

2025:PHHC:131769-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

2+23

CM-110-FCARB-2025 in/and
FAO-24-2024 (O&M)
Reserved on: 25.08.2025
Pronounced on : 23.09.2025

Union of India through Chief Engineer and others

...Appellants

Versus

M/s Ram Avtar Gupta

...Respondent

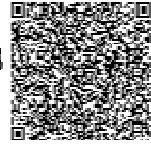
**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Ashish Chaudhary, Advocate for the appellants.

Mr. Wazir Singh, Advocate for the applicant/respondent.

VIKAS SURI, J.

1. The challenge in the present appeal is to the order dated 21.02.2024 passed by the learned Additional District Judge-cum-Presiding Judge, Exclusive Commercial Court at Gurugram, exercising jurisdiction under the Commercial Courts Act, 2015 (hereinafter referred to as 'the Commercial Courts Act'), whereby two applications, one under Order 7 Rule 11 read with Section 151 of the Code of Civil Procedure, 1908 (for short 'CPC') and the other application under Section 14 and Section 5 of the Limitation Act, 1963, were disposed of by a common order. The former application has been allowed whereas the latter has been dismissed.



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2. Learned counsel for the appellants submits that an Arbitral Award dated 03.08.2019 came to be passed by the sole Arbitrator, arising from agreement No.17/EE/KCD/2010-11, regarding shed for 200 (150+50) milch animal with automatic feeding, cleaning, milking and data recording system at CIRB Hisar, including internal electrical installation.

2.1 The appellants moved an application before the Court of learned District Judge, Karnal under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Arbitration Act') for setting aside of the arbitral award dated 03.08.2019 (supra). The said objection petition was opposed by the respondent-contractor. The learned Additional District Judge, Karnal, vide order dated 03.07.2023 (Annexure A-3), ordered return of the objections under Section 34 of the Arbitration Act, for want of territorial jurisdiction.

2.2 The appellants, after receipt of the original objection petition on 01.09.2023, presented the same before the Commercial Court at Gurugram on 11.09.2023. On re-filing the objection petition under Section 34 of the Arbitration Act, the same has been contested by the respondent-contractor by filing reply, wherein certain preliminary objections have been raised.

2.3 The main bone of contention being that re-filing of the supra objections before the Commercial Court at Gurugram was beyond the prescribed limitation and hence, the same were barred by law. On the same lines, an application under Order 7 Rule 11 CPC was also filed stating that the petition was liable to be rejected. The appellants filed reply to the said application and thereafter, moved an application under

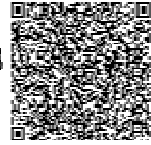


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Section 14 and Section 5 of the Limitation Act, 1963 (for short 'the Limitation Act') stating that the objection petition under Section 34 of the Arbitration Act was returned by the learned Court at Karnal, for want of jurisdiction, thus, prayer was for exclusion of the time consumed in the said proceedings, while computing the period of limitation for re-filing the said objection petition before the competent Court at Gurugram.

2.4 It is further the case of the appellants that on the same date, the execution petition with similar cause title was also pending before the said Court at Karnal. The clerk of the counsel of the appellants came to know about the date of the case, having been adjourned to 02.08.2023. When the counsel for the appellants appeared on the said date, it transpired that the objection petition had already been ordered to be returned for presentation to the competent Court at Gurugram having jurisdiction in the matter, vide order dated 03.07.2023. Copy of the order dated 03.07.2023 was obtained on the same day and the Additional Solicitor General of India was approached with the request to mark the matter to the Central Government Standing Counsel before this Court. The record of the case was handed over to the appointed counsel on 16.08.2023, who vide his opinion dated 26.08.2023, sent by e-mail, advised to present the matter before the learned District Judge, Gurugram, in terms of order dated 03.07.2023.

2.5 Thereafter, Additional Solicitor General of India was again approached, who marked the case to the Standing Government Counsel at District Gurugram, vide e-mail dated 28.08.2023. The entire record was handed over to the said counsel, who re-filed the objection petition under



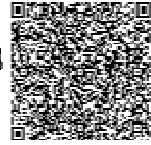
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Section 34 of the Arbitration Act before the competent Court at Gurugram, on 11.09.2023. It is, thus, pleaded that the time spent before the Courts at Karnal, which did not have jurisdiction, be excluded under Section 14 of the Limitation Act and the delay, if any, be condoned under Section 5 of the Act *ibid*.

