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

+ O.M.P. (COMM) 428/2025 & I.A. 25876/2025
PUBLIC WORKS DEPARTMENT,
GOVT OF NCT OF DELHI

.....Petitioner
Through: Mr. Anubhav Gupta, Panel
Counsel, GNCTD.

versus

M/S SHYAM SUNDER TYAGI

.....Respondent
Through: Mr. Ashish Mohan, Sr. Adv.
with Mr. Samarth Choudhary,
Ms. Adhya Singh Tomar and
Ms. Vaishali Gupta, Advs.

CORAM:
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT(ORAL)

% **20.07.2026**

I.A. 25875/2025 (Delay in Filing) & I.A. 25878/2025 (Delay in refileing) in O.M.P. (COMM) 428/2025

1. The present petition has been filed under Section 34 of the Arbitration and Conciliation Act, 1996¹ assailing the Arbitral Award dated 15.01.2025 passed by the learned Sole Arbitrator, whereby the claim preferred by the Respondent was partly allowed.

2. Along with the said petition, the Petitioner has also filed an application (I.A. 25875/2025) seeking condonation of delay of 41 days in filing this petition. However, as per the record, the petition was initially filed on 11.05.2025, which means there is a delay of 26 days beyond the prescribed period of 90 days. The petition is also accompanied by an application (I.A. 25878/2025) seeking

¹ "the Act", hereinafter



condonation of 122 days (inadvertently written as 155 days) delay in re-filing.

3. The incorrect computation of days in the applications itself reflects the casual manner in which the present proceedings have been pursued by the Petitioner.

4. Learned counsel appearing for the Petitioner submits that the delay was neither deliberate nor intentional. He submits that the same occurred on account of circumstances beyond the control of the Petitioner and therefore, deserves to be condoned in the interest of justice.

5. He further submits that after receipt of the arbitral award dated 15.01.2025, the matter was placed before the concerned authorities for their consideration. According to the Petitioner, some time was taken in obtaining legal opinion and the necessary departmental approvals before the petition could be filed.

6. As regards to the delay in re-filing, he submits that the same occurred on account of the voluminous record as well as the change of the Executive Engineer in the concerned Division.

7. Learned Counsel for the Respondent has opposed both the applications for filing as well as re-filing. He submits that the Petitioner has failed to show any sufficient cause for condonation of the delay in filing and re-filing.



8. He submits that the reasons being put forward by the Petitioner are merely administrative in nature and hence, cannot be treated as “sufficient cause”. He also points out that the Petitioner has not explained the delay for the entire period of delay of 122 days period taken in re-filing.

9. He further submits that the Petitioner is not pursuing the matter with due diligence and therefore, no case is made out for condonation of delay either in filing or re-filing.

10. I have heard the learned Counsel for the parties and perused the material on record.

11. Before examining the explanation offered by the Petitioner, it would be apt to lay down the legal position with regard to the timeline given for filing an objection under Section 34 of the Act.

12. Under Section 34(3) of the Act, a petition challenging an arbitral award is required to be filed within 90 days. After the said period, this Court can condone a delay of further thirty days and that too, only if sufficient cause is shown for not approaching the Court within time.

13. The Hon’ble Supreme Court has explained the expression “sufficient cause” in several decisions including ***Shivamma (Dead) through LRs v. Karnataka Housing Board***², whereby it was held that while the Court must adopt a justice-oriented approach, the

² 2025 SCC OnLine SC 1969



explanation offered for being a “sufficient cause” must be genuine and should show that the party acted with due diligence. Mere negligence or a casual approach cannot be accepted as a “sufficient cause”. Similar is the view taken in *Sheo Raj Singh v. Union of India*³, wherein it was held that what is material is not the length of the delay but whether the explanation inspires confidence.

14. Since the Petitioner is a Government Department, the following observations made by the Supreme Court in *Shivamma (supra)* in the context of delays by Government authorities assume relevance:

“210. What may be discerned from the aforesaid is that the jurisprudence on condonation of delay under Section 5 of the Limitation Act, particularly where the State or any of its instrumentality is involved, has witnessed a significant shift. From a regime that once accorded preferential indulgence to the State, premised on its bureaucratic complexities and institutional inertia, the law has now evolved to insist upon parity between the government and private litigants. The rationale is that public interest is better served not by excusing governmental inefficiency, but by fostering accountability, diligence, and responsibility in the conduct of public litigation.

211. The earlier decisions of this Court, particularly in K.V. Ayisumma (supra), Chandra Mani (supra), Lipok AO (supra) and Indian Oil Corpn (supra) insofar as they favoured a liberal approach towards the State or any of its instrumentality in matters of condonation of delay, and showed indulgence in condoning the same on ground of impersonal and slow-moving nature of these entities, no longer reflects the correct position in law. No litigant, be it a private party or a State or any of its functionaries, is entitled to a broader margin of error, falling in the category of inaction, negligence or casualness, in matters of limitation.

