



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 25TH DAY OF FEBRUARY, 2026
PRESENT
THE HON'BLE MRS. JUSTICE ANU SIVARAMAN
AND
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
COMMERCIAL APPEAL NO.355/2022

BETWEEN:

M/S. HUBLI ELECTRICITY SUPPLY
COMPANY LIMITED
A GOVERNMENT OF KARNATAKA UNDERTAKING
HAVING ITS REGISTERED OFFICE AT
NAVANAGARA, P.B. ROAD
HUBLI-580 025
REP. BY ITS SUPERINTENDING ENGINEER
PROJECT MONITORING CELL (SEPMC).

...APPELLANT

(BY SRI. S.SRIRANGA, SR. ADV., FOR
SMT. SUMANA NAGANAND, ADV.,)

AND:

M/S. SPML INFRA LIMITED
(FORMERLY SUBHASH PROJECTS
AND MARKETING LTD)
A PUBLIC LIMITED COMPANY
INCORPORATED UNDER THE
COMPANIES ACT, 1956
HAVING ITS REGIONAL OFFICE AT NO.8
ICON, 5TH FLOOR, 80 FEET ROAD
INDIRANAGAR, HAL 3RD STAGE
BANGALORE-560 075.

...RESPONDENT

(BY SRI. SHARATH CHANDRA J, ADV.,)





THIS COMAP/COMMERCIAL APPEAL IS FILED UNDER SECTION 13(1A) OF THE COMMERCIAL COURTS ACT, 2015 R/W SECTION 37 OF THE ARBITRATION AND CONCILIATION ACT, 1996, PRAYING TO CALL FOR RECORDS IN COM.A.S.NO.31/2014 AS WELL AS THE ARBITRAL RECORDS WHICH ARE BEFORE THE TRIAL COURT. SET ASIDE THE IMPUGNED JUDGMENT DATED 29/11/2021 PASSED BY THE LXXXII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-83) (COMMERCIAL COURT) DISMISSING COM.A.S.NO.31/2014 AND CONSEQUENTLY SET ASIDE THE ARBITRAL AWARD DATED 30.12.2013 PASSED IN LAC NO.2/2013 (GHATAPRABHA DIVISION PROJECT) & ETC.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL JUDGMENT

(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)

The only question which requires a consideration in this appeal is:-

Whether this appeal under Section 37 of the Arbitration and Conciliation Act, 1996 ('Arbitration Act' for short) filed with an application to condone the delay of 126 days in filing the same is liable to be considered on merits or not?



2. This Commercial Appeal is filed under Section 13(1-A) of the Commercial Courts Act, 2015 read with Section 37 of the Arbitration and Conciliation Act, 1996 ('Arbitration Act' for short) against the judgment dated 29.11.2021 passed by the LXXXII Additional City Civil and Sessions Judge, Bengaluru (CCH-83) ('Commercial Court' for short) in COM.AS.No.31 of 2014.

3. Heard Shri. S. Sriranga, learned senior counsel as instructed by Smt. Sumana Naganand and Smt. Ashwini N. Ravindra, learned Advocates appearing for the appellant and Shri. Sharath Chandra J, learned counsel appearing for the respondent.

4. The facts of the case as pleaded in the appeal are as follows:-

Appellant is a Company registered under the Companies Act, 1956 and is a deemed licensee under the Electricity Act, 2003. Respondent is a Company involved in the infrastructure business. Tenders were called for the



execution of Rural Load Management Systems Works in Ranebennur and Ghataprabha Divisions. The respondent, being the successful bidder, was entrusted with the work of supply of material, erection and commissioning, as well as maintenance of installation for a period of five years. The respondent failed to execute the contract and abandoned the project. The contract was terminated by the appellant. The respondent referred the disputes to an Arbitral Tribunal for adjudication. After recording evidence and hearing both sides, the Arbitral Tribunal allowed the claims of the respondent in part to an extent of ₹6,86,62,587/- along with interest at 15% per annum. Though the award was challenged before the Commercial Court, the application under Section 34 of the Arbitration Act was dismissed on 29.11.2021, against which, the present appeal is filed.

