

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO.
1855 of 2026**

**In F/CIVIL REVISION APPLICATION/9948/2026
With**

**R/CIVIL APPLICATION NO. 1891 of 2026
In F/CIVIL REVISION APPLICATION NO. 10911 of 2026**

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE MAULIK J.SHELAT

Approved for Reporting	Yes	No
	√	

SARDAR SAROVAR NARMADA NIGAM LIMITED & ANR.

Versus

GKC PROJECTS LIMITED

Appearance:

MR MB GOHIL(2702) for the Applicant(s) No. 1,2

MR SN SOPARKAR, SENIOR ADVOCATE WITH PRITHVIRAJ GADHVI,
VINEET CHAUBEY & MR ARJUN R SHETH(7589) for the Respondent(s)
No. 1

CORAM:HONOURABLE MR. JUSTICE MAULIK J.SHELAT

**Date : 14/07/2026
COMMON JUDGMENT**

1. Heard Mr. M.B.Gohil, learned advocate for the applicants and Mr.S.N.Soparkar, learned Senior Counsel assisted by Mr.Arjun Sheth, learned advocate for the opponent.

1.1 The common issue arise in these batch of Civil Applications and accordingly, they are being heard together and decided by way of this common judgment.

2. These applications are filed under Section 5 of the Limitation Act seeking condonation of delay of more than



1400 days in filing the Civil Revision Applications under Section 12 of the Gujarat Public Works Contracts Disputes Arbitration Tribunal Act, 1992 (hereinafter referred to as “**the Act, 1992**”).

3. At the outset, Mr.S.N.Soparkar, learned Senior Counsel, has raised a preliminary objection about the maintainability of the aforesaid revision applications filed under Section 12 of the Act, 1992. According to Mr.Soparkar, learned Senior Counsel, the award passed by the arbitrator is not an award passed by the Tribunal under the Act, 1992 and in that view of the matter, the revision application filed under Section 12 of the Act, 1992 itself is not maintainable.

4. Since the maintainability of the revision applications are challenged in which these delay condonation applications are filed, I have allowed Mr.Soparkar, learned Senior Counsel, to make his submissions in support of his preliminary objection about the maintainability.

5. Mr. Soparkar, learned Senior Counsel, would submit that the opponent herein had approached the Tribunal constituted under the Act, 1992 by way of a statutory arbitration on 07/04/2015, but due to non-availability of a member in the Tribunal, the hearing of such arbitration was suspended for a quite long time and due to such reason, an application came to be filed by the opponent before Hon’ble Apex Court being M.A. No.18 of 2019 in Special Leave Petition (Civil) No.31650 of 2014, whereby it requested the Honourable Apex Court to appoint a sole arbitrator to



adjudicate the dispute between the parties. It is further submitted that the Honourable Apex Court vide its order dated 08/02/2019 passed in the said application appointed Hon'ble Mr. Justice C.K. Thakker (Former Judge, Supreme Court of India) as the Arbitrator who passed the award on 20/01/2022.

5.1 It is submitted that the award in question is required to be treated as an award passed by the arbitrator as per the provisions of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as **"the Act, 1996"**), which was subject to challenge under Section 34 before the competent court of law. It is further submitted that instead of challenging the award before the competent court of law, the applicant herein had first preferred a writ petition under Articles 226 / 227 of the Constitution of India being Special Civil Application No.602 of 2023 before this Court wherein in para 7 itself it has admitted that since the time prescribed under the Act 1996 to challenge the award under Section 34 has expired, the said writ petition is filed.

5.2 It is also submitted that on 18/03/2024, this Court in the said writ petition, has specifically observed that the impugned arbitral award can be challenged under Section 34 of the Act 1996, and the said order is neither challenged nor reviewed or recalled by the applicant. It is further submitted that on 24/02/2026, the said writ petition was withdrawn with liberty to initiate appropriate proceedings in law, thereby the present revision applications are being filed under Section 12 of the



Act 1992, which is not maintainable.

5.3 Mr. Soparkar, learned Senior Counsel, would further submit that once the parties agreed to appoint a sole arbitrator and the same was appointed by the Honourable Apex Court, the award passed by a sole arbitrator cannot be treated as an award passed by the Tribunal. It is submitted that considering the provisions of Section 3 to 6 of the Act 1992, by no stretch of imagination, it can be said that the arbitrator appointed by the Honourable Apex Court was a Tribunal under the Act, 1992. Since the award passed by the arbitrator in question is not an award passed under the Act, 1992, its challenge under Section 12 of the Act, 1992 would not arise and as such, the revision application is not maintainable.

