



Sr. No.114

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**FAO-4677-2024 (O&M)
Date of Decision : 28.01.2025**

The Ludhiana Improvement Trust through its Chairman
...Appellant
Versus

The Arkitekturel Grids and others
...Respondents

CORAM : HON'BLE MS. JUSTICE LAPITA BANERJI

Present : Ms. Kavita Arora, Advocate,
for the appellant.

LAPITA BANERJI, J. (Oral)

CM-34-CII-2025

This is an application for placing on record the additional affidavit of the Executive Officer Improvement Trust Ludhiana as well letter dated 15.03.2019 (Annexure A-5).

For the reasons stated in the application, the same is **allowed**, subject to all just exceptions.

Document (Annexure A-5) is taken on record.

CM-17391-CII-2024

This is an application seeking condonation of delay of 50 days in re-filing the appeal.

For the reasons stated in the application, the same is allowed and delay of 50 days in re-filing the appeal is condoned.

CM-17392-CII-2024

This is an application for staying the operation of the impugned award dated September 28, 2018 and also the execution proceedings which are now pending.



The same is taken up with the main case.

Main case

Learned counsel appearing on behalf of the appellant submits that the impugned order dated February 19, 2024 (Annexure A-1) passed by the Additional District Judge, Ludhiana in an application under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the 1996 Act') should be set aside.

2. She submits that it is only by way of an electronic mail, a copy of the awards dated September 28, 2018 and December 07, 2018 were received by the appellant-Trust on September 28, 2018 and December 7, 2018, respectively. However, the certified copy of the awards were received on March 15, 2019. Therefore, the time period stipulated under Section 34 (3) of the 1996 Act should have been computed from March 15, 2019.

3. Had the learned Additional District Judge, Ludhiana computed the same from the date of receipt of the certified copy of the award and then the proceedings under Section 34 of the 1996 Act filed on May 30, 2019 would have been deemed to be instituted within the stipulated period of 90 days as provided by the Act. She contends that the learned Additional District Judge committed an error of law on the face of the record and misdirected himself by passing the impugned judgment and order dated February 19, 2024.

4. Heard the learned counsel for the parties and perused the material on record.

5. Vide order dated October 01, 2024, a Coordinate Bench of this Hon'ble Court allowed the appellant to file an affidavit specifying the date



on which the signed copy of the award dated September 28, 2018 was received by it.

6. This Court finds that the first award was dated September 28, 2018 and the same was received vide email dated September 28, 2018. Thereafter, review application was filed before the learned Arbitrator. The said review application was decided by the learned Arbitrator vide award dated December 07, 2018. A copy of the said award was received through email on December 07, 2018 itself by the appellant-Trust.

7. The provisions of Section 34(3) of 1996 Act are clear and unambiguous. Section 34 (3) of the 1996 Act is reproduced herein for ready reference:-

**“Section 34 (3) in The Arbitration And Conciliation Act,
1996**

(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.”

8. The Section clearly stipulates that the time does not start running from the date when the certified copy of the award is received by the party seeking to challenge the same. The time starts running from the date on which the party seeking to file the application under Section 34 of the 1996 Act receives the award or if a request is made under Section 33 of the 1996 Act for correction and interpretation of the award, from the date on which that request is disposed of.



9. There is no dispute that the award after review was dated December 07, 2018 and was received by email on the very same day. Therefore, this Court finds no illegality or perversity in the order dated February 19, 2024 whereby the application of the appellant under Section 34 of the 1996 Act, was dismissed being filed beyond the period of limitation.

10. Learned counsel for the appellant relies on the judgment of the Hon'ble Apex Court in Civil Appeal No.2152 of 2011(arising out of S.L.P. (civil) No.14308 of 2010) dated 28.02.2011 "***State of Maharashtra and others Vs. M/s Ark Builders Pvt. Ltd.***" to contend that the time would start running from the date a signed copy of the award is delivered to the party challenging the same.

11. The said case is clearly distinguishable on facts since the award was not delivered for a substantial period of time to the respondent in the arbitration proceedings as it had not paid the fee of the learned arbitrator. Therefore, the Court came to the conclusion that the delivery of the arbitral award to the party has to be *effective* and the party has to *receive* the award. It is only after the delivery of the award and receipt of the same by the party, the computation of the period of limitation will commence.

12. There is no dispute with regard to the ratio laid down in the said judgment. Admittedly, it was on December 7, 2018 that the award was received via email by the appellant herein and the proceedings under Section 34 of the 1996 Act was instituted on May 30, 2019 after expiry of a period of limitation i.e. 120 days (90 +30 days) as stipulated under the 1996 Act.



FAO-4677-2024 (O&M)

14. The learned Additional District Judge has correctly appreciated the position of law. Accordingly, this Court finds no merit in the appeal.

FAO No.4677-2024 is **dismissed**.

15. Connected application(s), if any, shall also stand disposed of.

(LAPITA BANERJI)
JUDGE

January 28, 2025

Vandana

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