2.6 The aforesaid application, *inter alia*, seeking condonation of delay, was contested by the respondent by filing reply, wherein certain preliminary objections have been raised regarding maintainability of the application. It is pleaded that the appellants have filed the petition under Section 34 of the Arbitration Act before the Court concerned at Gurugram after a delay of 1413 days from the date of passing of the award, i.e. 03.08.2019 and hence, cannot be permitted to avail benefit of Sections 14 and 5 of the Limitation Act.

2.7 The learned Additional District Judge, Karnal, after considering the pleadings and the rival contentions raised by both the parties, dismissed the application under Sections 14 and 5 of the Limitation Act and accordingly, partly accepted the application under Order 7 Rule 11 CPC for rejection of the petition, vide impugned order dated 21.02.2024.

3. Learned counsel for the appellants has strenuously contended that the principles enshrined under Section 14 of the Limitation Act can be applied even when Section 5 of the said Act is not applicable. Reliance is placed upon the decision of the Hon'ble Supreme Court in ***M.P. Steel Corporation vs. Commissioner of Central Excise*, 2015(3) RCR (Civil) 965**. Learned counsel for the appellants would further refer to the



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averments made in the application under Section 14 and Section 5 of the Limitation Act to contend that on coming to know on 02.08.2023, of passing of the order dated 03.07.2023, whereby the objection petition was ordered to be returned for being presented before the Court of competent jurisdiction, the matter was immediately taken up with the learned Additional Solicitor General of India, who marked it to the Central Government Standing Counsel. The record of the case was handed over to the said counsel on 16.08.2023 and vide e-mail dated 26.08.2023, an opinion was received to present the matter before the learned District Judge, Gurugram as per the order dated 03.07.2023. The said opinion was accepted and acted upon and the Additional Solicitor General was again approached vide e-mail dated 26.08.2023 for assigning the matter to the Standing Government Counsel, District Gurugram. The matter was, thereafter, entrusted to the Standing Government Counsel before the District Court, Gurugram, vide e-mail dated 28.08.2023 and the record was handed over to the said counsel, who re-filed the objection petition on 11.09.2023. Thus, there is no delay on the part of the appellants.

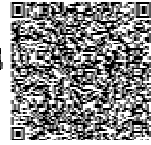
3.1 It is further contended on behalf of the appellants that the limitation period under the Arbitration Act is condonable. Reference is made to the decision in ***Government of Maharashtra (Water Resources Department) represented by Executive Engineer vs. M/s Borse Brothers Engineers & Contractors Pvt. Ltd***, reported in (2021) 6 SCC 460.

4. Per contra, learned counsel for the respondent has defended the impugned order dated 21.02.2024. It is strongly refuted that Section 5 as well as Section 14 of the Limitation Act are not applicable beyond the



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‘prescribed period’ of limitation for making an application seeking setting aside an arbitral award. Reliance is placed upon the decisions of Coordinate Benches rendered in FAO-CARB-39-2018 decided on 23.10.2018 titled as *M/s Gurgaon Packaging Pvt. Ltd. and another vs. M/s Scholastic India Pvt. Ltd.*, 2018:PHHC:122310-DB and in FAO-CARB-29-2022 titled as *State of Punjab vs. Makhan Lal and another*, reported in 2023(1) PLR 171. It is submitted that in both the aforesaid decisions, the law settled by the Hon’ble Supreme Court in *M/s Simplex Infrastructure Ltd. vs. Union of India*, reported in (2019) 2 SCC 455 and in *Union of India vs. M/s Popular Construction Co.*, reported in (2001) 8 SCC 470, has been applied and followed. It is further submitted that though the objection petition under Section 34 of the Arbitration Act was initially filed within the prescribed period of limitation of three months, but before a Court that did not have jurisdiction, i.e. the Court at Karnal. The objection petition was correctly ordered to be returned, vide order dated 03.07.2023. The said petition was presented before the Court of competent jurisdiction at Gurugram, only on 11.09.2023. Therefore, after expiry of the period of three months, which at best could have been extended by the Court in exercise of its judicial discretion by another 30 days, the objection petition was time barred and has been rightly rejected by the Court concerned. It is further submitted that there is no infirmity in the impugned order dated 21.02.2024, passed by the learned Additional District Judge-cum-Presiding Judge, Exclusive Commercial Court at Gurugram, exercising jurisdiction under the Commercial Courts Act.



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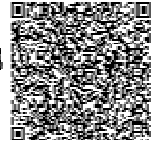
5. We have heard learned counsel for the parties and perused the record with their able assistance.

