



2026:DHC:1734



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment reserved on: 13.01.2026

Judgment pronounced on: 26.02.2026

+ O.M.P. (COMM) 452/2024, I.A. 43176/2024 (Stay), I.A. 43177/2024 (Delay of 25 days in filing the petition) & I.A. 45918/2024 (Dismissing the Petition challenging the impugned award as the same is barred by limitation)

UNION OF INDIA

.....Petitioner

Through: Dr. Monika Arora, Mr. Subhrdeep Saha, Mr. Prabhat Kumar, Ms. Anamika Thakur and Mr. Abhinav Verma, Advocates.

versus

M/S VARINDERA CONSTRUCTIONS LIMITED

.....Respondent

Through: Mr. Pradeep Chhindra, Mr. Parth Dhawan, Mr. Devarshi Mishra and Ms. Pratibha Rathi, Advocates.

+ OMP (ENF.) (COMM.) 208/2025

VARINDERA CONSTRUCTIONS LIMITED ...Decree Holder

Through: Mr. Pradeep Chhindra, Mr. Parth Dhawan, Mr. Devarshi Mishra and Ms. Pratibha Rathi, Advocates.

versus

UNION OF INDIA

.....Judgement Debtor

Through: Dr. Monika Arora, Mr. Subhrdeep Saha, Mr. Prabhat Kumar, Ms. Anamika Thakur and Mr. Abhinav Verma, Advocates.

CORAM:

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR



2026:DHC:1734



J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. The Objection Petition, being ***O.M.P. (COMM) 452/2024***, has been instituted under Section 34 of the **Arbitration and Conciliation Act, 1996¹**, seeking setting aside of the **Arbitral Award dated 02.05.2024, as subsequently amended/corrected vide Order dated 12.06.2024²**, rendered by the learned Sole Arbitrator in the disputes arising between M/s Varindera Constructions Limited and Union of India.

2. The Enforcement Petition, being ***O.M.P.(ENF.)(COMM.) 208/2025***, has been filed by the Award Holder (who is the Respondent in the Objection Petition) under Section 36 of the A&C Act, read with Order XXI and Section 151 of the **Code of Civil Procedure, 1908³**, seeking enforcement of the aforesaid Impugned Arbitral Award against the Award Debtor (who is the Petitioner in the Objection Petition).

3. For the sake of convenience and consistency, the ranks and references of the parties hereinafter shall be described as in the Objection Petition, unless the context otherwise requires.

I.A.-43177/2024 (delay 25 days in filing the present petition) in O.M.P. (COMM) 452/2024

I.A.-45918/2024 (dismissal of Petition U/S 34 of A&C Act) in O.M.P. (COMM) 452/2024

4. In the Objection Petition, a preliminary issue has arisen regarding delay in filing the said petition. The Petitioner, along with

¹ A&C Act

² Impugned Arbitral Award

³ CPC



2026:DHC:1734



the Petition, has filed **I.A. No. 43177/2024** seeking condonation of a delay of 25 days in filing of the Objection Petition.

5. The Respondent, on the other hand, has filed **I.A. No. 45918/2024** seeking dismissal of the Objection Petition on the ground of limitation.

6. In view of these competing applications, it has become necessary and expedient to determine the said applications at the threshold. Accordingly, prior to examining the challenge to the Impugned Arbitral Award on merits under Section 34 of the A&C Act, this Court considers it appropriate to first adjudicate upon the issue of condonation of delay and the objection regarding *non est* filing raised by the Respondent in the present Petition.

7. The determination of these preliminary objections goes to the very root of maintainability and shall decide whether the Objection Petition can be entertained on merits. The fate of the Objection Petition is therefore contingent upon the outcome of these applications, and consequently, the fate of the Enforcement Petition shall also abide by the determination thereof.

8. Before advertng to the aspect of limitation, it is necessary to briefly set out the factual background relevant to the present proceedings:

- (a) The Respondent is a public limited company engaged for over three decades in the business of execution of construction contracts and projects and has had a longstanding association with the **Military Engineer Services**⁴, whereas the Petitioner is

⁴ MES



2026:DHC:1734



an organisation under **the Ministry of Defence**⁵, Government of India, entrusted with the award of contracts for construction of married accommodation and allied infrastructure for personnel of the Defence Force.

- (b) A contract was entered into between the Parties under the *aegis* of the **Married Accommodation Project**⁶ for the execution of construction works as well as completion of incomplete dwelling units at a defence establishment at Meerut (East).
- (c) Upon disputes having arisen with regard to measurements, payments and alleged breaches, the Engineer-in-Chief's Branch, i.e. the departmental authority of the Respondent herein, *vide* letter dated 30.12.2022, appointed a Sole Arbitrator to adjudicate the claims.
- (d) Upon conclusion of the arbitral proceedings, the learned Sole Arbitrator rendered the Impugned Arbitral Award directing payment of a principal sum of ₹32.76 crores in favour of the Respondent, along with interest for the pre-reference period, *pendente lite* interest for the duration of the arbitral proceedings, and further future interest in terms of the Award.
- (e) The record reflects that the Petitioner initially instituted the Objection Petition under Section 34 of the A&C Act, challenging the Arbitral Award on 24.09.2024. Thereafter, on 18.10.2024, the Petitioner undertook a re-filing of the petition upon removal of objections. The matter was ultimately listed before this Court on 24.10.2024.

