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

% Date of decision: 05.11.2026

\# **CNR No. DLHC010538102026**

\+ FAO(OS) (COMM) 307/2026, CM APPL. 77457/2026, CM APPL. 77458/2026 & CM APPL. 77459/2026

DAKSHINANCHAL VIDYUT VITRAN NIGAM LTD

.....Appellant

Through: Mr. Harsh Som, Adv.

versus

M/S. CREATIVE ENTREPRENEURS LLP THROUGH ITS DESIGNATED PARTNERS, MR. GAGAN AGGARWAL

.....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE AVNEESH JHINGAN
HON'BLE MS. JUSTICE SHAIL JAIN

AVNEESH JHINGAN, J. (ORAL)

1. This appeal is filed against the order dated 14.08.2026 (hereinafter 'impugned order') dismissing the objection petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 as time-barred.

2. The facts in brief are that the appellant floated a tender for construction of 33/11 KV sub-station and associated 33 KV lines and 11 KV lines at Ganjdundwara, District Kasganj on turnkey-basis. On 12.05.2015, Letter of Intent (LOI) was awarded in favour of the

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respondent at a value of Rs.3,47,16,453. The agreement was executed between the parties on 04.02.2016.

2.1 Dispute arose between the parties *inter alia* execution of work, alleged delay and deficiencies, outstanding payments and contractual deductions. On 22.12.2021, the respondent filed a reference to the Micro and Small Enterprises Facilitation Council under Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 (for short 'MSMED Act'). On failure of the conciliation proceedings, the dispute was referred to the Delhi International Arbitration Centre (DIAC). The arbitral proceedings culminated in award dated 21.05.2024 and was served on the appellant on 28.05.2024.

2.2 The objection petition of the appellant filed in August, 2024 under Section 34 of the Act challenging the award dated 21.05.2024 before the Commercial Court, Agra was dismissed *vide* order dated 08.01.2026 for want of territorial jurisdiction. Thereafter the objection petition was filed before this Court on 10.06.2026 and was dismissed being barred by limitation. Hence, the present appeal.

3. Learned counsel for the appellant contends that the respondent was not a company registered under the MSMED Act when the contract was entered between the parties.

3.1 The argument is that the arbitral award was passed without jurisdiction. No other issue is pressed.

4. Before proceeding further, it would be relevant to reproduce Section 34(3) of the Act:-

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> "**34. Application for setting aside arbitral award**
> (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."

5. Section 34(3) of the Act provides that the limitation for filing the objection petition under Section 34 of the Act is three months from the date of receipt of the award. The proviso provides the power to condone delay of thirty days beyond the prescribed limitation period of three months. The language of Section 34(3) is unambiguous and consequence is that by Section 29(2) of the Limitation Act the applicability of Section 5 of the Limitation Act is ousted. The Court has the power to condone the delay only for a period of thirty days beyond the prescribed limitation period of three months.

6. The issue is no longer res integra in view of the settled position of law laid down by the Supreme Court in the following judgments:

6.1 In ***Consolidated Engineering Enterprises Vs. Principal Secretary, Irrigation Department and Others***, (2008) 7 SCC 169 held as under:

> "20. When any special statute prescribes certain period of limitation as well as provision for extension upto specified time limit, on sufficient cause being shown, then the period of limitation prescribed under the special law shall prevail

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and to that extent the provisions of the Limitation Act shall stand excluded. As the intention of the legislature in enacting sub-section (3) of Section 34 of the Act is that the application for setting aside the award should be made within three months and the period can be further extended on sufficient cause being shown by another period of 30 days but not thereafter, provisions of Section 5 of the Limitation Act would not be applicable because the applicability of Section 5 of the Limitation Act stands excluded because of the provisions of Section 29(2) of the Limitation Act."

6.2 In ***Singh Enterprises vs. CCE***, (2008) 3 SCC 70 held 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 availed 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 or 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

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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."

6.3 In ***Commissioner of Customs and Central Excise v. Hongo India (P) Ltd. and Anr.,*** (2009) 5 SCC 791 held as under:

> "32. As pointed out earlier, the language used in Sections35, 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."