6. The factual aspect is not in dispute. Admittedly, the award published on 03.08.2019 was received by the appellants/objector on 06.08.2019 and the objection petition was filed before the learned District Judge, Karnal, within the prescribed period of limitation under Section 34 of the Arbitration Act. It is also conceded that the said petition was ordered to be returned vide order dated 03.07.2023, which was collected from the Court concerned at Karnal on 01.09.2023 and re-filed before the competent Court at Gurugram, on 11.09.2023.

7. The questions that arise in the present case for consideration are (i) whether in the peculiar facts and circumstances of the present case, the appellants are entitled to exclusion of time during which they have been prosecuting the objection petition under Section 34 of the Arbitration Act before the Court at Karnal, which Court was not able to entertain it for want of territorial jurisdiction; and (ii) whether Section 5 of the Limitation Act would apply to the period of 30 days prescribed under the proviso to Section 34 (3) of the Arbitration Act.

8. To appreciate the issue arising in the present appeal in its correct perspective, it would be necessary to refer to the provision that prescribes the period of limitation regarding the objection petition under Section 34 of the Arbitration Act, as well as the interplay of the two statutes involved, i.e. the special law *vis a vis* the general law, *viz.* the Arbitration Act and the Limitation Act.

8.1. Section 34 of the Arbitration Act, reads as thus:-



34. Application for setting aside arbitral award.—(1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3).

(2) x x x x x

(2A) x x x x

(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.

9. A perusal of the aforesaid provision would show that the period of limitation prescribed for making an application for setting aside the award under Section 34 of the Arbitration Act is three months. The proviso to Section 34 (3) carves out an exception that on the applicant showing sufficient cause for not making the application within the said period of three months, the Court on being satisfied of the aforesaid, may entertain the application within a further period of 30 days, but not thereafter.

9.1 Section 14 of the Limitation Act provides that in computing the period of limitation for any suit, the time during which the applicant has been prosecuting with due diligence another civil proceeding shall be excluded, where the proceedings relates to the same matter in issue and is



prosecuted in good faith in a Court, which is unable to entertain it for want of jurisdiction or other cause of a like nature.

10. A similar issue, regarding the interplay of the limitation provided under sub-section 3 of Section 34 of the Arbitration Act and the applicability of Section 4 of the Limitation Act, was considered by the Hon'ble Supreme Court in **Civil Appeal No.2014 of 2006** decided on 19.01.2012 titled as ***Assam Urban Water Supply and Sewerage Board vs. Subash Projects and Marketing Limited***, reported in (2012) 2 SCC 624.

The relevant portion of the said judgment reads as thus:-

“11. The question, therefore, that falls for our determination is whether the appellants are entitled to extension of time under Section 4 of the 1963 Act in the above facts?

12. Section 4 of the 1963 Act reads as under:

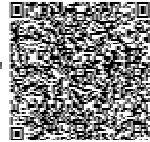
“4. *Expiry of prescribed period when court is closed.*—Where the prescribed period for any suit, appeal or application expires on a day when the court is closed, the suit, appeal or application may be instituted, preferred or made on the day when the court reopens.

Explanation.—A court shall be deemed to be closed on any day within the meaning of this section if during any part of its normal working hours it remains closed on that day.”

The above section enables a party to institute a suit, prefer an appeal or make an application on the day the court reopens where the prescribed period for any suit, appeal or application expires on the day when the court is closed.

13. The crucial words in Section 4 of the 1963 Act are “prescribed period”. What is the meaning of these words?

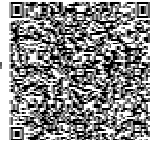
14. Section 2(j) of the 1963 Act defines:



“2. (j) ‘period of limitation’ [which] means the period of limitation prescribed for any suit, appeal or application by the Schedule, and ‘prescribed period’ means the period of limitation computed in accordance with the provisions of this Act;”

Section 2(j) of the 1963 Act when read in the context of Section 34(3) of the 1996 Act, it becomes amply clear that the prescribed period for making an application for setting aside an arbitral award is three months. The period of 30 days mentioned in the proviso that follows sub-section (3) of Section 34 of the 1996 Act is not the “period of limitation” and, therefore, not the “prescribed period” for the purposes of making the application for setting aside the arbitral award. The period of 30 days beyond three months which the court may extend on sufficient cause being shown under the proviso appended to sub-section (3) of Section 34 of the 1996 Act being not the “period of limitation” or, in other words, the “prescribed period”, in our opinion, Section 4 of the 1963 Act is not, at all, attracted to the facts of the present case.”