⁵ MoD

⁶ MAP



2026:DHC:1734



(f) The Respondent has, in this backdrop, raised a preliminary objection regarding the maintainability of the Section 34 Petition. It is contended that the initial filing was *non est* in the eyes of the law, as it did not comply with the minimum statutory requirements and procedural standards mandated for a valid filing. On this premise, it is argued that the Petition must be treated as having been instituted only upon the subsequent filing, which, according to the Respondent, falls beyond the period prescribed under Section 34(3) of the A&C Act, *namely*, three months from the date of receipt of the Award, extendable by a further condonable period of thirty days and no more.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

9. Learned counsel for the Petitioner would submit that the delay occasioned in filing the Objection Petition deserves to be condoned as the initial filing dated 24.09.2024 before this Court was rendered *non-est* owing to circumstances beyond the control of the Petitioner. It would be pointed out that the Impugned Arbitral Award dated 02.05.2024 itself recorded that the Award was drawn on stamp paper of ₹500 and that any additional stamp duty would be borne by the party filing the Impugned Arbitral Award before the Court. This recital, according to counsel, created genuine uncertainty within the department as to the stage and manner in which the original Award was to be filed.

10. Learned counsel would further contend that the Petitioner, being a governmental authority, was required to process the matter through several administrative channels, including the MES Legal Cell, the Finance Branch for sanction and procurement of requisite



2026:DHC:1734



stamp duty, and the office of the Director General, Married Accommodation Project. It would be urged that the time consumed in undertaking such procedural formalities constitutes sufficient cause within the meaning of Section 5 of the **Limitation Act, 1963**⁷, particularly when no *mala fides* are attributable to the Petitioner.

11. Learned counsel for the Petitioner would further contend that the Petitioner was under a *bona fide* belief that the filing of a signed copy of the said Arbitral Award would satisfy the requirement of law and that the original could be produced as and when directed by the Court, a practice which, according to the Petitioner, had been followed in several earlier matters before this Court.

12. It would be submitted that the defect, even if construed as rendering the filing *non-est*, is curable and ought not to defeat adjudication on merits, particularly when the Objection Petition raises jurisdictional issues going to the root of the Award, and it would be reiterated to emphasise on a justice-oriented approach where the delay stands duly explained.

13. Learned counsel for the Petitioner would also submit that the limitation for filing objections should be reckoned from the date when the Award became properly stamped and capable of being filed, and not from the date of mere receipt of the Arbitral Award. Until the Petitioner could comply with the stamping requirement indicated by the learned Arbitrator, the Award could also not be a document capable of valid presentation.

14. Learned counsel for the Petitioner would further contend that the plea of the Respondent that the filing of objections is “*non-est*” is

⁷ Limitation Act



2026:DHC:1734



misconceived. Reliance would be placed upon the Order dated 16.08.2024 passed by this Court in O.M.P. (COMM.) 490/2019 titled “**Union of India v. IDEB Projects Pvt. Ltd.**”, to submit that there exists no rigid or definitive yardstick under the High Court Rules to determine which defects would render an initial filing *non-est*, and that curable procedural deficiencies ought not to defeat substantive adjudication, particularly when a petition under Section 34 of the A&C Act embodies a valuable statutory right to assail the legality and validity of an arbitral award. The relevant portions of the said Order read as follows:

“14. Another principle that can be culled out from the aforementioned judgments are that the defects which are of a curable nature should be viewed less strictly vis-a-vis the defects which are incurable in nature.

15. To my mind, the endeavor of this Court should be that this valuable right available to a party is not curtailed by any hyper-technicalities and the effort should be to hear and decide the dispute on merits. The courts have powers to condone the delay beyond a period of three months by another period of 30 days under Section 34(3) of the Arbitration & Conciliation Act, 1996.

16. Admittedly, *vakalatnama* and the affidavit in the present case were not filed, however, whether the impugned Award was filed or not is not clear from the filing log, when the original filing was done.

17. Since, initially, the paper book comprised of 99 pages and the Arbitral Award dated 20.05.2019 was of 72 pages, it is possible that the objections when filed contained the Impugned Award of 72 pages and the objections could be of the balance 27 pages which subsequently, in re-filing may have increased.

18. Hence, I am of the view that the original filing was not non est filing and the delay is only on account of re-filing. I am inclined to give that benefit of doubt to the petitioner.”

