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

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*Judgment reserved on: 21.08.2025**Judgment delivered on: 03.09.2025*

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FAO(OS) 1/2014 &amp; CM NO. 93/2014

UNION OF INDIA

.....Appellant

Through: Mr. Farman Ali, SPC and Ms.  
Usha Jamnal, Advocates.

versus

PT MUNSHI RAM &amp; ASSOCIATES PVT LTD

.....Respondent

Through: Ms. Anusuya Salwan, Advocate.

**CORAM:****HON'BLE MR. JUSTICE ANIL KSHETARPAL****HON'BLE MR. JUSTICE HARISH VAIDYANATHAN****SHANKAR**

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**J U D G E M E N T****HARISH VAIDYANATHAN SHANKAR J.**

1. The present appeal under Section 37 of the **Arbitration and Conciliation Act, 1996**<sup>1</sup>, arises from the **Judgment dated 21.12.2012**<sup>2</sup>, passed by the learned Single Judge of this Court in O.M.P. No. 432/2011. By the said judgment, the petition filed by the Appellant under Section 34 of the A&C Act was partly allowed against the **Arbitral Award dated 24.02.2011**<sup>3</sup>, passed in Case No. ARB/RJB/122 by the Sole Arbitrator.

2. At the outset, it is apposite to recount the chequered procedural history of the matter. The present appeal was initially disposed of by

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<sup>1</sup> A&C Act.

<sup>2</sup> Impugned Judgement.

<sup>3</sup> Arbitral Award.



this Court on 08.01.2014. Dissatisfied with that decision, the Appellant preferred Review Petition No. 323/2015, which, however, met with the same fate and was dismissed on 02.09.2016. Against these Orders, the Appellant thereafter invoked the jurisdiction of the Hon'ble Supreme Court by filing **Civil Appeal Nos. 1050-1051 of 2025<sup>4</sup>**.

3. The Hon'ble Supreme Court, by its order dated 27.01.2025, set aside the aforesaid orders and directed restoration of the present appeal to the file of this Court. While so directing, the Hon'ble Supreme Court rendered certain observations and issued directions in the following terms:-

*"1. Leave granted.*

*2. Heard learned counsel appearing for the parties.*

*3. An award was made by the Arbitral Tribunal against the appellant. A petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') was dismissed.*

*4. Being aggrieved, the appellant preferred an appeal under Section 37 of the Act. By the impugned order, the appeal has been dismissed only on the ground that the impugned award has been executed.*

*5. On first principles, the appeal could not have been dismissed on that ground. If the award is set aside, principles of restitution will apply. The impugned order is set aside only on that ground and FAO No (OS) No.1/2014 along with CM No.93 of 2014 is restored to the file of the High Court.*

*6. The restored case shall be listed before the Roster Bench on 14<sup>th</sup> February, 2024 in the morning. Parties who are represented today shall be under an obligation to remain present before the Roster Bench on that day and no further notice will be issued by the High Court. All questions on merits are left open to be decided by the High Court in that behalf.*

**7. The High Court shall proceed to decide the application for condonation of delay in accordance with law. Registry to communicate this order to the Registrar (Judicial) of the High**

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<sup>4</sup> SLP(C) No. 17307-17308/2017.



**Court at Delhi who will ensure that the restored petition is listed as directed above.**

8. The appeals are accordingly allowed.

9. Pending application(s), if any, shall stand disposed of."

4. In compliance with the aforesaid directions, at the outset, without going into the factual controversies of the appeal, we now propose to examine the Appellant's application seeking condonation of delay in filing the present appeal bearing C.M. No. 93/2014.