6.4 In ***Chhattisgarh State Electricity Board v. Central Electricity Regulatory Commission*** (2010) 5 SCC 23 held as under:

> "25. Section 125 lays down that any person aggrieved by any decision or order of the Tribunal can file an appeal to this Court within 60 days from the date of communication of the decision or order of the Tribunal. Proviso to Section 125 empowers this Court to entertain an appeal filed within a further period of 60 days if it is satisfied that there was sufficient cause for not filing appeal within the initial period of 60 days. This shows that the period of limitation prescribed for filing appeals under Sections 111(2) and 125 is substantially different from the period prescribed under the Limitation Act for filing suits, etc. The use of the expression 'within a further period of not exceeding 60 days' in the proviso to Section 125 makes it clear that the outer limit for

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> filing an appeal is 120 days. There is no provision in the Act under which this Court can entertain an appeal filed against the decision or order of the Tribunal after more than 120 days."
>
> *(emphasis supplied)*

7. In the case in hand, the initial objection petition filed before the Commercial Court, Agra was within ninety days and was dismissed for want of territorial jurisdiction vide order dated 08.01.2026. Thereafter, the objection petition was filed before this Court on 10.06.2026 after a delay of approximately five months. Section 14 of the Limitation Act is applicable despite the language of Section 34(3) of the Act. Even if the period from August, 2024 to January, 2026 during which the appellant was pursuing the objection petition before the Commercial Court, Agra is excluded under Section 14 of the Limitation Act, the objection petition filed before this Court was beyond the prescribed period of hundred and twenty days under Section 34(3) of the Act. The learned Single Judge rightly dismissed the objection petition as time barred, more so, there was no sufficient cause explaining the delay. Section 14 of the Limitation Act excludes the period in pursuing proceedings before a Court that lacked jurisdiction. The delay in filing the objection petition before the competent court after excluding the period under Section 14 of the Limitation Act has to be dealt as per the proviso to Section 34(3) of the Act.

8. The objection petition under Section 34 of the Act was dismissed as time-barred and the merits were not rightly gone into by the learned Single Judge. The contentions raised by learned counsel for the

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appellant on merits need no adjudication. In appeal it is to be considered that the objection petition was decided within the four corners of Section 34 of the Act. The dismissal of the objection petition as time-barred is upheld and the challenge on merit cannot be gone into.

9. It is a settled law that in appeal under Section 37 of the Act, it is to be considered that the exercise of powers under Section 34 of the Act was within the four corners of the provisions. Reference in this regard be made to the following decisions of the Supreme Court:-

9.1 In ***AC Chokshi Share Broker (P) Ltd. v. Jatin Pratap Desai***, (2025) 5 SCC 321 it was held:

> "29. The limited supervisory role of courts while reviewing an arbitral award is stipulated in Section 34 of the Act, beyond whose grounds courts cannot intervene and cannot correct errors in the arbitral award. [McDermott International Inc. v. Burn Standard Co. Ltd., (2006) 11 SCC 181, para 52] The appellate jurisdiction under Section 37 is also limited, as it is constrained by the grounds specified in Section 34 and the court cannot undertake an independent assessment of the merits of the award by reappreciating evidence or interfering with a reasonable interpretation of contractual terms by the Arbitral Tribunal. [MMTC Ltd. v. Vedanta Ltd., (2019) 4 SCC 163, para 14 : (2019) 2 SCC (Civ) 293; Konkan Railway Corpn. Ltd. v. Chenab Bridge Project, (2023) 9 SCC 85, para 25 : (2023) 4 SCC (Civ) 458.] The court under Section 37 must only determine whether the Section 34 court has exercised its jurisdiction properly and rightly, without exceeding its scope. [MMTC Ltd. v. Vedanta Ltd., (2019) 4 SCC 163, para 14 : (2019) 2 SCC (Civ) 293; Bombay Slum Redevelopment Corpn. (P) Ltd. v. Samir Narain Bhojwani, (2024) 7 SCC 218, para 26.]"

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9.2 In ***SEPCO Electric Power Construction Corpn. v. GMR Kamalanga Energy Ltd.,*** (2026) 2 SCC 542 it was held:

> "72. The decision in MMTC [MMTC Ltd. v. Vedanta Ltd., (2019) 4 SCC 163 : (2019) 2 SCC (Civ) 293] , as referenced recently by a coordinate Bench of this Court in Reliance Infrastructure Ltd. [Reliance Infrastructure Ltd. v. State of Goa, (2024) 1 SCC 479 : (2024) 1 SCC (Civ) 412] , unfolds in an involute manner that a court under Section 37 of the 1996 Act can only determine as to whether the court concerned under Section 34 has not travelled beyond the parameters of the scope therein. No independent evaluation is permitted on the merits of the award."
>
> *(emphasis supplied)*

10. There is no factual or legal error calling for interference in the impugned order. The appeal is dismissed.

11. All pending applications are disposed of.

AVNEESH JHINGAN, J

SHAIL JAIN, J

NOVEMBER 5, 2026
Anjali

Reportable: **Yes**

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