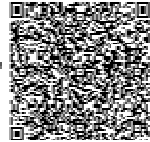
11. It is trite law that the provisions of “special law” would prevail over those under the “general law”. It is notable that the period of limitation to file an application under Section 34 of the Arbitration Act is prescribed in that provision itself and being special limitation, it would override the general limitation under the Limitation Act. The proviso to Section 34 (3) of the Arbitration Act is worded in a manner, which expressly prohibits grant of any further time than that which is specified in the said proviso, itself. It is undisputable that the Arbitration Act is a special law and Section 34 of the Arbitration Act provides for a period of limitation different from that prescribed under the Limitation Act. Section 29 (2) of the Limitation Act further provides that where any special or



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local law prescribes a period of limitation different from the period prescribed by the schedule to the Limitation Act, the provisions of Section 3, prescribing the bar of limitation, are to apply as if such period were the “period prescribed” by the schedule and for the purposes of determining the period of limitation by any special or local law, the provisions contained in Sections 4 to 24 (inclusive) shall apply only insofar as and to the extent to which, they are not expressly excluded by such special or local law. As already noticed hereinabove, the proviso to Section 34 (3) of the Arbitration Act creates a restriction on entertaining a petition under Section 34 of the Act *ibid*, beyond a period of 30 days after the expiry of the prescribed period of three months. Meaning thereby that the delay in filing the objection petition under Section 34 of the Arbitration Act, after the stipulated period of three months and further 30 days allowed on sufficient cause being shown to the Court, cannot be extended any further. Therefore, on account of the applicability of the provision of Section 29 (2) of the Limitation Act in the present situation, the provisions contained in Sections 4 to 24 of the Limitation Act shall not apply to the period beyond that prescribed under the main provision of Section 34 (3) of the Arbitration Act, i.e. after expiry of three months. Thus, the benefit of Section 14 of the Limitation Act would not be available to the appellants, after the expiry of the prescribed period of limitation, i.e. three months.

12. The Hon’ble Supreme Court, in the decision rendered in ***Popular Construction Company’s case*** (supra), held that Section 5 of the Limitation Act is not applicable to the proceedings under Section 34 of the Arbitration Act for setting aside arbitral award. The words “but not



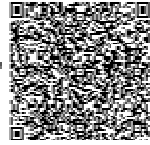
thereafter” in proviso to sub-section 3 amount to an express exclusion within the meaning of Section 29 (2) of the Limitation Act. The relevant portion of the said judgment is reproduced hereunder:-

“12. As far as the language of Section 34 of the 1996 Act is concerned, the crucial words are “but not thereafter” used in the proviso to sub-section (3). In our opinion, this phrase would amount to an express exclusion within the meaning of Section 29(2) of the Limitation Act, and would therefore bar the application of Section 5 of that Act. Parliament did not need to go further. To hold that the court could entertain an application to set aside the award beyond the extended period under the proviso, would render the phrase “but not thereafter” wholly otiose. No principle of interpretation would justify such a result.

13. Apart from the language, “express exclusion” may follow from the scheme and object of the special or local law:

“[E]ven in a case where the special law does not exclude the provisions of Sections 4 to 24 of the Limitation Act by an express reference, it would nonetheless be open to the court to examine whether and to what extent the nature of those provisions or the nature of the subject-matter and scheme of the special law exclude their operation.”

14. Here the history and scheme of the 1996 Act support the conclusion that the time-limit prescribed under Section 34 to challenge an award is absolute and unextendible by court under Section 5 of the Limitation Act. The Arbitration and Conciliation Bill, 1995 which preceded the 1996 Act stated as one of its main objectives the need “to minimise the supervisory role of courts in the arbitral process” [Para 4(v) of the Statement of Objects and Reasons of the Arbitration and Conciliation Act, 1996]. This objective has found expression in Section 5 of



the Act which prescribes the extent of judicial intervention in no uncertain terms:

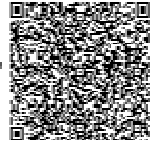
“5. *Extent of judicial intervention.*— Notwithstanding anything contained in any other law for the time being in force, in matters governed by this Part, no judicial authority shall intervene except where so provided in this Part.”

15. The “Part” referred to in Section 5 is Part I of the 1996 Act which deals with domestic arbitrations. Section 34 is contained in Part I and is therefore subject to the sweep of the prohibition contained in Section 5 of the 1996 Act.

16. Furthermore, Section 34(1) itself provides that recourse to a court against an arbitral award may be made only by an application for setting aside such award “in accordance with” sub-section (2) and sub-section (3). Sub-section (2) relates to grounds for setting aside an award and is not relevant for our purposes. But an application filed beyond the period mentioned in Section 34, sub-section (3) would not be an application “in accordance with” that sub-section. Consequently by virtue of Section 34(1), recourse to the court against an arbitral award cannot be made beyond the period prescribed. The importance of the period fixed under Section 34 is emphasised by the provisions of Section 36 which provide that

“where the time for making an application to set aside the arbitral award under Section 34 has expired ... the award shall be enforced under the Code of Civil Procedure, 1908 in the same manner as if it were a decree of the court”.