5. It is, therefore, appropriate to set out the material averments contained in the application for condonation of delay, which read as follows:-

*"1. That Appellant above-named has preferred the present appeal against the judgment and order dated 21.12.2012 passed by Ld. Single Bench of this Hon'ble Court in a Original Miscellaneous Petition bearing number OMP No. 432 of 2011 disposing of the objections petition preferred by the Appellant herein under Section 34 of the Arbitration and Conciliation Act, 1996, titled "Union of India versus Pt. Munshi Ram & Associates Pvt Ltd.", and thereby upholding arbitration award, dated 24.02.2011, passed by the Ld. Arbitrator. The detailed facts are set out in the appeal are not being repeated herein for sake of brevity.*

*2. That the government counsel forwarded his opinion on 11.02.2013 following which the file was sent to the DG, CPWD for further approval and sanction.*

*3. That the aforesaid sanction of the DG CPWD was received by the Appellant Department vide letter no. 60(2011)/SE-TLC/48 dated 18.03.2013 and the same was forwarded to the Department of Legal Affairs, Ministry of Law and Justice for seeking further consent/approval.*

*4. That accordingly on 08.04.2013 vide diary no. 871, Department of Legal Affairs, Ministry of law and Justice rendered their opinion for challenging the impugned order dated 21.12.2013.*

*5. That immediately thereafter on 09.04.2013 the Appellant Department requested. Ministry of Law and Justice for appointment of a Government Counsel for filing the present appeal.*

*6. That on 11.04.2013 the below-named advocate was appointed for the purpose of drafting and filing this appeal.*

*7. That upon receipt of the said appointment letter the undersigned*



*counsel requested the Appellant-Department to forward the necessary documents for drafting the present appeal and accordingly the same were sent to the office of the undersigned counsel on 24.05.2013. However, the Clerk of the counsel inadvertently tagged all the necessary documents with the other similar matter titled as Pt. Munshi Ram Versus Union of India Ex. Pet. No. 149/2011. The fact of these documents having delivered to the office did not come to the knowledge of the counsel till 3<sup>rd</sup> week of August when the said execution matter was next listed on 21.08.2013.*

*8. That the counsel sent the first draft of the present appeal to the department for approval subsequent to which a meeting was held in 16.09.2013 to discuss corrections and changes to the same.*

*9. That the final appeal and affidavits including changes were forwarded to the department for signature on 14.11.2013 for vetting and signatures.*

*10. That there is a delay of 303 days in filing the appeal that has occurred due to the reasons mentioned hereinabove. It is neither deliberate nor intentional. It is submitted that the delay in filing the appeal may be condoned in view of the reasons explained above.”*

### **ANALYSIS:**

6. Having heard the submissions of learned counsel for both parties and upon a careful perusal of the record, this Court now proceeds to address the questions arising for determination. The foremost issue that falls for consideration is whether the present appeal has been instituted within the period prescribed by law, and if not, whether the Appellant has demonstrated “*sufficient cause*” to warrant condonation of the inordinate delay.

7. In relation to an appeal preferred under Section 37 of the A&C Act, no specific period of limitation is provided therein. Consequently, the provisions of the **Limitation Act, 1963**<sup>5</sup> stand attracted, a position which now stands conclusively settled by the Hon’ble Supreme Court in ***Government of Maharashtra (Water Resources Department)***

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<sup>5</sup> Limitation Act.



***Represented by Executive Engineer v. Borse Brothers Engineers & Contractors Pvt. Ltd.***<sup>6</sup>. The relevant observations from the said judgment are reproduced hereinbelow:-

“23. Section 37 of the Arbitration Act, when read with Section 43 thereof, makes it clear that the provisions of the Limitation Act will apply to appeals that are filed under Section 37. This takes us to Articles 116 and 117 of the Limitation Act, which provide for a limitation period of 90 days and 30 days, depending upon whether the appeal is from any other court to a High Court or an intra-High Court appeal. There can be no doubt whatsoever that Section 5 of the Limitation Act will apply to the aforesaid appeals, both by virtue of Section 43 of the Arbitration Act and by virtue of Section 29(2) of the Limitation Act.

