



2026:DHC:2135



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

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Judgment Delivered on: 11.03.2026

+ O.M.P. (COMM) 407/2025

DELHI DEVELOPMENT AUTHORITY

.....Petitioner

Through: Mr. Gaganmeet Singh Sachdeva, Mr.
Harshpreet Singh Chadha and Mr.
Hridyesh Khanna, Advs.

versus

KUNAL FOOD PRODUCTS PVT LTD

.....Respondent

Through: Mr. Ajay Kumar, Adv.

CORAM:**HON'BLE MR. JUSTICE VIKAS MAHAJAN****JUDGMENT****VIKAS MAHAJAN, J (OPEN COURT)****I.A. 25007/2025 (under Section 151 CPC r/w Section 5 of Limitation Act, seeking condonation of delay in filing the present petition)**

1. The present application has been filed by the petitioner seeking condonation of delay in filing the present petition under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter, 'the Act'). The present petition has been filed challenging the arbitral award dated 31.05.2024.

2. It is stated in the application that the award dated 31.05.2024 was received by the petitioner physically on 24.06.2024, however, objection petition under Section 34 of the Act was filed by the petitioner before the learned District Judge, Commercial Court-04, Shahdara, Karkardooma



Courts Delhi being OMP (COMM) 9/2024 on 27.09.2024, which was later withdrawn on 19.05.2025 with liberty to seek appropriate remedy as per law.

3. Mr. Gaganmeet Singh Sachdeva, learned counsel appearing for the petitioner submits that thereafter, the present petition under Section 34 of the Act was filed on 29.08.2025 before this Court, since this Court has the pecuniary jurisdiction.

4. Notice was issued by this Court *vide* order dated 09.10.2025, only confined to the present application seeking condonation of delay.

5. A perusal of the facts delineated in the application indicates that the physical delivery of the award to the petitioner was completed on 24.06.2024; however, a petition under Section 34 of the Act was filed before the learned District Judge, Commercial Court, only on 27.09.2024. This indicates that the petition was filed beyond the statutorily prescribed limit of three months. The said petition was subsequently withdrawn on 19.05.2025.

6. Further, the petitioner filed a Section 34 petition before this Court on 29.08.2025, which shows that again more than three months were taken to file the said petition.

7. In view of the foregoing factual background, even if the benefit of the Section 14¹ of the Limitation Act, 1963 is given to the petitioner and the

¹ **14. Exclusion of time of proceeding *bona fide* in court without jurisdiction.**—(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) In computing the period of limitation for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.



period for which it was *bonafidely* pursuing its remedy before the learned District Judge, Commercial Court, is excluded, still the petition has been filed beyond the prescribed period of three months plus 30 days.

8. Therefore, the solitary issue that requires consideration is whether the filing of the petition under Section 34 of the Act is beyond the statutory limitation period provided under Section 34(3) of the Act. For the sake of ready reference, the relevant sections are reproduced hereunder:

***“34. Application for setting aside arbitral award.—(1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3).
(2) An arbitral award may be set aside by the Court only if—***

xxx xxx xxx

(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.”

(emphasis supplied)

9. From the language of Section 34(3) of the Act, it is clear that the phrase “*but not thereafter*” indicates that the statutorily prescribed limit under the aforesaid section is absolute and unextendible. The said phrase leaves no manner of doubt that a petition under Section 34 cannot be



entertained after the expiry of the prescribed period, as any other interpretation would render the phrase “*but not thereafter*” wholly otiose.

10. Reference in this regard may be had to a recent decision of the Division Bench of this Court in FAO(OS) (COMM) 107/2025 titled as *Union of India v. M/S GR-GAWAR (J.V.)* dated 30.10.2025, wherein it was observed thus:

“23. Therefore, the examination under Section 34 of the Act of 1996 must necessarily encompass two essential considerations. Firstly, whether the application has been filed within the outer statutory limit of 120 days, as explicitly mandated under Section 34(3). Secondly, whether any delay in filing beyond the initial period of 90 days, but within the permissible extension of 30 days, is accompanied by sufficient cause and an adequate day-to-day explanation demonstrating bona fide reasons. The statutory scheme unequivocally prescribes that no application under Section 34 can be entertained beyond the absolute outer limit of 120 days from the date of receipt of the award. It follows that any delay within the permissible 30-day extension must be accompanied by cogent, satisfactory, and meticulous explanation, failing which the delay cannot be condoned. Consequently, the statute leaves no discretion to entertain a application filed beyond 120 days, irrespective of the reasons advanced for such delay”

(emphasis supplied)

11. The Decision in *M/S GR-GAWAR (J.V.)* (Supra), in turn followed the ratio laid down by the Hon’ble Supreme Court in *Union of India v. Popular Construction Co., (2001) 8 SCC 470*, wherein it was observed thus:

“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.

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14. Here the history and scheme of the 1996 Act support the conclusion that the time-limit prescribed under Section 34 to challenge an award is absolute and unextendible by court under Section 5 of the Limitation Act. The Arbitration and Conciliation Bill, 1995 which preceded the 1996 Act stated as one of its main objectives the need “to minimise the supervisory role of courts in the arbitral process”

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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” sub-section (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 Code of Civil Procedure, 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



2026:DHC:2135



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.”

(emphasis supplied)

12. In view of the above, the delay in filing the present petition cannot be condoned. Accordingly, the application is dismissed.

O.M.P. (COMM) 407/2025 & I.A. 25006/2025 (under Section 36 of Arbitration and Conciliation Act, 1996 read with Section 151 CPC seeking stay of Arbitral Award)

13. In view of the order passed above, the present petition along with pending application, is also dismissed.

VIKAS MAHAJAN, J

MARCH 11, 2026/dss