This is a significant departure from the provisions of the Arbitration Act, 1940. Under the 1940 Act, after the time to set aside the award expired, the court was required to “proceed to pronounce judgment according to the award, and upon the judgment so pronounced a decree shall follow” (Section 17). Now the consequence of the time expiring under Section 34 of the 1996 Act is that the



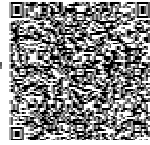
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award becomes immediately enforceable without any further act of the court. If there were any residual doubt on the interpretation of the language used in Section 34, the scheme of the 1996 Act would resolve the issue in favour of curtailment of the court's powers by the exclusion of the operation of Section 5 of the Limitation Act.”

The above reproduced part of the judgment shows that question (ii), formulated in paragraph 7 hereinabove, is no longer *res integra*, and stands authoritatively determined by the Apex Court.

13. The aforesaid view has been reiterated by a three judge-Bench of the Hon’ble Supreme Court in **Civil Appeal No.4028 of 2020** decided on 11.02.2021 titled as ***Chintels India Limited vs. Bhayana Builders Private Limited***, reported in (2021) 4 SCC 602, wherein it has been held that Section 5 of the Limitation Act does not apply to objections under Section 34 of the Arbitration Act. The relevant observations in para 11 of the said judgment read as thus:-

“11. A reading of Section 34(1) would make it clear that an application made to set aside an award has to be in accordance with both sub-sections (2) and (3). This would mean that such application would not only have to be within the limitation period prescribed by sub-section (3), but would then have to set out grounds under sub-sections (2) and/or (2-A) for setting aside such award. What follows from this is that the application itself must be within time, and if not within a period of three months, must be accompanied with an application for condonation of delay, provided it is within a further period of 30 days, this Court having made it clear that Section 5 of the Limitation Act, 1963 does not apply and that any delay beyond 120 days cannot be condoned.”



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14. In a recent judgment rendered by the Hon'ble Supreme Court in Civil Appeal No.336 of 2025 decided on 10.01.2025, titled as *My Preferred Transformation and Hospitality Private Limited and another vs. Faridabad Implements Private Limited*, reported in (2025) 6 SCC 481, the Hon'ble Supreme Court was examining the issue whether the benefit of the additional 30 days under the proviso to Section 34 (3) of the Arbitration Act, which expired during the vacation, can be given when the petition is filed immediately after reopening, in exercise of power under Section 4 of the Limitation Act. After noticing a plethora of judgments relevant to the issue, their Lordships of the Apex Court summarized the current position of law while highlighting certain concerns with the current legal position and their conclusion, as under:-

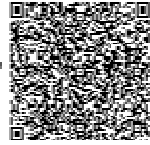
“Summarising the current position of law

40. From the reasoning and decisions in the above cases, the following conclusions evidently follow:

40.1. *First*, Section 4 of the Limitation Act applies to Section 34(3) of the ACA.

40.2. *Second*, Section 4 of the Limitation Act benefits a party only when the “prescribed period” i.e. the 3-month limitation period under Section 34(3) expires on a court holiday. In such a situation, the application under Section 34 will be considered as having been filed within the limitation period if it is filed on the next working day of the Court.

40.3. *Third*, Section 4 of the Limitation Act does not come to the aid of the party when the 3-month limitation period expires on a day when the Court was working. The 30-day condonable period expiring during the court holidays will not survive and neither Section 4, nor any other provision of the Limitation Act, will inure



to the benefit of the party to enable filing of the Section 34 application immediately after reopening.

40.4. *Fourth*, since Section 4 of the Limitation Act applies to proceedings under Section 34 of the ACA, the applicability of Section 10 of the GCA stands excluded in view of the express wording of its proviso that excludes the applicability of the provision when the Limitation Act applies.

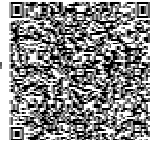
Highlighting certain concerns with the current legal position

41. Before parting with this judgment, we find it necessary to express certain difficulties with the current position of law. In our view, the above construction of limitation statutes is quite stringent and unduly curtails a remedy available to arbitrating parties to challenge the validity of an arbitral award. This must be addressed by Parliament.