212. The law as it presently stands, post the decision of Postmaster General (supra), is unambiguous and clear. Condonation of delay is to remain an exception, not the rule. Governmental litigants, no less than private parties, must demonstrate bona fide, sufficient, and cogent cause for delay. Absent such justification, delay cannot be condoned merely on the ground of the identity of the applicant.

213. From a combined reading of Bal Kishan Mathur (supra) and Sheo Raj Singh (supra) it is equally manifest that the ratio of Postmaster General (supra) is, in essence, twofold. First, that State or any of its instrumentalities cannot be accorded preferential treatment in matters concerning condonation of delay under Section 5 of the Limitation Act. The State must be judged by the same standards as any private litigant. To do otherwise would not only compromise the sanctity of limitation. The earlier view, insofar as it favoured a liberal approach towards the State or any of its instrumentality is no more the correct position of law. Secondly, that the habitual reliance of Government

³ (2023) 10 SCC 531



departments on bureaucratic red tape, procedural bottlenecks, or administrative inefficiencies as grounds for seeking condonation of delay cannot always, invariably accepted as a “sufficient cause” for the purpose of Section 5 of the Limitation Act. If such reasons were to be accepted as a matter of course, the very discipline sought to be introduced by the law of limitation would be diluted, resulting in endless uncertainty in litigation.

214. What has been conveyed in so many words, by the decision of Postmaster General (supra) is that while excuses premised solely on bureaucratic lethargy cannot, by themselves, constitute sufficient cause, there may nonetheless be circumstances where the explanation offered, though involving bureaucratic procedures, reflects a genuine and bona fide cause for the delay. In such instances, the true test is whether the explanation demonstrates that the State acted with reasonable diligence and whether the delay occurred despite efforts to act within time. Where such bona fides are established, the Court retains the discretion to condone the delay.

215. In other words, Postmaster General (supra) does not shut the door on condonation of delay by the State in all cases involving bureaucratic processes. The real distinction lies between a case where delay is the result of gross negligence, inaction, or casual indifference on the part of the State, and a case where delay has occurred despite sincere efforts, owing to the inherent complexities of governmental decision-making. While the former category must necessarily be rejected to uphold the discipline of limitation, the latter can still attract judicial indulgence where public interest is at stake and the cause is shown to be reasonable.

216. In this regard, the vital test that has to be employed, wherever “sufficient cause” is sought to be demonstrated on the ground of bureaucratic inefficiencies is to distinguish between whether the same is an “explanation” or an “excuse”. Although the two may appear to be one and the same, yet there exists a fine but pertinent distinction between an “excuse” and an “explanation”.

15. From a reading of the aforesaid decision, it is clear that no different yardstick can be applied merely because the Petitioner is a State or one of its instrumentalities. The Government is expected to satisfy the same test of diligence as any other litigant seeking condonation of delay.

16. It is equally clear that while examining the delay, this Court has to examine whether the explanation placed before it is genuine and the delay occurred despite due diligence being undertaken, or whether such explanation is only an attempt to justify the delay by referring to any excuse.



17. The principles assume added importance in proceedings under the Act. The Act has been enacted with the object of ensuring expeditious resolution of disputes and giving finality to arbitral awards. Unlike Section 5 of the Limitation Act, 1963 which confers an unfettered power to condone delay, Section 34(3) permits only a limited extension upon “sufficient cause” being shown. When the above is read with the mandate of equal treatment of parties provided in Section 18 of the Act, the statutory scheme leaves little room for condoning delay on routine administrative grounds.

18. Therefore, while considering an application for condonation of delay under Section 34, the Court has to satisfy itself that the reasons put forward constitute a real and convincing explanation for the delay and are not merely an excuse founded on departmental procedures or bureaucratic delays.

19. Applying the aforesaid principles to the facts of the present case, I am of the view that the Petitioner has failed to furnish a satisfactory explanation for the delay in filing.

20. It is not disputed that the legal opinion recommending challenge to the arbitral award was received on 30.01.2025, i.e., within 15 days of the passing of the arbitral award. However, despite receipt of the legal opinion, the file was forwarded by the Executive Engineer to the Superintending Engineer only on 11.02.2025, after a gap of about 12 days. Thereafter, although the file was returned on 19.02.2025, it was resubmitted only on 01.03.2025, after another 10 days delay.



21. This pattern is seen thereafter as well. Although the opinion of the concerned legal department was received on 09.04.2025, the file remained under consideration at different levels of the Department till 23.04.2025, without realisation that statutory period of 90 days was already over.

22. I am conscious of the fact that a Government Department is required to obtain legal opinion and the necessary approvals before a decision is taken to challenge an arbitral award. Such a process is often unavoidable. However, at the same time, once the statutory period of limitation is running, every authority dealing with the matter is expected to act with a sense of urgency. Routine movement of the file from one level to another cannot justify periods of inactivity, particularly when the statute itself prescribes a strict timeline.