SUBMISSIONS ON BEHALF OF THE RESPONDENT:

15. **Per contra**, learned counsel appearing for the Respondent would contend that the statutory scheme embodied under Section



2026:DHC:1734



34(3) of the A&C Act is mandatory in nature and circumscribes the period for filing objections to three months, extendable by a further period of thirty days and not thereafter. It would be contended that a petition presented without the Arbitral Award fails to satisfy the basic legal requirements and is, therefore, a nullity in the eyes of law; such a defective filing, according to the learned counsel, cannot be regarded as due institution of proceedings so as to arrest or save limitation.

16. Learned counsel for the Respondent would further contend that the Petitioner admittedly received the Arbitral Award on 02.05.2024 and the corrigendum thereto on 12.06.2024, whereas the Petition, accompanied by the original Award, effectively came to be filed only after expiry of the outer limit prescribed under Section 34(3).

17. It would also be urged that the plea of administrative processing or internal departmental approvals cannot override the clear legislative mandate governing limitation.

18. It would be contended that the recital in the Impugned Arbitral Award concerning payment of additional stamp duty does not postpone or defer commencement of limitation. According to learned counsel, the obligation to ensure proper stamping lies solely upon the party seeking to assail the Award, and any delay occasioned on that account is self-induced and cannot be pressed into service to seek condonation.

19. Learned counsel would further contend that the doctrine of *non-est* filing, as recognised in settled jurisprudence, squarely operates against the Petitioner in the present case. It would be submitted that once the initial filing is treated as *non-est* for want of compliance with mandatory requirements, there would, in effect, be no valid petition on



2026:DHC:1734



record within the prescribed period of limitation, and consequently, this Court would be rendered *functus officio* and lack jurisdiction to entertain the objections at a belated stage.

20. Learned counsel for the Respondent would submit that the considerations of equity or the plea of protection of public funds cannot confer jurisdiction upon the Court where the statute expressly prohibits extension of time beyond the limits prescribed. It would be contended that the mandate of Section 34(3) of the A&C Act admits of no relaxation on sympathetic grounds, and that the remedy of the Petitioner, if any, lies in appropriate proceedings elsewhere and not in seeking condonation in a manner contrary to the express provisions of law.

21. Learned counsel for the Respondent would place reliance upon the Order dated 11.03.2025 passed in FAO(OS)(COMM.) 54/2023 titled “***Ircon International Ltd. v. M/s PNC-Jain Construction Co. (JV)***”, to contend that non-filing of the Impugned Arbitral Award along with a petition under Section 34 of the A&C Act is not a mere technical defect but a mandatory pre-condition for maintainability. It would be urged that the Division Bench held that in the absence of the Award, the Court would be left without the necessary foundation to examine the grounds raised, and such filing must be treated as *non-est* in law, incapable of stopping the running of limitation under Section 34(3) of the Act.

22. Learned counsel would also rely upon the decision of the Full Bench of this Court in ***Pragati Construction Consultants v. Union of India***⁸, to submit that filing a copy of the Arbitral Award along with a

⁸ 2025 SCC Online Del 636



2026:DHC:1734



Section 34 petition is a substantive precondition for invoking the jurisdiction of the Court. It would be contended that the principles laid down therein squarely apply to the present case and demonstrate that the Objection Petition is not maintainable for want of valid and timely institution within the statutory period prescribed under Section 34(3) of the A&C Act.

ANALYSIS:

23. This Court has heard learned counsel for the parties at length and, with their able assistance, perused the pleadings, documents placed on record, and the applicable statutory provisions.

24. At the outset, this Court is required to examine whether the Petitioner has made out any “*sufficient cause*” for condonation of delay in filing the petition under Section 34 of the A&C Act, and whether the initial filing made by the Petitioner can be treated as a valid filing in the eyes of law or is liable to be regarded as *non-est*. These issues are foundational and would determine the very maintainability of the Objection Petition.

25. For the sake of convenience and clarity, the relevant chronology commencing from the date of passing of the Impugned Arbitral Award up to the date of listing of the present Petition before this Court is delineated hereunder:

<u>Date</u>	<u>Fact</u>	<u>Remarks</u>
02.05.2024	Arbitral Award passed.	The award was made in terms of the A&C Act.
31.05.2024	Application under Section 33(1) of the A&C Act	Sought correction of computation and typographical errors in the Arbitral Award dated 02.05.2024.



