

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Miscellaneous Appeal No. 1998/2022

Jaipur City Transport Services Ltd.

----Appellant

Versus

M/s Harish Transport Company

----Respondent

For Appellant(s) : Mr. Sandeep Pathak with
Mr. Arnav Singh

HON'BLE MR. JUSTICE PANKAJ BHANDARI
HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Order

18/09/2024

The matter comes up on an application filed by the appellant under Section 5 of Limitation Act for condonation of delay in filing the appeal.

For the grounds mentioned in the application filed under Section 5 of Limitation Act, application is allowed and delay in filing the appeal is condoned.

Heard on the stay application.

It is contended by counsel for the appellant that Commercial Court has dismissed the application under Section 34 of the Arbitration and Conciliation Act filed by the appellant only on the ground that the award cannot be modified in view of the judgment of the Apex Court in *NHAI Vs. M. Hakeem & Another: (2021) 9 SCC 1*.

It is also contended that Supreme Court in *Larseen Air Conditioning and Refrigeration Company Vs. Union of India and*

Others: **2023 SCC OnLine SC 982** has held that an award can be partially or wholly set aside.

We have considered the arguments.

Present is a case where the award was passed on 13.11.2017 for the amount to the tune of Rs.4,35,59,283/- along with interest @ 12% per annum from 01.02.2017.

Call for the record.

Issue notice to the respondent of the appeal as well as stay application through ordinary process as well as by registered post. Rule is made returnable by six weeks.

In the meantime, operation of the judgment and order dated 28.03.2022 passed by learned Commercial Court No.3 Jaipur Metropolitan-II, Jaipur in Civil Case No.56/2019 (CIS No.319/2019) titled as Jaipur City Transport Services Limited Vs. Harish Transport Company and Award dated 13.11.2017 passed by learned Arbitrator shall remain stayed. However, if the appellant does not deposit a sum of Rs.4,35,59,283/- with the Commercial Court within a period of four weeks, the Court can proceed with the execution.

List this matter after six weeks.

(PRAVEER BHATNAGAR),J

(PANKAJ BHANDARI),J