5. Several contentions have been raised on the merits of the matter in the appeal. It is contended by the learned senior counsel appearing for the appellant that there are serious contentions to be urged in this appeal and



the delay in filing the appeal should be condoned and the matter should be heard on merits.

6. The learned counsel appearing for the respondent, on the other hand, contends that the appellant had not raised any contentions referable to Section 34(2) of the Arbitration Act before the Commercial Court and that the application for setting aside the award was therefore correctly decided. Further, it is contended that the Arbitral Tribunal had considered the contentions advanced on either side and had come to a conclusion on the facts and passed the award. It is contended that no grounds had been made out to set aside the award.

7. It is further contended that in the light of the binding decisions of the Apex Court, there is no doubt that the undue and unexplained delay in filing a commercial appeal cannot be condoned by this Court. It is submitted that no sufficient cause has been shown by the appellant to enable the condonation of delay. It is submitted that since the order of the Commercial Court was one passed on



29.11.2021, even if all the contentions raised by the appellant are taken into account, there is a huge delay in filing the appeal which has not been explained at all, much less, satisfactorily explained.

8. Learned counsel appearing for the respondent contends that an identical matter has already been considered by this Court in Commercial Appeal No.354/2022 and this Court, by the judgment dated 05.12.2025 has dismissed the appeal where the extent of delay was identical.

9. In this appeal, the primary question that we have to consider is, whether the appeal, which is preferred with a delay of 126 days is liable to be considered on merits at all. Admittedly, the judgment under Section 34 of the Arbitration Act was rendered by the Commercial Court on 29.11.2021.

10. The learned senior counsel appearing for appellant submits that the Orders of the Apex Court in



Cognizance for Extension of Limitation, In Re's reported in ***(2022) 3 SCC 117***, provided protection for the period till 01.03.2022 on account of the Lockdowns due to the COVID pandemic. An additional affidavit has also been placed on record to explain the delay. It is stated that the Director (Finance) and the Director (Technical) are the Directors involved in the affairs of the project work which forms the subject of the dispute. It is contended that since the Director (Technical) retired on 31.05.2022 and the position was vacant from 01.06.2022 to 05.08.2022 and since the Director (Finance) retired on 30.06.2022 and the said position was vacant from 01.07.2022 to 25.07.2022, the Board of Directors could not take a decision on whether the impugned judgment requires to be challenged.

11. Further, it is stated that during the third week of August 2022, immediately after appointment of the Director (Technical) and the Director (Finance), the appellant - Company decided to challenge the judgment and engage the advocates for the said purpose. This was



the reason given to explain the delay of 126 days in filing the appeal.

12. We notice that the Apex Court in ***Union of India v. Varindera constructions Ltd.,*** reported in ***(2020) 2 SCC 111*** had held that the delay beyond the period of 120 days in filing an appeal under Section 37 of the Arbitration Act is not condonable at all. This view was reiterated in ***N.V.International v. State of Assam & others,*** reported in ***(2020) 2 SCC 109.***

13. In ***Government of Maharashtra (Water Resources Department) Represented by Executive Engineer v. Borse Brothers Engineers and Contractors Private Limited.,*** reported in ***(2021) 6 SCC 460,*** a three-Judge Bench held that Section 5 of the Limitation Act applies to the proceedings under the Arbitration Act as well provided sufficient cause is shown and paragraphs No.53, 58 and 63 read as follows:-

"53. *However, the matter does not end here. The question still arises as to the application of Section 5*



of the Limitation Act to appeals which are governed by a uniform 60-day period of limitation. At one extreme, we have the judgment in N.V. International which does not allow condonation of delay beyond 30 days, and at the other extreme, we have an open-ended provision in which any amount of delay can be condoned, provided sufficient cause is shown. It is between these two extremes that we have to steer a middle course.

The Apex Court further held as follows:-

58. x x x x x

14. In *P. Ramachandra Rao v. State of Karnataka* this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in *Abdul Rehman Antulay v. R.S. Nayak*.

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by



imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."