2026:DHC:1734



	preferred by the Respondent.	
12.06.2024	Arbitral Award stood corrected.	Date of commencement of the limitation period. [Limitation period commences from 13.06.2024 (after excluding the date of decision in terms of Section 12 of the Limitation Act) and ends on 13.09.2024]
13.09.2024	Completion of 3 (three) months period.	Limitation under Section 34(3) expires as on this date.
24.09.2024	Initial Filing of objections.	Filed beyond the statutory period of 3 months. On the said date, the filing was <i>non-est</i> in the eyes of law, inasmuch as, admittedly, the <i>Vakalatnama</i> , requisite court fee, proper pagination, attestation, and bookmarking had not been furnished along with the petition as filed. <u>Pertinent to note</u> - Total of 263 pages filed while, Award itself is of 256 pages. It is further to note that, <i>inter alia</i> , only 19 Pages of total 256 pages of the Award was filed.
14.10.2024	Completion of the 3 months and 30-days period	The outer limit under the proviso to Section 34(3) expires. <i>Note:-</i> The outer limit prescribed under the proviso to Section 34(3) of the A&C Act, stood exhausted. Although the thirty-day condonable period, calculated from 13.09.2024, would ordinarily expire on 13.10.2024, the said date being a day when the Court was closed, the limitation period stood extended by operation of Section 4 of the Limitation Act, to the next working day, i.e., 14.10.2024.
18.10.2024	First re-filing	Since substantial defects were cured on



2026:DHC:1734



	by the Petitioner. Substantial defects were cured with respect to filing of foundational documents	this date thereby the clock concerning the limitation stopped running from this date in terms of the judgment of Pragati Constructions v. UOI, 2025 SCC OnLine Del 636. By this date there has been total Delay of 04 Days - beyond 3 months 30 days. [Computed from 14.10.2024 to 18.10.2024]
22.10.2024	Curing all defects, finally, re-filing was done on this date and thereafter the matter was listed before this Court on 24.10.2024.	Since the filing came to be treated as having been effectively instituted on 18.10.2024, the Petitioner was entitled, in terms of Chapter IV Rule 3 of the Delhi High Court (Original Side) Rules, 2018⁹ , to a period of thirty (30) days to cure the remaining defects so as to remain within the permissible period for re-filing. It is noted that the defects were eventually cured within the said period. It is, however, clarified that the issue of delay in re-filing does not fall for consideration in the present adjudication.

26. At this juncture, this Court finds it apposite to reproduce Section 34(3) of the A&C Act, as the same is necessary for the proper adjudication of the present case:

“34. Application for setting aside arbitral award. -

(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

⁹ DHC (Original Side) Rules



2026:DHC:1734



the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.”

27. A bare perusal of Section 34(3) of the A&C Act leaves no manner of doubt that the limitation prescribed therein is strict in nature and admits of no elasticity. A challenge under Section 34 of A&C Act is required to be instituted within three months from the date of receipt of the Arbitral Award, with a limited discretion vested in the Court to extend the period by a further thirty days upon sufficient cause being shown, but in no circumstances beyond that statutory outer limit. The law in this regard has been succinctly laid down by this Court in **Employees State Insurance Corporation v. M/S Mukesh Associates**¹⁰, which reads as under:

“24. A plain reading of Section 34(3) of the A&C Act makes it abundantly clear that the period prescribed therein is mandatory and inflexible. An application for setting aside an arbitral award must be filed within three months from the date of receipt of the award, extendable by a further period of thirty days, but not thereafter. The law in this regard has been succinctly laid down by the Hon’ble Supreme Court in **Chintels India Ltd. v. Bhayana Builders Pvt. Ltd.**¹¹, which reads as follows:

“10. Sections 34(2) and (2-A) then sets out the grounds on which an arbitral award may be set aside. Section 34(3), which again is material for decision of the question raised in this appeal, reads as follows:

“34. (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

¹⁰ 2026:DHC:829

¹¹ 2021 SCC Online SC 80



application within a further period of thirty days, but not thereafter.”

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 — see **State of H.P. v. Himachal Techno Engineers** at para 5.”

(emphasis added)

25. The statutory timeline prescribed under Section 34 of the A&C Act has also been succinctly elucidated by the Gujarat High Court in **Manbhupinder Singh Atwal v. Neeraj Kumarpal Shah**¹², wherein it has been held as under:

“**30.** Reliance is placed on the decisions of the High Court of Delhi in **Delhi Development Authority v. Durga Construction Co. and Union of India v. Bharat Biotech International Ltd.** to argue that in both the matters, the Delhi High Court has taken note of the decisions rendered by the Apex Court in dealing with the question as to whether the High Court have jurisdiction to condone the delay under Section 34(3) of the Arbitration Act, 1996 after a period of 3 months plus 30 days. It was placed before us that the purpose of specifying an inelastic period of limitation under Section 34(3) of the Act would have to be borne in mind, which means that no application under Section 34 can be permitted to be instituted beyond 3 months plus a further period of 30 days, which extension is permissible subject to showing sufficient cause.

31. It was further submitted that the question before the Delhi High Court in **Durga Construction** was for condonation of delay of 166 days in re-filing the application under Section 34 of the Act' 1996. In the said case, on the application filed under Section 34 on 24.07.2009, initially with the delay of 17 days, the registry

¹² 2025 SCC OnLine Guj 2200



of the Court raised certain objections and papers were returned under objections on the same date. The said application under Section 34 was then refiled on 24.08.2009 when it was again returned due to certain objections. Upon re-filing, on 22.12.2009 again, the registry raised certain office objections and returned the same. Ultimately, the application under Section 34 was finally re-filed on 06.01.2010 after removing all office objections. Thus, the question of condonation of the period of 166 days in re-filing of the application under Section 34 was the subject matter of consideration before the Delhi High Court, which was beyond the inelastic limitation period prescribed in Section 34(3) of the Act' 1996.

