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

% ***Date of Decision: 08.09.2026***

CNR No. DLHC010091502026

+ **FAO (COMM) 73/2026, CM APPL. 15757/2026, CM APPL. 15758/2026**

DR B R AMBEDKAR UNIVERSITY DELHIAppellant

Through: Mr. Mohinder Rupal, Mr. Hardik Rupal, Ms. Aishwarya Malhotra and Ms. Tripta Sharma, Advs.

versus

SWASTIK CONSTRUCTIONS COMPANYRespondent

Through: Mr. Sanjay Bansal, Adv.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MS. JUSTICE SHAIL JAIN

J U D G M E N T (O R A L)

ANIL KSHETARPAL, J.:

1. The present Appeal, preferred by the Appellant/University, assails the order dated 07.01.2026 ['Impugned Order'] passed by the learned Commercial Court in O.M.P. (COMM.) No. 11/2025, whereby the petition filed by the Appellant under Section 34 of the Arbitration and Conciliation Act, 1996 ['the A&C Act'] has been dismissed, principally on the ground that the petition was barred by limitation.

2. The controversy arising for consideration in the present Appeal is a narrow one. The Appellant contends that its objections under Section 34 of the A&C Act were instituted on 03.01.2025, whereas the learned Commercial Court proceeded on the basis that the objections



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were filed only on 19.02.2025. The question, therefore, is whether the Section 34 petition was instituted within the period prescribed under Section 34(3) of the A&C Act.

FACTUAL MATRIX

3. In order to appreciate the controversy involved in the present Petition, the relevant facts, in brief, are required to be noticed.

4. The Appellant-University had invited tenders on 12.11.2018 for renovation/repair of the remaining floors of the Main Building at its Lodhi Road Campus. Pursuant thereto, an agreement bearing No. AUD/100.112/CD/2017-18/955 dated 16.01.2019 was entered into between the parties. A Letter of Award of even date was also issued, stipulating a period of six (06) months for completion of the work, reckoned after ten (10) days from the date of issuance of the Letter of Award.

5. Disputes subsequently arose between the parties in relation to the execution of the contractual works. An Arbitrator came to be appointed by this Court *vide* order dated 15.12.2021 passed in Arb.P. No. 910/2021. The arbitral proceedings thereafter culminated in an arbitral award dated 02.09.2024.

6. The mandate of the learned Sole Arbitrator had, prior thereto, been extended by this Court *vide* order dated 13.08.2024 passed in O.M.P. (MISC.) (COMM) 579/2024, for a period of one (01) month, up to 13.09.2024.

7. After the award dated 02.09.2024, the Respondent preferred an



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application dated 20.09.2024 under Section 33 of the A&C Act seeking, *inter alia*, correction of an alleged typographical error and issuance/publication of an additional award in respect of extra items. The said application came to be disposed of by the learned Sole Arbitrator on 19.10.2024

8. The Appellant thereafter preferred a petition under Section 34 of the A&C Act before the learned Commercial Court. The learned Commercial Court, however, dismissed the said petition *vide* the Impugned Order, holding that it had been filed on 19.02.2025 and was consequently beyond the maximum period of 120 days contemplated under Section 34(3) of the A&C Act.

SUBMISSIONS OF THE PARTIES

9. Learned counsel for the Appellant submits that the very premise on which the learned Commercial Court has proceeded is factually incorrect. It is submitted that the objections under Section 34 were in fact filed on 03.01.2025, and that 19.02.2025 was merely the date on which the electronic case file was finally submitted. It is thus contended that the petition was instituted well within the period of limitation.

10. Learned counsel for the Respondent, on the other hand, submits that the Appellant had not placed on record a copy of the award dated 19.10.2024 before the learned Commercial Court and, consequently, limitation ought to be reckoned from the original award dated 02.09.2024. It is further submitted that the said petition under Section 34 was not duly signed by the Appellant.



ANALYSIS & FINDINGS

11. This Court has considered the submissions advanced by learned counsel appearing on behalf of the parties and have also examined the record of the proceedings under Section 34 of the A&C Act.

