

Misc. Arb (Com) – 52/2024
Misc. (Arb) Case – 31/2023(CC)

Present: Rupanjana Chakrabarti
Judge, Commercial Court at Rajarhat,
North 24 Parganas

CNR: WBNP19-000051-2023
J.O Code.WB00612

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07.06.2024

Both parties are present by filing haziras.

Today is fixed for further hearing in respect of the application for condonation of delay dated 13.02.2024 filed on behalf of the applicant.

Perused the petition and the written objection filed thereto.

Heard both sides.

It has been contended on behalf of the applicant that there has been a delay of 9 days after the expiry of three months from the date on which the applicant had received the impugned Award. The said Award dated 12.12.2022 was received on the same date but it took some time to prefer the application under Section 34 of the Arbitration & Conciliation Act, 1996 as it involved preparation of detailed report and before placing the same before the Board of Director of the petitioner there was a long vacation of the Hon'ble Court for about a month. There was also a decision of the Board that the application would be prepared by new learned Advocate and the preparation of the application and its approval also took some time. Approval was necessary from the Directors and other higher officials of the Company who required time for scrutinizing the papers and considering the available legal opinion for giving the said approval. The approval was of sufficient significance as the matter related to expenditure of public money on litigation. As such, the applicants were prevented by sufficient cause from submitting the application under Section 34 of the Arbitration & Conciliation Act, 1996 within time and the aforesaid delay of 9 days may be condoned invoking Section 5 of the Limitation Act and hence this petition.

The learned Advocate for the respondent has submitted that from the legal aspects, the ground assigned by the applicant for condonation of delay are not at all acceptable as it involved the internal decision making process and approval of the petitioner's company. The respondent had earlier filed a written objection against the instant application challenging the prayer for condonation of delay.

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However, for the sake of early disposal of the application under Section 34 of the Arbitration & Conciliation Act, 1996 and to prevent the deadlock caused by unlimited delay in disposal of the instant application under Section 5 of the Limitation Act and thereafter, to dispose off the main application under Section 34 of the Arbitration & Conciliation Act, 1996, the respondent concedes that the delay of 9 days in preferring the application under Section 34 of the Arbitration & Conciliation Act, 1996 may be condoned and the application under Section 5 of the Limitation Act may be allowed on contest.

In this context, the learned Advocate for the respondent has filed a petition on this date i.e. 07.06.2024 stating that the respondent does not wish to press the objection and the appropriate order may be passed.

Considering the facts and circumstances of the case and the submissions of the learned Advocates for both sides, the contents of the application under Section 5 of the Limitation Act filed by the applicant, the written objection on record and last but not the least, the no objection petition filed today by the learned Advocate for the respondent, it appears that the respondent is eager to have the main application under Section 34 of the Arbitration & Conciliation Act, 1996 to be disposed of on merit due to several reasons.

As such, he has chosen not to raise any objection against the application dated 13.02.2024 under Section 5 of the Limitation Act filed by the applicant, the delay sought to be condoned is of 9 days only, and it is not an excessive delay. On the said score and in view of the no-objection given by the learned Advocate for the respondent on the ground of urgency of hearing the application under Section 34 of the Arbitration & Conciliation Act, 1996, the instant petition for condonation of delay deserves to be allowed on consent.

Hence,

O R D E R E D

that the instant application dated 13.02.2024 under Section 5 of the Limitation Act filed in this Arbitration Case is considered and allowed on consent.

Fix **24.06.2024** for hearing of the main application under Section 34 of the Arbitration & Conciliation Act, 1996.

Sd/- Rupanjana Chakrabarti
Judge
Commercial Court,
Rajarhat, North 24 Parganas