5.4 Mr. Soparkar, learned Senior Counsel, would further submit that if the revision application itself is not maintainable as provided under Section 12 of the Act, 1992, this Court should not entertain these delay condonation applications.

5.5 To buttress his argument, Mr. Soparkar, learned Senior Counsel, has placed reliance upon the following judgment:

(i) Nivruti G. Ahire vs. Staet of Maharashtra and others - 2007 (5) Mh.L.J. 284. (para 15).

6. *Per contra*, Mr. Gohil, learned advocate for the applicant, would vehemently oppose the preliminary objection raised by



Mr.Soparkar, learned Senior Counsel, that the revision application filed by the applicant under Section 12 of the Act 1992 is not maintainable. It is submitted that due to non-availability of the member in the Tribunal, where the statutory arbitration was commenced by the opponent, the Honourable Apex Court has only appointed the arbitrator vide its order dated 08/02/2019.

6.1 It is submitted that while appointing the arbitrator, the Honourable Apex Court has categorically observed that the arbitrator will recommence the proceedings from the stage at which it reached before the Arbitral Tribunal under the Gujarat Public Works Contracts Dispute Arbitration Tribunal Act, 1992. According to Mr.Gohil, learned advocate, the aforesaid observation made by the Honourable Apex Court itself suggests that any award passed by a sole arbitrator would be governed by the Act 1992 and in that view of the matter, it was subject to challenge by way of a revision application under Section 12 of the Act, 1992.

6.2 It is further submitted that due to inadvertence, at the given point of time, instead of filing a revision application under Section 12 of the Act, 1992, the writ petition under Articles 226/227 was filed, but having noticed such inadvertent error on the part of the applicant, it has withdrawn the said petition with a liberty to file an appropriate proceeding and thereby, the revision application is being filed in no time.



6.3 To buttress his arguments, Mr.Gohil, learned advocate for the applicant has placed reliance upon the following judgment :

(i) State of Gujarat Through Chief Secretary and another vs. Amber Builders - (2020) 2 SCC 540.

7. Since this Court first requires to adjudicate the preliminary objection raised by the opponent about the maintainability of the revision application itself, it has not gone into the merits of the delay application, i.e., whether sufficient cause is made out by the applicant or not.

8. Having heard learned advocates for the respective parties and upon perusal of the pleadings and documents annexed therewith, the following would emerge:

8.1 The opponent invoked statutory arbitration by filing an arbitration reference before the Works Tribunal constituted under the Act 1992 on 07/04/2015. It is not in dispute that due to non-availability of the member, the Tribunal was not functioning for a quite long time. Since some proceedings between the parties were pending before the Honourable Apex Court, i.e., Special Leave Petition (Civil) No.31650 of 2014, the opponent herein appears to have filed an application being M.A. No.18 of 2019 in the said petition, thereby requested the Honourable Apex Court to exercise its extraordinary power under Article 142 of the Constitution of India to appoint a sole arbitrator. The aforesaid request of the opponent appears to have been accepted by the Honourable Apex Court vide its order dated 08/02/2019 passed in M.A.



No.18 of 2019 in Special Leave Petition (Civil) No.31650 of 2014, which reads thus:

"Parties have agreed that a retired judge of this Court, Shri Justice C.K.Thakker may be appointed as the Arbitrator which we hereby do.

The learned Arbitrator will recommence the proceedings from the stage that it had reached before the Arbitral Tribunal under the Gujarat Public Works Contracts Disputes Arbitration Tribunal Act, 1992. We also direct that the bank guarantee furnished by the petitioner/applicant GKC Projects Limited be revalidated for a period of one year or till the passing of the award, whichever is earlier. The bank guarantee shall remain in force and will not be encashed without order to that effect by the learned Arbitrator.

M.A. is disposed of in the above terms."