63. *Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals filed under Section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1-A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches."*

14. As a result, it was found that the appeal filed with a delay of 75 days beyond the period of 60 days provided by the Commercial Courts Act was not properly



explained and the appeal therefore could not be considered.

15. The learned senior counsel appearing for the appellant is also placed reliance on the orders passed in specific cases where longer delays have been condoned and where the procedural formalities involved in a public entity filing an appeal and the huge public money involved in specific cases have been considered for the purpose of condoning the delay. It is further submitted that the question whether the delay is liable to be condoned in Commercial Appeals has been referred for consideration of a larger bench by a two-judge bench of the Apex Court by its order dated 17.09.2024 in S.L.P. (C) No(s).21111/2024.

16. Having considered the contentions advanced, we notice that Section 13 of the Commercial Courts Act provides a period of 60 days as the period during which an appeal can be filed from an order of the Commercial Court to this Court. Even if the provisions of the CPC are taken into account, the time provided to file an appeal to the High



Court from a decree or order of the District Court would be 90 days. In ***Borse Bros. Engineers & Contractors (P) Ltd.,***'s case (supra), the Apex Court considered the contentions, the parties as well as the earlier judgments of the Apex Court and found that if the dispute is a commercial dispute, then the time for filing an appeal would be 60 days. We notice that in the affidavit initially filed in support of the application for condonation of delay and in the additional affidavit, the contentions raised are more or less similar. It is stated that the judgment of the Commercial Court was rendered on 29.11.2021 and that the *suo motu* extension of limitation period by the Apex Court ended on 28.02.2022. It is therefore admitted that the appeal was required to be filed on or before 30.05.2022. Even if the said contention is accepted, it is clear that the delay can be condoned only on sufficient cause being shown.

17. Thereafter, even if the contention of the appellant that limitation stood extended till 28.02.2022 is



accepted, the appellant's had ample time to file an appeal within the period of limitation. However, they chose not to do so. Thereafter, the affidavit filed in support of the application-I.A.No.1/2022 for condonation of delay; does not disclose any sufficient cause for condonation of the delay. The only reason that we find for the delay in filing the appeal from a reading of the application for condonation is official lethargy.

18. The learned senior counsel appearing for the appellant submits that there are serious contentions to be raised in the appeal and that the public funds will be put in *jeopardy* if the delay is not condoned and the appeal is not considered on merits. We are of the opinion that the said aspect was one which should have gained the attention of the responsible persons who admittedly had full knowledge about the dismissal of Section 34 application.

19. The Apex Court in the case of ***State of Uttar Pradesh v. Satish Chand Shivhare and Brothers*** reported in ***2022 SCC OnLine SC 2151***, after considering



the extensive precedents, has clearly held that the law of limitation binds everybody including the Government and the usual explanation, red tapism, pushing of files and the rigmarole of procedures cannot be accepted as sufficient cause for condonation of delay. The same view has been reiterated in several judgments:-

- ***Inder Singh v. The State of Madhya Pradesh*** reported in **2025 SCC OnLine SC 600**;
- ***Office of the Chief Post Master General and others v. Living Media India and another*** reported in **(2012) 3 SCC 563**;
- ***State of Madhya Pradesh and others v. Bherulal*** reported in **(2020) 10 SCC 654**;
- ***State of Haryana v. Chandra Mani and others*** reported in **(1996) 3 SCC 132**; and
- ***Special Tehsildar, Land Acquisition, Kerala v. K.V. Ayisumma*** reported in **(1996) 10 SCC 634**.

20. We are of the clear opinion that the competent officers of the appellant who were fully aware of the time limit should have applied their minds in time and made sure that the appeals were filed within time or at least within a reasonable time thereafter. The lethargy on the



part of the officials cannot be a ground for extending the time for filing an appeal and will definitely not be a good ground or a sufficient cause for condoning the delay. We are of the opinion that no good grounds have been made out for condoning the delay. The application-I.A.No.1/2022 is therefore *dismissed*. Consequently, the appeal shall also stand ***dismissed***.

Pending interlocutory applications, if any, shall stand *disposed of*.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**