32. The Delhi High Court upon reading of the Delhi High Court Rules has opined that in absence of any specific statute, although the courts would have the jurisdiction to condone the delay, but the approach in exercising such jurisdiction cannot be liberal and the conduct of the applicant will have to be tested on the anvil of whether the applicant acted with due diligence and dispatch. The applicant would have to show that the delay was on account of the reasons beyond the control of the applicant and could not be avoided despite all possible efforts by the applicant. It was opined that though the Court would have jurisdiction to condone the delay in re-filing, even if the period extends beyond the time specified in sub-section (3) of Section 34 of the Act, however, this jurisdiction is not to be exercised liberally considering the object of the Arbitration and Conciliation Act' 1996 to ensure that the arbitration proceedings are concluded expeditiously. The delay caused in re-filing cannot be permitted to frustrate the object of the Arbitration Act, 1996. In any case, the applicant/petitioner would have to satisfy the Court that it had persuaded the matter diligently and the delays were beyond his control and were unavoidable.

33. In another decision in **Bharat Biotech International Ltd.**, the question before the Delhi High Court was of condonation of delay in re-filing the applications under Sections 34 of the Arbitration and Conciliation Act, 1996. In the preliminary objections raised by the respondents therein, it was contended that the application when originally filed within the statutory period of limitation was merely a bunch of papers and could not be treated as being valid institution in the eyes of law. A complete and valid application under Section 34 was filed only beyond the date when the limitation period of 3 months and 30 days as prescribed under Section 34(3) of the Act had



already expired. The Delhi High Court while considering the rigours of the proviso to Section 34(3) and the decision of the Apex Court in ***Union of India v. Popular Construction Co.***, wherein it has been held that the Court cannot entertain an application to set aside an arbitral award beyond the extended period under the proviso to Section 34(3) of the Act, has concluded that the application for condonation of delay in re-filing the application under Section 34 beyond the time prescribed under Section 34(3) of the Act has to be considered in light of the object and purpose of the limitation prescribed under Section 34(3).

34. Considering its previous decision in *Durga Construction* of the Division Bench of the High Court of Delhi, it was noted therein that though the Court is empowered to condone the delay beyond the extended period of limitation of 3 months and 30 days, while considering the delay condonation application in re-filing an application under Section 34, but it is required for the party seeking the condonation to show that despite his diligence, the rectification of defects and re-filing could not be carried out within the limitation period, for the *bonafide* reasons beyond his control. It was noted that it is important for the Court to bear in mind the legislative intent for prescribing the statutory period of limitation under Section 34(3) of the Act ensuring expeditious disposal of the arbitration proceedings and preventing delay in implementation of the arbitral award by parties who would malafidely challenge the same. It was observed that a liberal approach while dealing with an application for condonation of delay in challenging the arbitral award would only endanger and frustrate the purpose for which the Arbitration Act was enacted. It was noted by the Delhi High Court that since the applicant therein had demonstrated alarmingly lackadaisical approach in complying with general filing practice and the statutory requirements under Section 34 of the Act' 1996, the delay in re-filing the petition under Section 34 could not be condoned being vague, unsubstantiated, insufficient and contrary to the records.”

28. At the outset, it is imperative to ascertain the point from which the period of limitation for preferring the present Petition against the Impugned Arbitral Award commenced.

29. As the Respondent had moved an application under Section



33(1) of the A&C Act seeking corrections of errors pertaining to computation and other typographical mistakes, the corrected Arbitral Award came to be passed by the Arbitrator on 12.06.2024. It is from this day that the limitation period of 3 months and 30 days started running.

30. It is pertinent to note that not every improper or defective filing is liable to be treated as *non-est*. The issue that, therefore, arises for consideration is whether an initial filing, though defective, is sufficient to arrest the running of limitation, or whether such filing ought to be regarded as *non-est*. While certain defects are curable and do not strike at the root of the filing, others may be of such a nature as to constitute fatal defects, thereby rendering the original filing incapable of being recognised in law. While Section 34 of the A&C Act itself does not specify a distinct procedure for filing an application to set aside an Arbitral Award, it clearly lays down the grounds on which such an application can be set out, which is extracted hereunder: -

“34. Application for setting aside arbitral award.—

- (2) An arbitral award may be set aside by the Court only if—
- (a) the party making the application furnishes proof that—
 - (i) a party was under some incapacity, or
 - (ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law for the time being in force; or
 - (iii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or
 - (iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration: Provided that, if the decisions on matters



submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside; or

(v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Part from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Part; or

(b) the Court finds that—

(i) the subject-matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or

(ii) the arbitral award is in conflict with the public policy of India.

