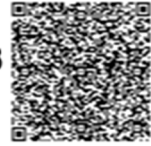


FAO (CARB)-13-2021 (O&M)

2025:PHHC:090319-DB



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

**FAO (CARB)-13-2021 (O&M)
Date of Decision: July 22, 2025**

Union of IndiaAppellant

Versus

M/s Aey Kay and Associates Respondent

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Ms. Garima Kuthiala Prashar, Advocate for the appellant.

Mr. Gaurav Mohunta, Advocate for the respondent.

LISA GILL, J.

CM-56-FCARB-2021

Since appeal is listed for hearing today, present application is rendered infructuous.

Ordered accordingly.

FAO (CARB)-13-2021 (O&M)

1. Prayer in this appeal is for setting aside order dated 14.07.2021 passed by learned Additional District Judge-cum-Presiding Judge, Exclusive Commercial Court, Gurugram whereby application seeking condonation of delay in filing petition under Section 34 of Arbitration and Conciliation Act,

FAO (CARB)-13-2021 (O&M)

1996 (for short – ‘the Act’) for setting aside Arbitration Award dated 03.07.2020 has been rejected.

2. Some of uncontroverted facts are that Award dated 03.07.2020 received by appellant on 18.07.2020 was passed by sole Arbitrator in respect to dispute which had arisen between appellant and respondent No. 1 to whom work of conversion of 60 Type-I quarters to Type-II quarters and renovation of 84. Type-I quarters and SITC of fittings & fans & wiring for new light/fan/exhaust fan points at NSG Camp, Manesar, Gurgaon was allotted. Dispute in regard to the same had arisen. Award dated 03.07.2020 was passed by Sole Arbitrator whereby sum of Rs.54,28,338/- was awarded to the respondent, to be released within three months from the date of Award, failing which present appellant was directed to pay simple interest at the rate of 10% per annum from the date of Award till payment. Application seeking condonation of delay in filing petition under Section 34 of the Act was dismissed on the premise that there is no ground to condone the delay and period of limitation could not be extended. Petition under Section 34 of the Act was also dismissed as time barred. Aggrieved therefrom, present appeal has been filed.

3. Learned counsel for appellant argues that learned Commercial Court has incorrectly ignored various orders and specifically order dated 10.01.2022 passed by Hon’ble the Supreme Court in Suo Muto Writ petition (c) No. 3 of 2020. It is submitted that totally convoluted and contorted interpretation has been set forth by learned Commercial Court of said orders passed by Hon’ble the Supreme Court, to hold that benefit of any of the orders passed after institution of petition under Section 34 of the Act alongwith application for

FAO (CARB)-13-2021 (O&M)

condonation of delay would not be applicable. It is, thus, prayed that this appeal be allowed.

4. Learned counsel for respondent vehemently argued that impugned order has been correctly passed as lock down had been lifted in the jurisdictional area, therefore, there was no excuse whatsoever for appellant to have delayed filing of petition under Section 34 of the Act. Dismissal of appeal was sought.

5. We have heard learned counsel for parties and have perused the file with their able assistance.

6. Passing of Award dated 03.07.2020 is a matter of record as is dismissal of petition under Section 34 of the Act alongwith application seeking condonation of delay in filing thereof, vide order dated 14.07.2021. Specific case of appellant is that said delay occurred due to prevailing emergent situation which arose on account of outbreak of COVID-19, and that apart from complete lock down in the campus in September 2020, its office was working on a limited staff for rest of the period.

7. In our considered opinion, learned Commercial Court has not taken note of specific order dated 10.01.2022 passed by Hon'ble the Supreme Court in MA-21 of 2022 in MA-665 of 2021 in Suo motu Writ petition (c) No. 3 of 2020. Relevant portion thereof reads as under:-

“ Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21 of 2022 with the following directions:

I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall

FAO (CARB)-13-2021 (O&M)

stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

- II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.
- III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022. notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.
- IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination c proceedings.”

8. When faced with the same, learned counsel for respondent is unable to deny that in fact petition under Section 34 of the Act should have been considered on merits and could not have been dismissed as being time barred. It is specifically ordered by Hon’ble the Supreme Court on 10.01.2022 that period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect to

FAO (CARB)-13-2021 (O&M)

all judicial or quasi-judicial proceedings. Said order has been passed in continuation of earlier orders, therefore, learned Commercial Court has erred in dismissing petition under Section 34 of Act filed by appellant being time barred.

9. Keeping in view the facts and circumstances as above, appeal is allowed, impugned order dated 14.07.2021 is set aside and petition filed by appellant is restored.

10. Parties are directed to appear before learned Commercial Court on 07.08.2025 Matter including any prayer(s) for interim relief would be considered by learned Commercial Court in accordance with law.

11. It is clarified that there is no expression of opinion on the merits of the matter.

12. Pending application(s), if any, stand(s) disposed of.

(LISA GILL)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

July 22, 2025

Rts

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No