

beyond the limitation of three months prescribed in

Section 34 of the 1996 Act.

An application for

condonation of delay was made on August 27, 2007.

The High Court did not condone the delay and

consequently, rejected the petition filed

under

Section 34 of the 1996 Act as time barred.

This

order of the High Court

is impugned in the present

special leave petition.

Section 34(3) of the 1996 Act prescribes

limitation of three months for filing objections

against the arbitral award.

The proviso that

follows sub-section 3 of Section 34

enables the

Court on its satisfaction that the applicant was

prevented by sufficient

cause from

making the

application within three months to entertain the

application within a further period of

30 days but

not thereafter.

In other words, the court has

discretion to condone delay of 30 days beyond the

period of three months in filing objections under

Section 34 of the 1996 Act for setting aside the

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arbitral award and for no further period.

Admittedly, the petitioner filed petition

under Section 34 of the 1996 Act on August 3, 2007.

The arbitral award dated April 16, 2007 was

received by it on April 18, 2007. The petition

was apparently filed beyond three months of the

receipt of the arbitral award unaccompanied by any

application for condonation of delay.

The

application for condonation of delay was made on

August 27, 2007 much beyond 30 days after expiry of

three months from the date of receipt of the

arbitral award.

In the application for condonation

of delay which was filed on August 27, 2007, it

has been stated that Ms. Gita Mehrotra, Advocate was asked in the month of June, 2007 to file objections (petition) against the award dated April 16, 2007. Ms. Gita Mehrotra was in personal difficulty and she had to remain out of Delhi during the month of June and July, 2007. She showed her inability to file objections against the award and her clerk could not return the file as the same were lying at her house. MCD then appointed Amita Gupta & Associates as its Advocates on July 16, 2007 for filing objections. The files were collected from Ms. Gita Mehrotra on July 30,

2007 and the petition³ under Section 34 of the Arbitration Act came to be filed on August 3, 2007.

In the first place, the application seeking condonation of delay in filing the petition under Section 34 of the 1996 Act was never filed within 30 days of expiry of three months from the date of receipt of the arbitral award. Secondly, and equally important, although it has been stated that Ms. Gita Mehrotra was engaged to file objections against the award and she was in personal difficulty and had to remain out of Delhi during the month of June and July, 2007 and she showed her inability to file objections against the award and her clerk could not return the file, there is neither affidavit of Ms. Gita Mehrotra nor her clerk in support of these facts.

In view of the above, we are satisfied that the consideration of the matter by the High Court can not be said to suffer from any error of law justifying our interference under Article 136 of the Constitution of India.

The Special Leave Petition is, accordingly,
dismissed.

(Sonia)
Sr. P.A.

(Renu Diwan)
Court Master