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

\# **CNR No. DLHC010795472025**

\+ O.M.P. (COMM) 427/2025, I.A. 25870/2025

PUBLIC WORKS DEPARTMENT, GOVT. OF NCT OF DELHI .....Petitioner

Through: Mr. Anubhav Gupta, Panel Counsel (Civil), GNCTD.

versus

M/S. SPS INFRABUILD PVT. LTD .....Respondent

Through: Mr. Avinash Trivedi, Mr. Rahul Aggarwal, Mr. Anurag Kaushik, Mr. Jatin Arora, Mr. Rishank Gola, Mr. Aryan Sangwan and Mr. Rahul Kumar, Advs.

CORAM:
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT(ORAL)

% 19.11.2026

I.A. 25871/2025 (for delay in filing) and I.A. 25873/2025 (for delay in re-filing)

1. The present applications have been filed on behalf of the Petitioner seeking condonation of delay of 29 days in filing and a further delay of 264 days in re-filing the present petition.

2. Learned Counsel appearing on behalf of the Petitioner submits that the delay is neither intentional nor deliberate but due to the initial processes, such as upon receipt of the arbitral award, legal opinion was sought from the Counsel who had represented it in the arbitration proceedings, which was received on 25.09.2024. Thereafter, the matter was processed through various Departmental Authorities, including the Superintending Engineer, Finance Officer, Chief Engineer, Principal Chief Engineer, Engineer-in-Chief and the Law

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Department, for obtaining the requisite approvals to challenge the award and, thereafter, draft petition was prepared and sent to the Department for approval on 23.01.2025, and the signed petition was filed on 24.01.2025.

3. Learned Counsel for the Petitioner further submits that the petition was initially filed on 24.01.2025, within the outer limit of 120 days expiring on 25.01.2025.

4. He further submits that the delay of 264 days in re-filing is attributable to the voluminous nature of the record, comprising approximately 1907 pages and the personal difficulties faced by the Counsel, including a bereavement in the family and serious illness of his mother.

5. Learned Counsel for the Petitioner further contends that the initial filing was complete in all material respects, as all relevant documents, Court fees, affidavits and *vakalatnama* had been filed and no new pleadings or documents were introduced in the subsequent filing.

6. *Per contra,* learned Counsel appearing on behalf of the Respondent has opposed these applications, contending that the petition itself was filed beyond the maximum period of 120 days prescribed under Section 34(3) of the Arbitration and Conciliation Act, 1996[1] and that such delay is incapable of being condoned. It is further contended that the Petitioner has failed to provide any

[1] "Act" hereinafter

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satisfactory explanation for the delay in re-filing.

7. I have considered the rival submissions.

8. In the present case, the impugned award was corrected on 27.09.2024 and as per the filing log, the petition was initially filed on 24.01.2025. The initial filing, therefore, falls within the outer limit prescribed under Section 34(3) of the Act. However, the fact that the petition was filed within the maximum permissible period does not, by itself, entitle the Petitioner to condonation of the delay beyond the prescribed period of three months. The Petitioner is still required to demonstrate sufficient cause for the delay of 29 days.

9. The explanation furnished by the Petitioner for the said delay is primarily that upon receipt of the award, the matter was processed through various Departmental Authorities for obtaining approvals to challenge the award. The Petitioner has referred to the movement of the file between the Superintending Engineer, Finance Officer, Chief Engineer, Principal Chief Engineer, Engineer-in-Chief and the Law Department, before the decision to challenge the award was finally taken and the petition was prepared and filed.

10. In the considered opinion of this Court, the explanation does not disclose any circumstances beyond the control of the Petitioner, which prevented it from taking timely steps to institute the proceedings. The movement of file between different Departments and the time consumed in obtaining internal approvals are matters of administrative procedure and cannot, by themselves, constitute sufficient cause for

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condonation of delay.

11. In this regard, the observation of this Court in ***Government of NCT of Delhi v. Shyam Sunder Tyagi***[2] assumes significance. The Division Bench reiterated that in commercial matters, delay in re-filing must also be treated with nearly the same seriousness as delay in filing. It was further emphasised that where personal exigencies of counsel are relied upon to explain the delay, the absence of any satisfactory explanation for the period subsequent to the cessation of such exigencies would disentitle the litigant from seeking condonation of the delay.

12. Coming to the delay of 264 days in re-filing, it is well settled that although the consideration governing re-filing are distinct from those applicable to the original filing, the delay cannot be condoned mechanically. This Court is required to examine whether the entire period of delay has been satisfactorily explained.

13. In the present case, the Petitioner seeks to explain the delay in re-filing, primarily on the ground that the petition was voluminous, comprising approximately 1907 pages at the time of its initial filing, and that the Counsel was facing personal difficulties. In this regard, reliance has been placed upon the demise of the grandfather of Counsel's wife and the deteriorating health of his mother, whose heart functioning was stated to have reduced to 25%.

14. While this Court is conscious of the personal circumstances

[2] **2026 SCC OnLine Del 5360**

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referred to by learned Counsel, the explanation furnished does not account for the entire period of 264 days. The personal difficulties relied upon relate substantially to the period around April 2025, whereas the delay in re-filing extends over a much longer period, from January to October 2025.

15. No satisfactory explanation has been furnished as to what steps were taken during the remaining period to cure the defects and re-file the petition. The mere assertion that the record was voluminous also does not explain why the defects could not be removed within the reasonable period.

16. In this regard, the judgment of the Division Bench of this Court in ***Public Works Department v. Shyam Sunder Tyagi***[3] assumes significance, wherein it was held that the entire period of delay in re-filing must be satisfactorily explained and that an unexplained period of delay would disentitle the party from seeking condonation.

17. Applying the aforesaid principles to the facts of the present case, this Court finds that the Petitioner has failed to furnish a satisfactory explanation for substantial portions of the period of 264 days. Neither the voluminous nature of the record nor the personal difficulties pleaded on behalf of the Counsel sufficiently account for the prolonged inaction. The explanation furnished is, therefore, neither comprehensive nor adequate to establish sufficient cause for condonation of the delay in re-filing.

[3] **2026 SCC OnLine Del 4214**

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18. The observations in ***Chief Engineer, Employees State Insurance Corporation v. Enarch Consultants Pvt. Ltd***[4], also reinforce the requirement that limitation cannot be permitted to be circumvented by reference to internal administrative processes or subsequent procedural steps which do not furnish a legally sustainable explanation for the delay.

19. In view of the above discussion, this Court is not satisfied that sufficient cause has been made out either for condonation of the delay of 29 days in filing or for a further delay of 264 days in re-filing the petition. Accordingly, both the applications seeking condonation of delay are dismissed.

20. Consequently, I.A. 25871/2025 and I.A. 25873/2025 seeking condonation of delay in filing and re-filing is dismissed.

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21. Accordingly, the petition under Section 34 of the Act is also dismissed. Pending application(s), if any, also stand disposed of.

OM PRAKASH SHUKLA, J

NOVEMBER 19, 2026/*gunn*

[4] **2026:DHC:5562**

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