41.1. The purpose of reading the Limitation Act alongside the ACA is not to restrict the special remedy under the ACA, but to enable exercise of such remedy in circumstances as contemplated under the Limitation Act. In this context, Section 29(2) of the Limitation Act becomes relevant as it incorporates Sections 4 to 24 of the Limitation Act in special statutes, including the ACA, to the extent that its provisions are not expressly excluded.

41.2. The language of Section 34(3) read with its proviso does not expressly or impliedly exclude Section 4 of the Limitation Act and this interpretation is in consonance with the important principle contemplated under Section 29(2) to protect rights and remedies. This Court has already recognised the applicability of Section 4 of the Limitation Act.

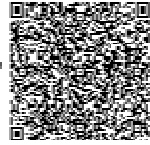
41.3. The substantive remedies available under Sections 34 and 37 of the ACA are, by their very nature, limited in their scope due to statutory prescription. It is therefore necessary to interpret the limitation provisions



liberally, or else even the limited window available to parties to challenge an arbitral award will be lost. The remedy under Section 34 is precious, and courts will keep in mind the need to secure and protect such remedy while applying limitation provisions. [*Kirpal Singh v. Union of India*, (2024) 19 SCC 401 : 2024 SCC OnLine SC 3814, para 10] If this limited remedy is denied on stringent principles of limitation, it will cause great prejudice and has the effect of (a) denying the remedy, and (b) in the long run, it will have the effect of dissuading contracting parties from seeking resolution of disputes through arbitration. This is against public policy.

41.4. However, the difficulty arises as the judgments affirming the applicability of Section 4 of the Limitation Act equate the expression “prescribed” in that section and Section 29(2) of the Limitation Act only with the main period of limitation (3 months). The problem with this construction is that the special law i.e. Section 34(3) of the ACA, along with its proviso does not prescribe the period of limitation in the manner that a period is specified in the Schedule to the Limitation Act. The statutorily prescribed period under Section 34(3) of the ACA is 3 months, and an additional 30 days. In our opinion, it will be wrong to confine the period of limitation to just 3 months by interpreting it as the “prescribed period” and excluding the balance 30 days under the proviso to Section 34(3) as not being the prescribed period through a process of interpretation.

41.5. The purpose of applying the Limitation Act to special laws is to vest in the court the power to exercise discretion or to grant the benefit of exclusion. In such cases, when the Limitation Act applies, the discretion of the court as contemplated under its provisions, commencing from Sections 4 to 24, must be given full effect. In this light, the additional period of 30 days specifically provided under the ACA loses its efficacy and



purpose, and becomes untenable due to the current position of law. This takes us to a fundamental question as to the meaning of “express exclusion” of certain provisions of the Limitation Act by the ACA. In *Popular Construction [Union of India v. Popular Construction Co., (2001) 8 SCC 470]*, the Court came to the conclusion that Section 34(3) proviso “impliedly”—as against the specific expression “expressly” in Section 29(2) of the Limitation Act—excludes Section 5 of the Limitation Act.

41.6. Once the Court commenced disapplying provisions of the Limitation Act to the ACA on the ground of implied exclusions, it is only a matter of interpretation to include or exclude provisions from Sections 4 to 24 of the Limitation Act on a case-to-case basis. Thus, for example, while the Court held that Sections 5 and 17 of the Limitation Act are excluded from Section 34(3), it came to the conclusion that Sections 4, 12, and 14 of the Limitation Act are applicable. In a way, the applicability of provisions from Sections 4 to 24 of the Limitation Act and the manner in which they apply are at the doorstep of the Court, rather than being determined by a clear and categorical statutory prescription. This is perhaps the reason why Parliament has used the expression “express exclusion” in Section 29(2) of the Limitation Act. We are conscious of the fact that it is too late in the day to hold that “express exclusion” will not include implied exclusion. It is for the legislature to take note of this position and bring about clarity and certainty. We say no more, for the overbearing intellectualisation of the Act by courts has become the bane of Indian arbitration.

Conclusion

42. For the reasons set forth above, the application preferred by the appellant under Section 34 of the ACA stands dismissed as it was filed beyond the condonable



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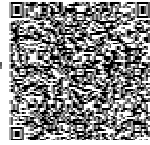
period of 30 days, which conclusively and absolutely expired on 28-6-2022.”

15. Learned counsel for the appellants has also raised an argument that the provisions of Section 14 of the Limitation Act would be applicable to the period of limitation provided under Section 34 (3) of the Arbitration Act, even if the same does not apply to the extended period of 30 days provided in the proviso to sub-section 3.