12. The controversy which arises for consideration is essentially two-fold: first, as to the date from which the period of limitation prescribed under Section 34(3) of the A&C Act was required to be computed; and second, as to the date on which the objections under Section 34 of the A&C Act are to be treated as having been instituted.

13. Section 34(3) of the Act prescribes a period of three (03) months for making an application for setting aside an arbitral award. The provision further stipulates that where a request has been made under Section 33 of the Act, the period is to be reckoned from the date on which such request is disposed of by the Arbitral Tribunal. The proviso to Section 34(3) empowers the Court, upon sufficient cause being shown, to entertain such application within a further period of thirty days, but not thereafter.

14. The significance of a request made under Section 33 of the Act, for the purposes of computation of limitation under Section 34(3), came to be considered by the Supreme Court in ***Ved Prakash Mithal and Sons v. Union of India***¹. In that case, an application under Section 33 had been made for correction of the arbitral award and had subsequently been dismissed. The Supreme Court held that Section 34(3) specifically takes into account the date on which a request under



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Section 33 has been “disposed of” by the Arbitral Tribunal. It was further held that such disposal may be either by allowing the request or by dismissing it. Consequently, the commencement of limitation under Section 34(3) is linked to the disposal of the Section 33 request.

15. The aforesaid principle has subsequently been reaffirmed by the Supreme Court in ***National Highway Authority of India v. T. Younis and Another***, 2026 SCC OnLine SC 1060. The Supreme Court, upon examining the interplay between Sections 33 and 34(3) of the Act, reiterated that, once jurisdiction under Section 33 has been formally invoked and the proceedings thereunder have been entertained by the Arbitral Tribunal, the limitation for filing an application under Section 34 commences from the date on which the request under Section 33 is disposed of.

16. In the present case, the arbitral award was rendered on 02.09.2024. Thereafter, the Respondent moved a request under Section 33 of the Act seeking, *inter alia*, correction of the award and consideration of additional items. The said request was disposed of by the learned Sole Arbitrator on 19.10.2024.

17. In view of the statutory language of Section 34(3) and the law laid down by the Supreme Court in ***Ved Prakash Mithal*** (*supra*) and reaffirmed in ***T. Younis*** (*supra*), the relevant date for commencement of limitation in the present case is, therefore, 19.10.2024, and not 02.09.2024.

18. Consequently, the period of three (03) months prescribed under

¹ 2018 SCC OnLine SC 3181



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Section 34(3) expired on 17.01.2025. The question which then arises is whether the objections filed by the Appellant can be treated as having been instituted within the aforesaid period.

19. The learned Commercial Court proceeded on the basis that the objections under Section 34 of the Act were filed only on 19.02.2025. This conclusion, however, does not appear to take into account the electronic filing record forming part of the record before the Court.

20. The e-filing case steps placed on record disclose the following entries:

eFiling Case Stages:

Sr.No.	Case Status	Date
1.	Case Entry Initiated On	03-01-2025 16:39:00
2.	eFile Case Final Submitted On	19-02-2025 14:56:27
Case Status In Court		Pending

21. Thus, the electronic record itself records that the case entry in respect of the objections under Section 34 of the Act was initiated on 03.01.2025. The subsequent entry dated 19.02.2025 records the final submission of the e-file. The two entries, appearing as distinct procedural steps in the Court's own electronic record, could not have been treated as one and the same event for the purpose of determining the date of institution of the proceedings.

22. More importantly, the learned Commercial Court, while holding that the objections had been filed on 19.02.2025, does not appear to have considered the earlier entry dated 03.01.2025, which specifically records the initiation of the case entry. The said date of 03.01.2025



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falls well within the period of three (03) months computed from 19.10.2024.