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*25. When the Commercial Courts Act is applied to the aforesaid appeals, given the definition of “specified value” and the provisions contained in Sections 10 and 13 thereof, it is clear that it is only when the specified value is for a sum less than three lakh rupees that the appellate provision contained in Section 37 of the Arbitration Act will be governed, for the purposes of limitation, by Articles 116 and 117 of the Limitation Act. Shri Deshmukh's argument that depending upon which court decides a matter, a limitation period of either 30 or 90 days is provided, which leads to arbitrary results, and that, therefore, the uniform period provided by Article 137 of the Limitation Act should govern appeals as well, is rejected.....*

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27. Even in the rare situation in which an appeal under Section 37 of the Arbitration Act would be of a specified value less than three lakh rupees, resulting in Article 116 or 117 of the Limitation Act applying, the main object of the Arbitration Act requiring speedy resolution of disputes would be the most important principle to be applied when applications under Section 5 of the Limitation Act are filed to condone delay beyond 90 days and/or 30 days depending upon whether Article 116(a) or 116(b) or 117 applies. As a matter of fact, given the timelines contained in Sections 8, 9(2), 11(4), 11(13), 13(2)-(5), 29-A, 29-B, 33(3)-(5) and 34(3) of the Arbitration Act, and the observations made in some of this Court's judgments, the object of speedy resolution of disputes would govern appeals covered by Articles 116 and 117 of the Limitation Act.

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<sup>6</sup> (2021) 6 SCC 460



32. Thus, from the scheme of the Arbitration Act as well as the aforesaid judgments, condonation of delay under Section 5 of the Limitation Act has to be seen in the context of the object of speedy resolution of disputes.

33. The bulk of appeals, however, to the appellate court under Section 37 of the Arbitration Act, are governed by Section 13 of the Commercial Courts Act. Sub-section (1-A) of Section 13 of the Commercial Courts Act provides the forum for appeals as well as the limitation period to be followed, Section 13 of the Commercial Courts Act being a special law as compared with the Limitation Act which is a general law, which follows from a reading of Section 29(2) of the Limitation Act. Section 13(1-A) of the Commercial Courts Act lays down a period of limitation of 60 days uniformly for all appeals that are preferred under Section 37 of the Arbitration Act. [As held in **BGS SGS SOMA JV v. NHPC Ltd., (2020) 4 SCC 234**, whereas Section 37 of the Arbitration Act provides the substantive right to appeal, Section 13 of the Commercial Courts Act provides the forum and procedure governing the appeal (see para 13).]

34. The vexed question which faces us is whether, first and foremost, the application of Section 5 of the Limitation Act is excluded by the scheme of the Commercial Courts Act, as has been argued by Dr George. The first important thing to note is that Section 13(1-A) of the Commercial Courts Act does not contain any provision akin to Section 34(3) of the Arbitration Act. Section 13(1-A) of the Commercial Courts Act only provides for a limitation period of 60 days from the date of the judgment or order appealed against, without further going into whether delay beyond this period can or cannot be condoned.

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43. The next important argument that needs to be addressed is as to whether the hard-and-fast rule applied by this Court in *N.V. International v. State of Assam*, (2020) 2 SCC 109 is correct in law. Firstly, as has correctly been argued by Shri Shroti, *N.V. International v. State of Assam*, (2020) 2 SCC 109, does not notice the provisions of the Commercial Courts Act at all and can be said to be per incuriam on this count. Secondly, it is also correct to note that the period of 90 days plus 30 days and not thereafter mentioned in Section 34(3) of the Arbitration Act cannot now apply, the limitation period for filing of appeals under the Commercial Courts Act being 60 days and not 90 days. Thirdly, the argument that absent a provision curtailing the condonation of delay beyond the period provided in Section 13 of the Commercial Courts Act would also make it clear that any such bodily lifting of the last part of Section 34(3) into Section 37 of the Arbitration Act would also be unwarranted. We cannot accept Shri Navare's argument that this is a mere casus omissus which can be filled in



by the Court.

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52. For all these reasons, given the illuminating arguments made in these appeals, we are of the view that N.V. International v. State of Assam, (2020) 2 SCC 109 has been wrongly decided and is therefore overruled.

53. However, the matter does not end here. The question still arises as to the application of Section 5 of the Limitation Act to appeals which are governed by a uniform 60-day period of limitation. At one extreme, we have the judgment in N.V. International v. State of Assam, (2020) 2 SCC 109 which does not allow condonation of delay beyond 30 days, and at the other extreme, we have an open-ended provision in which any amount of delay can be condoned, provided sufficient cause is shown. It is between these two extremes that we have to steer a middle course.