16. To examine the aforesaid argument, it would be gainful to notice a few dates, which are tabulated hereunder:-

1.	Date of passing of the impugned award by the Arbitrator	03.08.2019
2	Date of receipt of the arbitral award by the appellants/objector	06.08.2019
3.	Date of filing of petition under Section 34 of the Act at Karnal	24.10.2019
4.	The original period of limitation for filing the aforesaid petition expired on	02.11.2019
5.	Date of return of the petition by the Karnal Court	03.07.2023
6	Date of actually collecting the petition from the Karnal Court	01.09.2023
7.	Date of filing of the petition before Gurugram Court	11.09.2023
8.	Date of filing application U/o 7 Rule 11 CPC	06.11.2023
9.	Date of reply to the said application	29.11.2023
10.	Date of moving application under Sections 14 and 5 of the Limitation Act	07.12.2023
11.	Petition under Section 34 of the Arbitration Act remained pending at Karnal from 24.10.2019 to 30.07.2023	1344 days
12.	Total number of days from the date of publication of the arbitral award till date of re-filing the objection petition before the Gurugram Court, i.e. from 03.08.2019 to 19.09.2023 (4Y-01M-04D)	1494 days

17. A perusal of the aforesaid timelines would show that the objection petition was filed before the learned Court at Karnal on



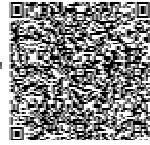
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24.10.2019, i.e. when 12 days were still remaining for the period of limitation prescribed under Section 34 of the Arbitration Act, to expire. It has already been held that the provisions contained in Sections 4 to 24 of the Limitation Act are not applicable to the proviso to Section 34 (3) of the Arbitration Act. Thus, even if the benefit of Section 14 of the Limitation Act is applied to the present case, the same would not be of any help to the appellants, as the delay, despite excluding the entire period of proceedings before the Court at Karnal, would still remain beyond the maximum period prescribed, i.e. beyond 30 days after the expiry of three months from the date of receipt of the arbitral award. For elucidation, even after excluding the period by granting the benefit under Section 14 of the Limitation Act, the delay would still remain of 150 days as depicted in the under calculation:-

$$1494 - 1344 = 150 \text{ days}$$

18. In the case at hand, keeping in view the settled legal position discussed hereinabove, there is no denial to the fact that the objection petition under Section 34 of the Arbitration Act was presented before the Court at Gurugram beyond the period of limitation prescribed under Section 34 (3), as well as beyond the further period of 30 days extendable in terms of the proviso to sub-section 3 of Section 34 of the Arbitration Act, and is thus time barred.

19. Learned counsel for the appellants has failed to point out any material on record to demonstrate that any steps were timely taken to collect the original petition from the Karnal Court, after passing of the order dated 03.07.2023 or even as per the case set up by them when the

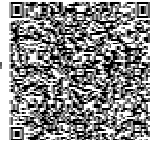


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said order came to their knowledge on 02.08.2023. The objection petition is stated to have been collected only on 01.09.2023. Even otherwise, in the light of the law recently laid down by the Hon'ble Supreme Court in **Special Leave to Petition (C) No.9580 of 2025** decided on 15.04.2025 titled as *Jharkhand Urja Utpadan Nigam Ltd. vs. Bharat Heavy Electrical Limited*, reported in **2025 SCC Online SC 910**, wherein it was held that the parties cannot indefinitely cause delay by citing non delivery of copy of judgment without proactive efforts to procure the same. The position with regard to collecting the original petition, on being ordered to be returned by the Court under Order 7 Rule 10 CPC would be no different. In the aforesaid decision, it was held as under:-

“14. Thus, when this Court in *Housing Board, Haryana* (supra) held that the limitation for challenging the same would begin from the date of such communication, the same would be applicable only where despite best of efforts at the end of the parties in procuring the order the same could not be obtained and thereby resulting in unavoidable delay in the filing of appeals. One of the core tenets of the law of limitation is to enthrone diligence amongst parties as to their rights. The law of limitation cannot be read in such a manner whereby parties stop showing any modicum of regard for their own rights and on the pre-text of untimely communication continue to litigate without being vigilante themselves.

15. Similarly, we find that the reliance by the appellants on the decision of *Sagufa Ahmed* (supra) is also misplaced. In the said case, this Court while considering Section 421 sub-section (3) of the Companies Act, 2013 held that the period of limitation prescribed therein would start running only from the date on which a copy of



the order is made available to the person aggrieved. However, yet again in the said case, the appellants therein had made some efforts to procure a certified copy of the order to be assailed during the period of limitation.

