

**IN THE COURT OF SH. PULASTYA PRAMACHALA,
DISTRICT JUDGE (COMMERCIAL COURT)-01,
PATIALA HOUSE COURT, NEW DELHI**

OMP (COMM.) 240/2019

In the Matter of: -

Prasar Bharati, Broadcasting Corporation
of India through The Chief Engineer (NZ),
All India Radio and Doordarshan
Jamnagar House, Shahjahan Road,
New Delhi-110011 .

...Petitioner

Versus

M/s Aplab Limited
Plot No. 170, 1st floor, FIE,
Patparganj Industrial Area,
New Delhi-110092.

Through its authorized representative
Mr. Uday Singh
Regional Director, M/s Aplab Limited.

... Respondent

Date of pronouncement of the order : 06.11.2025

ORDER

1. Vide this order, I shall dispose off the application seeking condonation of delay in filing present petition under Section 34 of Arbitration and Conciliation Act.
2. Briefly stated, petitioner has preferred the present petition against the impugned award dated 15.07.2019 passed by the learned Sole Arbitrator, Ms. Kamlakshi Singh, whereby an award of Rs.3,08,676/- was passed in favour of the respondent and against the petitioner.

3. In the application for condonation of delay, it has been averred that the petitioner had preferred six objection petitions against the award dated 15.07.2019. Learned Arbitrator had decided the said six petitions/references by a combined award dated 15.07.2019, which was received by the petitioner on 05.09.2019. Therefore, the objections/petition filed by the petitioner on 29.11.2019 was within time and the same was numbered as OMP (Comm) No. 215/2019. The said petition came up for hearing on 04.12.2019, and the Hon'ble Court issued notice to the respondent on 31.03.2020. It is further averred that during the process of filing process fee, it came to the knowledge of the petitioner that an inadvertent mistake had been committed inasmuch as a copy of the wrong petition had been filed, which was in fact a copy of the petition numbered as OMP (Comm) No. 214/2019. Since the parties in all the OMP (Comm) matters are the same, the said error occurred inadvertently and due to oversight. However, the petition which was intended to be filed as OMP (Comm) No. 215/2019 pertained to Arbitration Case No. 545/2016, in which learned Arbitrator had awarded a sum of Rs.3,08,676/-. It is further pleaded that the petitioner approached the Hon'ble Court of Sh. R.L. Meena, Ld. ADJ-02, Patiala House Courts, by filing an application for replacement of the petition under Section 34 of the Arbitration and Conciliation Act. The said application was preferred on 11.12.2019 and came up for hearing on 17.12.2019, when it was dismissed by the learned ADJ.
4. It is pleaded that an submitted that an inadvertent mistake was committed in not filing the correct petition on 29.11.2019, and

the delay of about 12-13 days in filing the present petition was neither deliberate nor intentional. On these premises, it is prayed that the delay of about 12-13 days in filing the accompanying petition be condoned.

5. In reply to the application for condonation of delay, respondent opposed the same and averred that the copy of the award dated 15.07.2019 was delivered to the petitioner on the same day. On 30.11.2019, the petitioner filed six objection petitions which were registered as OMP (Comm) Nos. 213/2019, 214/2019, 215/2019, 216/2019, 217/2019 and 218/2019, and these petitions came up for hearing before the learned District Judge on 04.12.2019. However, the respondent states that till date, it has received notice only in OMP (Comm) Nos. 213/2019 and 214/2019. It is further averred that the said six objection petitions are still pending, however, in complete disregard of the applicable procedure and law, the petitioner has preferred the present petition (along with three other petitions) on the same cause of action and against the same award, which already stands challenged by way of the aforesaid pending OMPs before the learned District Judge, Commercial Court-2. It is, therefore, contended that the present petition amounts to a second objection under Section 34 against the same award and is thus not maintainable in law. It is further averred that the present petition is barred by limitation and deserves to be dismissed along with the accompanying application since, it has been filed after a period of 120 days from the date of receipt of the award. The petitioner, it is contended, has not furnished a single plausible reason explaining why the petition could not be filed within the

prescribed limitation period, except to state that an “inadvertent mistake” was committed by counsel.

6. Respondent also submits that the petitioner has falsely asserted that it received the award on 05.09.2019, which is incorrect, and that the petitioner has failed to plead any reason or cause which prevented it from collecting the award from DIAC prior to 05.09.2019, if it was indeed made available on 15.07.2019. To support his contentions, learned counsel for the respondent relied upon the judgment of the Hon’ble Delhi High Court in ***Sudesh Hans v. Gian Chand Hans & Anr.*** [2025:DHC:1426]
7. I heard learned counsels for both parties and have carefully perused the record.
8. The first and foremost issue that arises for consideration is the dispute regarding the date of receipt of the arbitral award by the petitioner. The petitioner claims that the impugned award was received on 05.09.2019, whereas the respondent contends that the award was delivered to the petitioner on the very date of passing the award, i.e. 15.07.2019.
9. Upon perusal of the arbitral proceedings, particularly the order dated 16.07.2019, it is found recorded as follows: -

“neither the representative of the claimant and nor of respondent is present personally today, therefore, the signed copy of the award as required by law could not be provided to them, however, same is kept with the center and can be collected from the centre against receipt by both the parties.”