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55. Reading the Arbitration Act and the Commercial Courts Act as a whole, it is clear that when Section 37 of the Arbitration Act is read with either Article 116 or 117 of the Limitation Act or Section 13(1-A) of the Commercial Courts Act, the object and context provided by the aforesaid statutes, read as a whole, is the speedy disposal of appeals filed under Section 37 of the Arbitration Act. To read Section 5 of the Limitation Act consistently with the aforesaid object, it is necessary to discover as to what the expression “sufficient cause” means in the context of condoning delay in filing appeals under Section 37 of the Arbitration Act.

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63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals filed under Section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1-A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches.”

*(emphasis supplied)*

8. It must further be noted that the present appeal was instituted



prior to the enactment of the **Commercial Courts Act, 2015**<sup>7</sup>, and therefore, the threshold of limitation envisaged under the CC Act does not govern the present matter.

9. We are guided by the dictum laid down in ***Borse Brothers Engineers*** (*supra*), which leads us to Article 117 of the Schedule to the Limitation Act, for determining limitation in the present case. Article 117 provides as follows:-

Description	Period of limitation	Time from which period begins to run
<b>117.</b> From a decree or order of any High Court to the same Court.	Thirty days.	The date of the decree or order.

10. The present appeal, being an *intra-court* appeal against an order of the learned Single Judge of this Court, squarely falls within the ambit of Article 117 of the Limitation Act, and was therefore required to be instituted within thirty days from the date of the Impugned Judgment.

11. The Impugned Judgment by the learned Single Judge was delivered on 21.12.2012. Accordingly, the last date for filing the appeal was 20.01.2013. However, the present appeal came to be filed only on 20.11.2013, well beyond the statutory period, amounting to a delay of 303 days. The computation is set out hereinbelow for ready reference:-

Event	Date	Remarks
Impugned Judgement passed by the learned Single Judge	22.12.2012	Starting point for limitation.

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<sup>7</sup> CC Act





Expiry of the 30-day limitation	20.01.2013	Last date for filing appeal, without seeking condonation of delay.
Actual date of filing	20.11.2013	303 days beyond expiry of limitation (i.e., from 21.01.2013).

12. The sole question that arises, therefore, is whether the Appellant has established “*sufficient cause*” so as to justify condonation of this extraordinary delay. It is trite law that such discretion under Section 5 of the Limitation Act is to be exercised with circumspection, sparingly, and only where exceptional circumstances are demonstrated. The burden lies squarely upon the Appellant to furnish a cogent, credible, and convincing explanation for the delay.

13. Although the present appeal does not fall within the ambit of the CC Act, the legislative intent underlying the A&C Act is to ensure speedy and efficient resolution of disputes. Consequently, condonation of delay cannot be claimed as a matter of right nor granted as a matter of routine, lest the object of expeditious arbitral resolution be defeated. In this context, reference may be made to ***Dilshad Khan v. Govt. of NCT of Delhi***<sup>8</sup>, where this Court emphasized that condonation of delay under Section 37 of the A&C Act can be granted only upon showing of proper and sufficient cause. The Court categorically held that adherence to prescribed timelines is integral to the legislative intent of arbitral law, and the phrase “*sufficient cause*” cannot be employed to condone negligence or stale claims.

14. The averments in the application for condonation of delay, as already extracted hereinabove, reveal that the Appellant’s explanation rests essentially on two grounds: *first*, the necessity of obtaining

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<sup>8</sup> FAO (COMM) 206/2025



administrative approvals and internal procedural clearances; and *second*, a lapse on the part of the clerk of the counsel, who allegedly misfiled the relevant papers by tagging them with another connected matter.

15. The Hon'ble Supreme Court has consistently reiterated that the law of limitation binds Government authorities no less than private litigants. In ***Postmaster General v. Living Media India Ltd.***<sup>9</sup>, the Apex Court unequivocally held that explanations predicated merely on impersonal machinery or procedural red tape are no longer acceptable in the modern era. The Apex Court stressed that condonation of delay is an exception, not a rule, and cannot be mechanically extended merely because the Government is a litigant. The following observations of the said judgement are particularly instructive:-

“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 bonafide, 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

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<sup>9</sup> (2012) 3 SCC 563



bonafide 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 government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.