(emphasis supplied)

8.2 The bare reading of the aforesaid order of the Honourable Apex Court would clearly indicate that the parties have agreed to the appointment of Hon'ble Mr. Justice C.K. Thakker (Former Judge, Supreme Court of India) as a sole arbitrator. The further observation made by the Honourable Apex Court that the arbitrator will recommence the proceedings from the stage at which it reached before the Arbitral Tribunal under the Act 1992 is concerned, such expression of the Honourable Apex Court is construed by the applicant to mean that any proceeding before the sole arbitrator would be governed by the provisions of the Act 1992 and the award passed would be considered/treated as an award passed under the Act, 1992. This is nothing but a fallacy on the part of the applicant to completely misread and



misconstrued the aforesaid order passed by the Honourable Apex Court. The aforesaid expression and observation of the Honourable Court would only indicate that once the sole arbitrator assumes and recommences the arbitration, he has to recommence it from the stage where it had reached before the Arbitral Tribunal and nothing more than that. Once the parties agreed to appoint a sole arbitrator, according to my considered view, any award passed by such arbitrator would be governed by only the provisions of the Act, 1996 and not by the Act, 1992 as contended by Mr. Gohil, learned advocate for the applicant.

8.3 Apart from the aforesaid, the applicant, before filing the revision application under Section 12 of the Act 1992, had approached this Court by way of a writ petition under Articles 226/227 of the Constitution of India being Special Civil Application No.602 of 2023, wherein in para 7 it has categorically stated on oath that time prescribed under the Act, 1996, to file the application under Section 34 of the said Act has expired, thus it has invoked the writ jurisdiction of this Court. For ready perusal, I would like to reproduce the averments made in para 7 of the said writ petition which read thus:

“7. The petitioners submit that time prescribed under the Arbitration and Conciliation Act, 1996 to file an application under Section 34 of the Act has expired, however, since the Impugned award is against the very public policy as being against the very principles of Contract law, the same deserves to be quashed and set aside and hence, the Petitioner, being remediless are invoking the extraordinary jurisdiction of this Hon'ble Court under Article 226 and 227 of the



Constitution of India. It is submitted that at present, the Petitioners have no other alternative efficacious remedy available under law, except to approach this Hon'ble Court seeking the reliefs as prayed for in the petition."

8.4 The Coordinate Bench of this Court vide its order dated 18/03/2024 passed in the aforesaid writ petition, being Special Civil Application No.602 of 2023 has also expressed the opinion, which reads thus:

"When the matter is called out, the learned advocate appearing for the petitioner is not present.

This Court has perused the impugned arbitral award dated 20.1.2022 passed in Arbitration petition No. 6 of 2017. In the opinion of this Court, the impugned arbitral award, as referred above, can be challenged by way of application under Section 34 of the Arbitration & Conciliation Act, 1996, for setting aside the said award.

Stand over to 1.4.2024."

9. In light of the aforesaid facts and circumstances and taking into account the aforesaid orders passed by the Honourable Apex Court and this Court, as well as the averments made by the applicant itself in the said writ petition, it would lead to only one conclusion that the award passed by the sole arbitrator appointed by the parties is governed by the provisions of the Act, 1996 and not by the Act, 1992.

10. Mr.Gohil has placed reliance upon the judgment of Hon'ble Apex Court in the case of **Amber Builders (supra)**, but the same would not be applicable to the facts of this case



for the simple reason that the award in question was not passed by the Tribunal constituted under the Act of 1992, but it is an award passed by a sole arbitrator appointed by the parties ad idem who was appointed pursuance to the order of the Honourable Apex Court as aforesaid.

11. Since this Court is of the opinion that the award in question passed by the arbitrator is required to be challenged under Section 34 of the Act, 1996 and undisputedly the time has already expired to challenge it, indirectly the applicant cannot invoke the revisional jurisdiction of this Court by filing a revision application under Section 12 of the Act 1992, which otherwise to be assumed by this Court when any award passed by the Tribunal constituted under the Act of 1992, which is undisputably not the case here. The things cannot be done directly, it cannot be done indirectly.

12. In view of the foregoing discussion and reasons, I am of the considered view that the revision applications filed by the applicant under Section 12 of the Act, 1992, are not maintainable. Accordingly, the preliminary objection raised by the opponent, is hereby accepted. Consequently, the present delay condonation applications filed in the respective revision applications are also not maintainable and accordingly, they are rejected. Notice is discharge, in each application. Registry shall refuse the registration of the civil revision applications.

(MAULIK J. SHELAT, J)

GAURAV J THAKER