[Explanation 1.—For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if,—

(i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81; or

(ii) it is in contravention with the fundamental policy of Indian law; or

(iii) it is in conflict with the most basic notions of morality or justice.

Explanation 2.—For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.]”

31. A Full Bench of this Court, in ***Pragati Constructions Consultants (supra)*** has laid down the minimum threshold requirement for an application to be valid as under Section 34 of the A&C Act to set aside an Arbitral Award. The said judgment also addresses the issue as to whether an initial filing, though defective, is sufficient to arrest the running of limitation, or whether such filing is liable to be treated as *non-est*. The relevant portions of the said judgment are reproduced hereinunder:

“77. In ***Planetcast Technologies Ltd. case***³, the court was considering an appeal against an order where a learned Single Judge had inter alia held that an application under Section 34 of the



A&C Act must be accompanied with at least a statement of truth, vakalatnama and the Award impugned, and in absence of all these vital documents, cumulatively, it can only be said that a “bunch of papers” has been filed. As far as the issue of non-filing of the statement of truth is concerned, the learned Single Judge discussed the same only to point out that even at the time of refiling of the application under Section 34 of the A&C Act, the statement of truth and other objections pointed out earlier had not been removed. The court, therefore, found that the delay in refiling was also unreasonable.

78. In appeal, the Division Bench placing reliance on the earlier judgment of this Court in *Jay Polychem (India) Ltd. case*⁶ and in *Sarvesh Security Services (P) Ltd. case*⁷ held that the affidavit of statement of truth is mandatorily required to be filed along with the petition in order to produce a document worth considering under the law.

79. As far as *Jay Polychem (India) Ltd. case*⁶ is concerned, the court was considering a petition under Section 34 of the A&C Act, which was neither signed on behalf of the petitioners therein, nor supported by signed and attested affidavits. It was in those facts that the court held that the application filed therein under Section 34 of the A&C Act was a non est filing. Similarly, in *Sarvesh Security Services (P) Ltd. case*⁷, the application filed under Section 34 of the A&C Act neither bore the signatures of the petitioner therein, nor was accompanied with an affidavit of the petitioner; and there was even no vakalatnama from the petitioner authorising the counsel to sign the same. Therefore, in view of the cumulative effect of all the defects in the application filed initially, it was declared as a non est filing. The view of the court in *Planetcast Technologies Ltd. case*³, that mere non-filing of the statement of truth would make the application filed under Section 34 of the A&C Act to be declared as a non est filing, therefore, is not correct.

81. Now we will enumerate the various judgments cited before us, to deal with them, as below.

82. In *Steel Strives Wheels Ltd. case*, the court was again considering an application wherein though the statement of truth was filed along with the application under Section 34 of the A&C Act, there were blanks, therein also the vakalatnama had not been properly executed. It was under these circumstances that the court found that the application under Section 34 of the A&C Act had been filed in “shoddy manner”. The court had also relied upon the judgment of the Division Bench of this Court in *Sai Rama Engg. Enterprises case*², which has been discussed by us hereinabove, as far as the issue on hand is concerned.

83. Similarly, in *SPML Infra Ltd. case*³⁵ also, the court was confronted with an application under Section 34 of the A&C Act



which was filed without a vakalatnama, a signed petition and a statement of truth. It was in those facts that the court held that the application filed was non est.

84. In *Indira Gandhi National Open University v. Sharat Das & Associates (P) Ltd.*⁴⁷ also, the court was confronted with an application filed under Section 34 of the A&C Act which contained only 29 pp. with blanks, it had no signatures of the petitioners or its authorised representative, and there was no vakalatnama filed authorising the advocate to file “the said bunch of papers”. So much so, the arbitral award was also not annexed. These led the court to hold that the filing of the application was “non est”.

85. In *Three C Universal Developers (P) Ltd. v. Horizon Crest India Real Estate*⁴⁸, a learned Single Judge of this Court held that the absence of supporting affidavit/statement of truth/vakalatnama is a fatal defect which has an effect on the application filed under Section 34 of the A&C Act to be declared as non est. Similar is the view of this Court in *Air India Ltd. case*²⁹.

86. In *Reacon Engineers (India) (P) Ltd. case*²⁴, the application filed under Section 34 of the A&C Act was not accompanied by a copy of the impugned award and other documents. Further, a statement of truth was also not filed. It was in those facts that the court held the application to be a non est filing.

87. Contrarily, in *Bajaj Electricals Ltd. case*³⁷ and *KNR Constructions case*³⁸, the learned Single Judge of this Court held that for an application filed under Section 34 of the A&C Act to be termed as “properly” filed, it must fulfil the basic parameters, such as, each page of the petition as well as the last page should be signed by the party and the advocate; vakalatnama should be signed by the parties and the advocates, and the statement of truth should be signed by the parties and attested by the Oath Commissioner. However, as we are not in agreement with the view expressed in either of the aforesaid judgments, we shall be dealing with the other ingredients, which have been described by the learned Single Judge as to be compulsory, hereinbelow separately.