31. In view of our conclusion on issue (a), there is no need to go into the merits of the issues (b) and (c). The question of law raised is left open to be decided in an appropriate case.

32. In the light of the above discussion, the appeals fail and are dismissed on the ground of delay. No order as to costs.”

*(emphasis supplied)*

16. Similarly, in ***Union of India v. Central Tibetan Schools Admn.***<sup>10</sup>, the Hon’ble Supreme Court once again deprecated the casual and lethargic approach of Government Departments, observing that they cannot walk into courts at their convenience, ignoring statutory timelines. The Hon’ble Court went on further to caution that unless officers responsible for such lapses are held accountable, the tendency of delay will persist unchecked. The relevant paragraphs of the said judgment read as under:-

*“5. We have repeatedly been counselling through our orders various Government Departments, State Governments and other public authorities that they must learn to file appeals in time and set their house in order so far as the Legal Department is concerned, more so as technology assists them. This appears to be falling on deaf ears despite costs having been imposed in a number of matters with the direction to recover it from the officers responsible for the delay as we are of the view that these officers must be made accountable. It has not had any salutary effect and*

<sup>10</sup> (2021) 11 SCC 557



that the present matter should have been brought up, really takes the cake!

6. The aforesaid itself shows the casual manner in which the petitioner has approached this Court without any cogent or plausible ground for condonation of delay. In fact, other than the lethargy and incompetence of the petitioner, there is nothing which has been put on record. We have repeatedly discouraged State Governments and public authorities in adopting an approach that they can walk in to the Supreme Court as and when they please ignoring the period of limitation prescribed by the statutes, as if the Limitation statute does not apply to them. In this behalf, suffice to refer to our judgment in *State of M.P. v. Bherulal*. The leeway which was given to the Government/public authorities on account of innate inefficiencies was the result of certain orders of this Court which came at a time when technology had not advanced and thus, greater indulgence was shown. This position is no more prevalent and the current legal position has been elucidated by the judgment of this Court in *Postmaster General v. Living Media (India) Ltd.* Despite this, there seems to be a little change in the approach of the Government and public authorities.”

*(emphasis supplied)*

17. The explanation offered by the Appellant, premised on factors such as inter-departmental approvals, procedural red tape, and an alleged clerical lapse in the counsel's office, does not inspire our confidence and leaves a substantial part of the inordinate 303-day delay wholly unexplained. It is a settled principle that in proceedings under the A&C Act, strict compliance with statutory timelines is central to the legislative scheme. The A&C Act was enacted with the avowed objective of securing expeditious adjudication of disputes through arbitration, and any laxity in adhering to limitation periods would undermine this very purpose.

18. While courts may, in exceptional cases, condone delays upon a showing of “sufficient cause”, the Appellant has failed to demonstrate any such compelling justification. Vague references to bureaucratic procedures or internal administrative hurdles cannot constitute a valid



excuse for non-compliance with mandatory statutory timelines. Likewise, attributing part of the delay to a clerical lapse in the counsel's office only points to negligence, and even if such lapse is assumed, the department's failure to exercise timely oversight and follow-up cannot be condoned. Such explanations neither establish sufficient cause nor entitle a litigant to the indulgence of condonation.

19. Accordingly, the reasons advanced in the present case are inadequate and run contrary to the spirit and purpose of the A&C Act. They cannot be accepted as credible grounds to overcome the statutory bar of limitation.

**CONCLUSION:**

20. We are, therefore, of the considered view that the application for condonation of delay filed with the present appeal is devoid of any cogent or persuasive grounds. The explanation tendered does not constitute "*sufficient cause*" in law.

21. Consequently, without examining the merits of the case, the appeal stands dismissed solely on the ground of delay and limitation.

22. The present appeal, along with the pending application, is disposed of in the above terms.

23. No order as to costs.

**ANIL KSHETARPAL, J.**

**HARISH VAIDYANATHAN SHANKAR, J.**  
**SEPTEMBER 03, 2025/sm/rn**