XXXXX

18. Thus, merely because Order XX Rule I enjoins a duty upon the commercial courts to provide the copies of the judgment that does not mean that the parties can shirk away all responsibility of endeavoring to procure the certified copies thereof in their own capacity. Any such interpretation would result in frustrating the very fundamental cannons of law of limitation and the salutary purpose of the Act, 2015 of ensuring timely disposals.”

20. Even before this Court and during the course of hearing, learned counsel for the appellants has failed to show that the appellants had made any proactive efforts to timely procure the original petition from the Karnal Court. Moreover, it was the bounden duty of the appellants to collect the said petition for being presented before the Court of competent jurisdiction, i.e. the Gurugram Court. Hence, the appellants can avail of no benefit on the ground that the original petition was actually collected on 01.09.2023, by which time, the petition had been rendered time barred, even if the period of proceedings before the Karnal Court is excluded by granting the benefit of Section 14 of the Limitation Act.

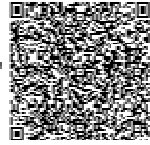
21. As an argument in despair, learned counsel for the appellants submits that in the case of re-filing, the aforesaid circumscription would not apply. Since the initial filing was within the period of limitation, as specified under Section 34 (3) of the Arbitration Act, the re-filing beyond



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the prescribed period cannot be treated as one in which the Court lacks jurisdiction to condone the delay. Reliance is placed upon the Division Bench decision of the Hon'ble High Court of Delhi in **FAO(OS) (COMM) 81/2020** decided on 19.12.2023 titled as ***Union of India vs. M/s Panacea Biotec Limited***, 2023:DHC:9474-DB. A careful reading of the said judgment would show that the said case was regarding re-filing of the Section 34 objection petition in the same Court, after removing the discrepancies pointed out by the Registry. In the case at hand, the factual position is much different. It is not a case of re-filing simpliciter before the same Court but re-presentation of the petition before the competent Court having jurisdiction in the matter. In the case of re-filing in this Court, the period for re-filing is specifically provided under the High Court Rules and Orders and as such, cannot be confused with presentation of the petition on being returned under the provision of Order 7 Rule 10 CPC, as in the present case. The decision in ***M/s Panacea Biotec's case*** (supra) is, as such, distinguishable on facts and not applicable to the case at hand.

22. Last but not the least, reliance of the appellants on ***M/s Borse Brothers' case*** (supra) is ill-founded. In the said decision, their Lordships of the Apex Court were examining the application of Section 5 of the Limitation Act to the Commercial Courts Act regarding the period of limitation for preferring an appeal under Section 13 (1-A) of the Act *ibid*. The provision providing for limitation under Section 34 (3) of the Arbitration Act is different from the one that was under consideration in



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the aforesaid decision and has been specifically noticed in para 34 of the said judgment. The relevant portion of the judgment reads as under:-

“32. Thus, from the scheme of the Arbitration Act as well as the aforesaid judgments, condonation of delay under Section 5 of the Limitation Act has to be seen in the context of the object of speedy resolution of disputes.

33. The bulk of appeals, however, to the appellate court under Section 37 of the Arbitration Act, are governed by Section 13 of the Commercial Courts Act. Sub-section (1-A) of Section 13 of the Commercial Courts Act provides the forum for appeals as well as the limitation period to be followed, Section 13 of the Commercial Courts Act being a special law as compared with the Limitation Act which is a general law, which follows from a reading of Section 29(2) of the Limitation Act. Section 13(1-A) of the Commercial Courts Act lays down a period of limitation of 60 days uniformly for all appeals that are preferred under Section 37 of the Arbitration Act.

34. The vexed question which faces us is whether, first and foremost, the application of Section 5 of the Limitation Act is excluded by the scheme of the Commercial Courts Act, as has been argued by Dr George. The first important thing to note is that Section 13(1-A) of the Commercial Courts Act does not contain any provision akin to Section 34(3) of the Arbitration Act. Section 13(1-A) of the Commercial Courts Act only provides for a limitation period of 60 days from the date of the judgment or order appealed against, without further going into whether delay beyond this period can or cannot be condoned.”

23. No other issue has been raised.



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24. In summa, learned counsel for the appellants has failed to point out any illegality or perversity in the impugned order or any binding precedent contrary to the ones noticed above.
25. Accordingly, the instant appeal being bereft of merit, is dismissed.
26. As the main appeal is being disposed of on merits, no separate orders are warranted in the application (CM-110-FCARB-2025) for vacation of stay, which is disposed of accordingly.
27. Pending miscellaneous applications, if any, also stand closed.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

23.09.2025
sumit.k

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No