94. Though not referred to us, however, as the learned counsels for the parties assisting us have made submissions on the various other defects, like the non-filing or defect in filing a vakalatnama, unsigned application under Section 34 of the A&C Act, substantive increase in pages for non-filing of the documents, changes made in the contents or grounds of the application at the time of refiling, or the application being without or with improper verification, or there being no court-fee filed or insufficient court-fee being filed at the time of initial filing of an application under Section 34 of the A&C Act, or there being blanks in any of the pleadings filed at the time of the initial filing, we shall briefly discuss these defects as well.”



2026:DHC:1734



32. From the principles enunciated in ***Pragati Construction Consultants (supra)***, the governing parameters for determining what constitutes a valid and proper filing may broadly be summarised as follows:

- (a). The petition must disclose specific grounds of challenge falling within the ambit of Section 34(2) of the A&C Act.
- (b). The application must be accompanied by the Impugned Arbitral Award, the absence of which constitutes a fatal defect, rendering the filing *non-est*.
- (c). The application must be intelligible and disclose a clear intention to invoke the jurisdiction of the Court under Section 34 of the A&C Act.
- (d). The filing must contain the material particulars, including the description of the parties, reference to the arbitral proceedings, and the Arbitral Award sought to be challenged.
- (e). The application must be duly signed and properly authorised, evidencing that it has been validly instituted by or on behalf of the Petitioner.

33. Hence, from the above, it can be definitely concluded that, in essence, the filing must not be merely perfunctory or illusory so as to indicate an attempt only to arrest the running of limitation.

34. This Court, having examined the record in its entirety, is constrained to observe that the filing dated 24.09.2024 did not constitute a valid invocation of jurisdiction under Section 34 of the A&C Act. The said presentation was admittedly bereft of foundational requirements, as noted above, including the complete Arbitral Award, duly executed affidavits, *Vakalatnama*, proper court fee and essential



2026:DHC:1734



procedural compliances, which are not mere technicalities but conditions precedent for a legally cognisable challenge.

35. In the considered opinion of this Court, it is well settled that a filing which lacks the minimum jurisdictional substratum cannot be permitted to assume the character of a valid institution in the eyes of law. A defective presentation, which fails to meet the foundational statutory requirements, does not amount to a proper filing so as to confer legal efficacy upon the proceedings. Consequently, this Court holds, as a matter of principle, that the initial filing dated 24.09.2024 in the present case was *non est* in the eyes of law and, therefore, incapable of arresting or extending the period of limitation prescribed under Section 34(3) of the A&C Act.

36. The record, however, indicates that on 18.10.2024, the Petitioner undertook the first substantial re-filing whereby the foundational defects rendering the petition *non-est* came to be cured. It is only at this stage that the complete Impugned Arbitral Award was placed on record, pleadings and applications were duly signed and dated, affidavits were filed and attested, and a *Vakalatnama* was furnished.

37. In terms of the principles emerging from ***Pragati Construction Consultants*** (*supra*) and the framework of Chapter IV Rule 3 of the DHC (Original Side) Rules, such curing of foundational defects may be treated as the stage where the clock of limitation ceases to run and the statutory period for re-filing becomes operative. Nevertheless, the significance of this date lies only in the context of re-filing; it does not retrospectively validate a filing that was *non-est* at inception.

38. Thus, the curing of foundational defects on 18.10.2024 occurred



2026:DHC:1734



beyond the jurisdictional window, resulting in a delay of four (04) days, calculated from 14.10.2024 to 18.10.2024. The subsequent valid filing on 22.10.2024 only accentuates the lapse, as by that date the Court had already been divested of jurisdiction to entertain the challenge.

39. As noted earlier, a careful scrutiny of the record further discloses that the initial filing of objections dated 24.09.2024 comprised only 263 pages and was returned by the Registry on the very same day owing to multiple material defects. It is significant to note that the Impugned Arbitral Award itself runs into 256 pages, while the corrigendum/order dated 12.06.2024 comprises an additional 5 pages. Despite this, only 19 pages of the Award were initially filed, rendering the filing manifestly incomplete and non-existent in eye of the law.

40. In contrast, the final objections subsequently placed on record by the Petitioner exceeded 3000 pages. The stark disparity in volume and content clearly indicates that no substantive or comprehensive challenge had been instituted within the prescribed period of limitation and that a substantially expanded and restructured petition came to be filed only at a later stage. Such an approach, in the considered opinion of this Court, cannot be permitted to dilute the discipline of limitation embodied under Section 34(3) of the A&C Act.