This extract clearly indicates that as of 16.07.2019, the signed copy of the award was retained by the Ld. Arbitrator and had not

been delivered to either party. Hence, the contention that the award was received by the petitioner on 15.07.2019 is untenable.

10. Ld. Counsel for respondent argued that the arbitrator had made the award available at the Centre for collection, and thus the petitioner could have collected it earlier but failed to do so. However, the record reveals that the petitioner has filed an affidavit in this matter through its Deputy Director General, enclosing a copy of the envelope received from DIAC, which bears the postal endorsement dated 05.09.2019. Though the envelope itself does not specifically mention its contents, there is nothing on record to doubt that the said envelope contained the final award dated 15.07.2019.
11. Accordingly, I prima-facie find that the DIAC dispatched the arbitral award to the petitioner on 05.09.2019, and therefore, that shall be treated as the date of receipt of the award for the purpose of computation of limitation under Section 34(3) of the Act.
12. Section 34(3) of the Arbitration and Conciliation Act, 1996, provides as under: -

(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.
13. It is, therefore, evident that the limitation for filing objections

under Section 34 is three months from the date of receipt of the award, extendable by a further 30 days upon sufficient cause being shown. In the present case, the award was received on 05.09.2019; hence, the limitation period of three months expired on 05.12.2019.

14. It is undisputed that the petitioner initially filed six objection petitions against the said award on 29.11.2019 i.e. within 85 days of receipt of the award, before Ld. District Judge, Patiala House Court, which were registered as OMP (Comm) Nos. 213/2019 to 218/2019. Summons were also issued in some of those matters. However, as pleaded due to an inadvertent mistake by ld. counsel, the copy of OMP (Comm) No. 214/2019 was mistakenly filed in place of OMP (Comm) No. 215/2019, which related to the present dispute.
15. The petitioner then approached the court of ld. ADJ-02, Patiala House Courts on 11.12.2019 by filing an application seeking replacement of the incorrect petition. The said application came up for hearing on 17.12.2019 and was dismissed. Immediately thereafter, on 23.12.2019, petitioner filed the present petition, i.e., after approximately 109 days from the date of receipt of the award.
16. From the above chronology, it is clear that the petitioner had initially invoked Section 34 within the prescribed three-month period. The delay has occurred only due to a technical mistake in filing the incorrect copy of the petition, which the petitioner attempted to rectify promptly upon discovering the error. I find that such a lapse, being procedural and inadvertent, does not

demonstrate negligence or lack of bona fides on the part of the petitioner.

17. The respondent relied upon the judgment in *Sudesh Hans v. Gian Chand Hans & Anr.*, [2025:DHC:1426], wherein the Hon'ble Delhi High Court held that a "non-est filing" cannot be treated as a valid filing under law. In that case, the petitioner had initially filed an objection petition within limitation, but the filing was defective as it was not accompanied by the arbitral award or necessary documents. The curable petition was thereafter filed beyond the prescribed period of 120 days, leading to its dismissal as barred by limitation. However, the facts of the present case stand on a materially different footing. Here, the initial filing was made within the prescribed limitation period of 3 months and the defect was merely technical, relating to the inadvertent filing of an incorrect copy of the petition. The subsequent filing, was done within 120 days.
18. In view of the foregoing facts and circumstances, I am of the considered opinion that the delay of approximately 19 days in refiling the correct petition was out of a mere procedural irregularity and does not reflect any deliberate lapse on the part of the petitioner. The explanation furnished indicates a bona fide and unintentional error committed by counsel in filing an incorrect copy, which was promptly rectified upon discovery. Such a minor procedural lapse, when accompanied by due diligence and good faith, ought not to defeat the ends of substantial justice. The purpose of limitation law is to prevent negligent and stale claims, not to penalize a party for an inadvertent clerical or technical error. Therefore, the delay

deserves to be condoned in the interest of justice.

19. In view of the foregoing discussion, the delay of 19 days in filing the present petition is condoned in the interest of justice, and the application for condonation of delay is allowed.

Pronounced in the (PULASTYA PRAMACHALA)
Open Court on this District Judge (Commercial Court)-01,
06th day of November, 2025 Patiala House Court, New Delhi