviso to sub section (3) of Section 34 of the Arbitration and Conciliation Act, the Supreme Court held thus:

“32.4. The limitation provision in Section 34(3) also provides for condonation of delay. Unlike Section 5 of the Limitation Act, the delay can only be condoned for 30



days on showing sufficient cause. **The crucial phrase “but not thereafter” reveals the legislative intent to fix an outer boundary period for challenging an award.**

xxx xxx xxx

33.2. The proviso to Section 34(3) enables a court to entertain an application to challenge an award after the three months' period is expired, but only within an additional period of thirty days, “but not thereafter”. The use of the phrase “but not thereafter” shows that the 120 days' period is the outer boundary for challenging an award. If Section 17 were to be applied, the outer boundary for challenging an award could go beyond 120 days. **The phrase “but not thereafter” would be rendered redundant and otiose. This Court has consistently taken this view that the words “but not thereafter” in the proviso of Section 34(3) of the Arbitration Act are of a mandatory nature, and couched in negative terms, which leaves no room for doubt.** (State of H.P. v. Himachal Techno Engineers [State of H.P. v. Himachal Techno Engineers, (2010) 12 SCC 210 : (2010) 4 SCC (Civ) 605], Assam Urban Water Supply & Sewerage Board v. Subash Projects & Mktg. Ltd. [Assam Urban Water Supply & Sewerage Board v. Subash Projects & Mktg. Ltd., (2012) 2 SCC 624 : (2012) 1 SCC (Civ) 831] and Anilkumar Jinabhai Patel v. Pravinchandra Jinabhai Patel [Anilkumar Jinabhai Patel v. Pravinchandra Jinabhai Patel, (2018) 15 SCC 178 : (2019) 1 SCC (Civ) 141].)

34. In our view, the aforesaid inconsistencies with the language of Section 34(3) of the Arbitration Act tantamount to an “express exclusion” of Section 17 of the Limitation Act.”

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21. A conspectus of the decisions referred to above leaves no manner of doubt that where ever the phrase “but not thereafter” has been used in a provision for setting a deadline, the intention of the legislature is to treat the same as a preemptory provision. Thus, if Rule 15 of the DHC Rules mandates filing of a replication within a period of 30 days reckoned from the date of receipt of the written statement, with an additional period of 15 days provided and that too only if the court is satisfied that the plaintiff has been able to demonstrate that it was prevented to do so by sufficient cause or for exceptional and unavoidable reasons, can the time for filing the replication be extended for a further period not exceeding 15 days in any event, with costs imposed on the plaintiff. The



critical phrase “but not thereafter” used in Rule 15 must be understood to mean that even the court cannot extend the period for filing the replication beyond the outer limit of 45 days provided in the DHC Rules. Upon expiry of the said period, the plaintiff’s right to file the replication would stand extinguished. **Any other meaning sought to be bestowed on the above provision, would make the words “but not thereafter”, inconsequential.**

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31. In view of the aforesaid discussion, it is held that in case of any inconsistency, the provisions of the Delhi High Court (Original Side) Rules, 2018 will prevail over the Civil Procedure Code. The inherent powers contemplated in Rule 16 are not to be exercised to overcome the period of limitation expressly prescribed in Rule 5 for filing the replication. Nor can Rule 5 be circumvented by invoking any other provision or even the inherent powers of the court, contrary to the scheme of the Rules. The phrase, “but not thereafter” used in Rule 5 makes it crystal clear that the Rule is mandatory in nature and the court cannot permit the replication to be taken on the record after the plaintiff has exhausted the maximum prescribed period of 45 days. Any other interpretation will result in causing violence to the DHC Rules.

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11. Thus, it is manifest that the phrase ‘but not thereafter’, provides for an action, which is mandatory in nature.

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(Emphasis Supplied)

10. The said principle was again reiterated by the Division Bench of this Court in the case of *Delhi Gymkhana Club Limited Versus Col. Ashish Khanna Sm Retd. and Others, 2024 SCC OnLine Del 7022*, wherein it has been held as follows:.

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21. The purpose of fixing an outer time limit under Rule 4 of Chapter VII of the DHC Original Side Rules for filing the written statement is to ensure that the delay in filing of written statement does not lead to further delay in adjudication of civil suits. The validity of this Rule having been upheld by the Division Bench in Manhar Sabharwal (supra), the said Rule becomes mandatorily applicable to all suits including non-commercial suits before the Delhi High Court (Original Side). Accordingly, the Court can only extend the period of 30 days for filing of written statement by further



90 days, but not beyond the period of 120 days in total in the opinion of this Court. The language of Rule 4, Chapter VII of the Delhi High Court (Original Side) is clear when it uses the term ‘not thereafter’, as is seen from the text extracted above.

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(Emphasis Supplied)

11. Accordingly, it is clear that Delhi High Court (Original Side) Rules, 2018 are categorical to the extent of counting the period of filing of the written statement from the date of service of the summons.

12. Therefore, since, in the present case admittedly the written statement has been filed beyond the extended period of 120 days and the condonable period for filing written statement is already over, this Court cannot condone any delay beyond the extended condonable period.

13. Accordingly, no error is found in the order dated 20th November, 2025, passed by learned Joint Registrar (Judicial). Therefore, the present appeal is accordingly dismissed.

14. The pending application, i.e., I.A. 9988/2026 also stands dismissed.

CS(OS) 56/2025

15. List before the Joint Registrar (Judicial) on the date already fixed, i.e., 31st July, 2026.

MINI PUSHKARNA, J

APRIL 13, 2026/SK