23. The affidavit filed by the Petitioner merely chronicles the movement of the file from one office to another. It neither explains why the matter remained pending at each stage nor discloses any circumstance beyond the Petitioner's control which prevented the petition from being filed within the timeline.

24. In my opinion, a mere narration of administrative movement cannot, by itself, constitute "sufficient cause". Administrative procedures and departmental approvals may account for some time being consumed, but they do not justify the delay unless it is also shown that the matter was pursued with reasonable promptitude at every stage. If such explanations were to be accepted as a matter of



course, the limitation prescribed under Section 34(3) of the Act would stand substantially diluted, particularly in cases involving Government Departments.

25. However, there is another aspect to the present matter. Even after the petition was filed, it remained under objections for a considerable period. The delay in re-filing also, therefore, requires a satisfactory explanation.

26. The reasons put forward by the Petitioner are that the arbitral record was voluminous and that there was a change in the office of the Executive Engineer. In the opinion of this Court, neither of these reasons satisfactorily explains the delay.

27. As regards to the change of the Executive Engineer, the Petitioner has not disclosed when the earlier Executive Engineer was transferred or how the transfer prevented the defects pointed out by the Registry from being removed.

28. On the other hand, the Respondent has pointed out that while the petition filed in May, 2025 was signed by the then Executive Engineer, Mr. Anshul Bakliwal, the application seeking condonation of delay in re-filing, filed in August, 2025, bears the signatures of the new Executive Engineer, Mr. Hari Om Singh. This would show that the change in the incumbent had already taken place by August, 2025.

29. Even if some time was lost on account of the change in the office of the Executive Engineer, that circumstance could explain only



a part of the delay. It does not explain why the objections remained unattended thereafter or why the petition came to be re-filed only in October, 2025. The Petitioner appears to have slept over the matter during this intervening period, and no sufficient explanation has been furnished for such prolonged inaction. It reflects nothing but a casual and grossly negligent attitude on the part of the Petitioner in pursuing the present proceedings.

30. The plea that the arbitral record was voluminous is equally unpersuasive. No particulars have been furnished as to which documents required additional time. Apart from making a blanket assertion, the Petitioner has not explained how the volume of the record prevented timely removal of the Registry's objections.

31. More importantly, although it was stated that typed copies of dim and illegible documents were being prepared and took time, no such copies were ultimately filed. Instead, the Petitioner sought exemption from filing them. This factual assertion has not been disputed. The plea, therefore, appears to be nothing more than an excuse and does not satisfactorily explain the delay.

32. In *Simplex Infrastructure Ltd. v. Union of India*⁴, the Hon'ble Supreme Court held that delays arising merely because the matter remained under departmental process or administrative consideration do not, by themselves, constitute "sufficient cause". If such explanations are readily accepted, the legislative intent of ensuring expeditious finality of arbitral awards would be seriously undermined.

⁴ (2019) 2 SCC 455



33. A similar view has been taken by the Division Bench of this Court in *DDA v. Integrated Techno Systems (P) Ltd.*⁵, whereby it was held that even in case of re-filing, the entire period has to be explained and if part of it remains unexplained, no case for condonation is made out. The Division Bench also observed that in commercial matters, delay in re-filing must be viewed with almost the same seriousness as delay in the initial filing. The relevant paragraphs are reproduced hereinafter-

*“15. In so far as the delay in re-filing the appeal is concerned, the application has set out various personal exigencies which faced the counsel for the appellant and which, therefore, impeded the re-filing of the appeal. Even as per the application, these exigencies came to an end on 20-5-2025. **There is no Explanation worth the name for the delay between 20-5-2025 and 20-8-2025, for re-filing the appeal.***

16. It is also settled that, in commercial matters, delay in re-filing has also to be treated with nearly with same seriousness as delay in filing.”

34. When I view the conduct of the Petitioner as a whole, I am satisfied that it reflects gross negligence and complete lack of due diligence, therefore, leaving no ground for me to exercise discretion in favour of the Petitioner. Right from the incorrect computation of delay in the application to the repeated delays at every stage thereafter, including the delay in removing the objections, the matter was allowed to move at the Department’s own pace.

35. Even after the petition was signed on 21.08.2025, it was re-filed

⁵ 2026 SCC OnLine Del 4214



only in October, 2025. The intervening period remains wholly unexplained. Nothing has been placed on record to indicate that the matter was pursued with any sense of urgency.

36. In view of the foregoing discussion, this Court finds no sufficient cause to condone either the delay in filing or the inordinate and unexplained delay in re-filing the present petition. Accordingly, the applications seeking condonation of delay are dismissed.

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37. Accordingly, the present petition under Section 34 of the Act is also dismissed. Pending applications, if any, are also disposed of.

OM PRAKASH SHUKLA, J.

JULY 20, 2026/gunn