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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-1322-2017 (O&M)
Date of Decision:20.08.2025

(I)
M/s Labh Singh Transport Company

....Appellant(s)

Versus

Hindustan Petroleum Corporation Ltd. and another

.....Respondent(s)

FAO-1337-2017(O&M)

(II)
M/s Jai Maa Ambey Transport

....Appellant(s)

Versus

Hindustan Petroleum Corporation Ltd. and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Dr. Rau P.S. Girwar, Advocate,
for the appellant(s).

Mr. Raman Sharma, Advocate,
for the respondents.

JASGURPREET SINGH PURI, J. (Oral)

1. Both the appeals are taken up together for final disposal with the consent of learned counsel for the parties.

2. Learned counsel appearing on behalf of the appellant submitted that the appellant had filed objections under Section 34 of the Arbitration and Conciliation Act, 1996 before the learned Additional District Judge,



Bathinda but an application which was filed under Section 5 of the Limitation Act, 1963 was dismissed and in this way, the objections under Section 34 of the Arbitration and Conciliation Act, 1996 have also been dismissed by way of the impugned order dated 13.05.2016. While giving the relevant dates which are undisputed, he submitted that the award was passed on 22.11.2010, copy of which was received by the appellant on 06.12.2010 and thereafter, the objections under Section 34 of the Arbitration and Conciliation Act, 1996 were filed on 17.05.2011 i.e. beyond the period of 3 months plus 30 days regarding which there is no dispute. He submitted that in view of the provisions of Section 5 of the Limitation Act, 1963, the application ought to have been considered as to whether it constituted sufficient cause or not for condonation of delay and the delay could have been condoned. In this regard, he referred to the judgments of Hon'ble Supreme Court in *Government of Maharashtra (Water Resources Department) Versus M/s Borse Brothers Engineers & Contractors Pvt. Ltd.* 2021(6) SCC 460 and *Chintels India Ltd. Versus Bhayana Builders Pvt. Ltd.*, 2021(4) SCC 602.

3. On the other hand, the learned counsel appearing on behalf of the respondent/HPCL submitted that provisions of Section 5 of the Limitation Act, 1963 do not apply to the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 and therefore, the learned Court has rightly dismissed the application for condonation of delay and the objections under Section 34 of the Arbitration and Conciliation Act, 1996.

4. After hearing the learned counsel for the parties, this Court is of the considered view that the aforesaid issue of law is no longer *res integra*.



Hon'ble Supreme Court in *Mahindra and Mahindra Financial Services Limited versus Maheshbhai Tinabhai Rathod and others, (2022) 4 SCC*

162 held as under:-

“9. The scope available for condonation of delay being self contained in the proviso to Section 34(3) and Section 5 of Limitation Act not being applicable has been taken note by this Court in its earlier decisions, which we may note. In Union of India vs. Popular Construction Co. (2001) 8 SCC 470 it has been held as hereunder:

“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 subsection (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” This objective has found expression in Section 5 of the Act which prescribes the extent of judicial intervention in no uncertain terms:

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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” subsection (2) and sub section (3). Subsection (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, subsection (3) would not be an application “in accordance with” that subsection. 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 xxxxx.. 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.

9.1 Further, in State of Himachal Pradesh & Anr. vs. Himachal Techno Engineers & Anr. (2010) 12 SCC 210 it was noted and held as hereunder:

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Having regard to the proviso to Section 34(3) of the Act, the provisions of Section 5 of the Limitation Act, 1963 will not apply in regard to petitions under Section 34 of the Act. While Section 5 of the Limitation Act does not place any outer limit in regard to the period of delay that could be condoned, the proviso to subsection (3) of Section 34 of the Act places a limit on the period of condonable delay by using the words “may entertain the application within a further period of thirty days, but not thereafter”. Therefore, if a petition is filed beyond the prescribed period of three months, the court has the discretion to condone the delay only to an extent of thirty days, provided sufficient cause is shown. Where a petition is filed beyond three months plus thirty days, even if sufficient cause is made out, the delay cannot be condoned.”

9.2 The same view was taken by this Court in P. Radha Bai vs. P. Ashok Kumar (2019) 13 SCC 445 wherein this Court held as follows:

“33.2. The proviso to Section 34 (3) enables a court to entertain an application to challenge an



award after the three months' period is expired, but only within an additional period of thirty days, "but not thereafter". The use of the phrase "but not thereafter" shows that the 120 days' period is the outer boundary for challenging an award. If Section 17 were to be applied, the outer boundary for challenging an award could go beyond 120 days. This Court has consistently taken this view that the words "but not thereafter" in the proviso of Section 34(3) of the Arbitration Act are of a mandatory nature, and couched in negative terms, which leaves no room for doubt.

9.3 The observations of this Court in different decisions relating to nonapplicability of Section 5 of the Limitation Act in condoning the delay and extending the limitation prescribed under Section 34(3) of Act 1996 was taken note of by a bench of three Hon'ble Judges of this Court with approval, in Chintels India Limited vs. Bhayana Builders Private Limited (2021) 4 SCC 602."

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5. A perusal of the aforesaid would show that it is a settled law that there is no such room for condonation of delay even under Section 5 of the Limitation Act, 1963 when objections are filed under Section 34 of the Arbitration and Conciliation Act, 1996 beyond the period of limitation prescribed under Section 34(3) of the Act which is 3 months plus 30 days and admittedly, in the present case, the objections were filed after the aforesaid period and therefore, no illegality or perversity can be found in the impugned order. Learned counsel for the appellant has referred to judgments in *Government of Maharashtra's (Supra)* and *Chintels India Ltd.'s case(Supra)*, however, the same do not support the contention of the learned counsel for the appellant for the purpose of condonation of delay in filing the objections under Section 34 of the Act beyond 3 months+ 30 days.

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7. Consequently, finding no merit in both the appeals, the same are hereby dismissed.

20.08.2025

(JASGURPREET SINGH PURI)

rakesh

JUDGE

Whether speaking : Yes/No
Whether reportable : Yes/No