23. The consequence is that, on the basis of the electronic filing record itself, the objections under Section 34 of the Act had been instituted on 03.01.2025, i.e. prior to the expiry of the three-month period on 17.01.2025. The subsequent date of 19.02.2025, recorded as the date on which the e-file was finally submitted, cannot, in the facts of the present case, be treated as the date on which the proceedings were instituted for determining limitation.

24. It is, therefore, not a case where the Appellant seeks condonation of delay beyond the period prescribed under the main part of Section 34(3). The objections having been instituted on 03.01.2025, the proviso to Section 34(3) is not attracted at all.

25. This Court may, nevertheless, note that the limitation prescribed under Section 34(3) is deliberately stringent. In **P. Radha Bai v. P. Ashok Kumar**², the Supreme Court explained that Section 34(3) contains an inbuilt limitation provision and that the proviso permits the Court to entertain an application within a further period of thirty (30) days upon sufficient cause being shown, “*but not thereafter*”. The Supreme Court held that the expression “*but not thereafter*” fixes the outer boundary for a challenge to an arbitral award and that the period cannot be extended beyond the statutorily prescribed limit.

26. The aforesaid principle, however, does not assist the Respondent in the facts of the present case. The Appellant’s objections



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do not fall beyond the period contemplated under the main part of Section 34(3). Once the objections are found to have been instituted on 03.01.2025, the same were within three (03) months from 19.10.2024. There is, therefore, no occasion to invoke the further period of thirty (30) days contemplated by the proviso, much less any question of extending the period beyond the statutory outer limit.

27. Learned counsel for the Respondent has also contended that a copy of the order dated 19.10.2024 disposing of the Section 33 request was not filed along with the objections and, consequently, the period of limitation ought to be reckoned from the original award dated 02.09.2024. This Court is unable to accept the submission. Section 34(3) itself expressly provides for a different starting point where a request under Section 33 has been made. As noticed above, the Supreme Court in ***Ved Prakash Mithal*** (*supra*) has specifically held that the disposal of the Section 33 request, whether by allowing or dismissing the request, is the relevant event for computation of limitation. The same principle has been reiterated in ***T. Younis*** (*supra*).

28. The Respondent has further contended that the objections filed by the Appellant were unsigned. This contention also cannot constitute a ground for sustaining the impugned order. The learned Commercial Court did not dismiss the proceedings on the ground of the objections being unsigned. The Impugned Order proceeds solely on the basis that the objections were filed beyond the period prescribed under Section 34(3) of the Act. The legality of that finding

² (2019) 13 SCC 445



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has to be examined on the basis of the ground on which the learned Commercial Court declined to entertain the petition.

29. Once it is found that the learned Commercial Court proceeded on an incorrect date of institution and failed to take into consideration the earlier entry dated 03.01.2025 in the electronic filing record, the conclusion that the petition under Section 34 was barred by limitation cannot be sustained.

30. The learned Commercial Court was, therefore, not justified in treating 19.02.2025 as the date of institution of the objections and, on that basis, holding the petition to be beyond the maximum period prescribed under Section 34(3) of the Act. The objections were instituted on 03.01.2025 and were consequently within the prescribed period of three (03) months computed from 19.10.2024.

31. The finding of the learned Commercial Court on limitation is accordingly set aside. Since the petition under Section 34 was dismissed solely on the ground of limitation and its merits have not been adjudicated upon, the matter deserves to be restored to the file of the learned Commercial Court for consideration in accordance with law.

CONCLUSION

32. Accordingly, the Impugned Order dated 07.01.2026 passed by the learned Commercial is set aside. Consequently, O.M.P. (COMM.) No. 11/2025 is restored to its original number and shall be considered by the learned Commercial Court on merits, in accordance with law.



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33. The parties shall appear before the learned Commercial Court on 17.09.2026.

34. It is clarified that this Court has not expressed any opinion on the merits of the objections under Section 34 of the Act. All contentions of the parties on merits are left open for consideration by the learned Commercial Court.

35. The present Appeal is accordingly allowed in the above terms. Pending applications, if any, also stand disposed of.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

SEPTEMBER 08, 2026

s.godara/pal