41. The reliance placed by the Petitioner on the decision in **IDEB Projects Pvt. Ltd.** (*supra*) is, in the opinion of this Court, misconceived. The factual matrix in the present case is materially distinguishable. The controversy herein concerns the very existence of



a valid initial filing, which has been held to be *non-est*, whereas the aforesaid decision dealt with a delay in re-filing of an otherwise validly instituted petition. The distinction between an invalid institution and delayed re-filing is neither cosmetic nor procedural but goes to the root of jurisdiction under Section 34(3) of the A&C Act. Consequently, the ratio of the said order does not advance the case of the Petitioner and is inapplicable to the facts of the present petition.

42. It is a trite law that delay cannot be condoned as a matter of generosity or benevolence. The quest for substantial justice cannot be permitted to eclipse the corresponding right of the opposing party to be free from undue prejudice occasioned by protracted and unexplained inaction. The law in this regard has been succinctly laid down in the case of ***Employees State Insurance Corporation*** (*supra*), which reads as under:

“41. This Court is conscious that refusal to condone delay may, in a given case, result in the foreclosure of a challenge on merits. However, in matters governed by Section 34 of the A&C Act, the Court does not sit as a court of equity, but as a court of limited statutory jurisdiction. The balance between fairness and finality has already been struck by the legislature. Once the statutory outer limit is crossed, considerations of hardship or perceived injustice cannot confer jurisdiction where none exists. Judicial sympathy cannot be permitted to supplant legislative mandate.

42. Permitting a petition, which is *ex facie* barred by limitation and founded upon a *non-est* filing, to be entertained would not only run contrary to the express language of Section 34(3) but would also undermine the sanctity of arbitral finality and open the floodgates to speculative and dilatory challenges. Such an approach would erode discipline in commercial litigation and defeat the very object of the Commercial Courts regime, which places a premium on procedural rigour and temporal certainty.”

43. In the present case, the Petitioner has failed to provide any reasonable or cogent explanation for the delay in pursuing their remedies. Moreover, a perusal of the Petition and documents on



2026:DHC:1734



record reveal a rather indolent approach by the Petitioner. The initial filing of only 263 pages as opposed to the final objections reaching over 3000 pages, leads this Court to conclude that the aforesaid initial filing was only done with the intent of stopping the limitation clock from running.

44. In view of the foregoing discussion, it is manifest that while, in certain cases, an initial filing, though partial, may escape being treated as a *non-est* filing, the same cannot be said in the peculiar facts of the present case. Owing to the fact that the initial filing was limited to only 263 pages and did not even have the entire Impugned Arbitral Award as a part of it or certain other vital documents, this Court is of the view that the initial filing of the Petition under Section 34 of the A&C Act, was a *non-est* filing in the eyes of the law, and did not have the effect of suspending the running of limitation.

45. Insofar as the issue of stamp duty, which is stated to have led to certain confusion at the administrative level, is concerned, this Court is of the considered opinion that the same constitutes a wholly untenable and frivolous explanation. The Petitioner, being a well-equipped Government authority with adequate legal and administrative machinery at its disposal, cannot be permitted to rely upon internal confusion or procedural uncertainty as a justification for non-compliance with statutory timelines. Such a plea, in any event, does not avail the Petitioner in the context of the strict limitation regime prescribed under law, nor can it operate to suspend, extend, or otherwise enlarge the period of limitation beyond what is expressly permissible.

46. The inevitable and unavoidable consequence, therefore, is that



2026:DHC:1734



the challenge mounted by the Petitioner under Section 34 of the A&C Act is *ex facie* barred by limitation and thereby not maintainable.

DECISION:

47. In view of the foregoing discussion, ***I.A. No. 43177/2024***, filed by the Petitioner seeking condonation of delay in instituting the Objection Petition, stands dismissed. Consequently, the Application preferred by the Respondent, being ***I.A. No. 45918/2024***, seeking dismissal of the petition under Section 34 of the A&C Act, is allowed.

I. O.M.P. (COMM) 452/2024

48. In consequence thereof, the Objection Petition, being ***O.M.P. (COMM) 452/2024***, stands dismissed as barred by limitation.

49. The petition, along with pending application(s), if any, stands disposed of in the above terms.

II. O.M.P.(ENF.)(COMM.) 208/2025

50. Insofar as the Enforcement Petition, being ***O.M.P.(ENF.)(COMM.) 208/2025***, is concerned, in view of the dismissal of the Objection Petition as recorded hereinabove, it shall now be listed for further proceedings in accordance with law.

51. It is noted that *vide* Order dated 24.11.2025 passed in ***I.A. No. 43176/2024*** in ***O.M.P.(COMM) 452/2024***, this Court had directed the Award Debtor to deposit the up-to-date awarded amount.

52. In the event such a deposit has not been made till date, the Award Debtor is directed to deposit the awarded amount in the present enforcement proceedings within a period of two weeks from today with the Registry of this Court.



2026:DHC:1734



53. List on 23.03.2026.

HARISH VAIDYANATHAN SHANKAR, J.
FEBRUARY 26, 2026/kr/sg