



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

% **Judgment reserved on: 25.08.2026**
Judgment pronounced on: 02.09.2026

CNR No. DLHC010190262026
+ **O.M.P. (COMM) 217/2026, I.A. 12200/2026, I.A. 12201/2026**
& I.A. 12202/2026

INOX WIND LIMITED & ANR.Petitioners

Through: **Mr. Rajshekhar Rao, Sr. Adv.**
with Mr. Ratik Sharma, Ms.
Muskan Agarwal, Mr.
Yashvardhan Singh Gohil &
Mr. Parth Sindhwani, Advs.

versus

JASDAN ENERGY PRIVATE LIMITED & ANR

.....Respondents

Through: **Mr. Amit Sibal, Sr. Adv. with**
Ms. Ashima Obhan, Mr.
Amardeep Singh, Ms. Yogita
Rathore, Mr. Ankit Handa, Mr.
Darpan Sachdeva, Mr. Aiman
Klee, Mr. Vinay Tripathi, Ms.
Stuti Mehrotra & Mr. Tushar
Chauhan, Advs.

CORAM:

HON'BLE MR. JUSTICE AVNEESH JHINGAN

J U D G M E N T

I.A. 12199/2026 in O.M.P. (COMM) 217/2026

1. This application is filed under Section 34(3) of the Arbitration and Conciliation Act, 1996 (for short 'the Act') seeking condonation of delay of twenty-seven days in filing the petition under Section 34 of the Act.



2. Brief facts are that the arbitral proceedings between the parties to the *lis* culminated in an award dated 11.12.2025, served upon the parties on 12.12.2025. The petitioners/judgement debtors (hereinafter ‘judgement debtor’) on 15.12.2025, informed the respondents/decreed holders (hereinafter ‘decree holder’) that interpretation of certain aspects of the award under Section 33(1)(b) of the Act is needed. The decree holder objected to the request on 16.12.2025. Subsequently, on 08.01.2026 the judgement debtor filed an application seeking interpretation of the award. The decree holder on 10.01.2026 filed a reply thereto stating that in the absence of their consent, the application for interpretation is not maintainable.

2.1 The period of ninety days under Section 34(3) of the Act reckoned from the date of service of the award, expired on 11.03.2026. The decree holder on 18.03.2026 filed the enforcement petition. On 20.03.2026, this court rejected the preliminary objection raised by the judgement debtor predicated on the pendency of an application under Section 33 of the Act and issued directions to deposit the entire award amount and to file an affidavit of assets. On 08.04.2026, the judgement debtor instituted the petition under Section 34 of the Act along with an application seeking condonation of delay.

2.2 The petition filed under Section 34 of the Act was returned with objections and was re-filed on 13.04.2026 and thereafter on 28.04.2026. The order of this court dated 20.03.2026 was challenged



by the judgement debtor by filing a special leave petition (SLP) wherein the following order was passed on 04.05.2026:

“1. Having heard the learned Senior Counsels appearing for the parties, we are of the considered view that the matter requires to validity kept pending for consideration and particularly, in the backdrop of an application under sub-section (3) of Section 36 of the Arbitration and Conciliation Act, 1996 ("1996 Act") having been filed for stay of the award and it is yet to be adjudicated by the jurisdictional Court, as such, at this juncture we refrain from expressing any opinion as it is likely to prejudice the rights of either of the parties. However, in order to balance the equities particularly, when the respondents herein having been successful in securing the award in their favour, we direct the petitioners herein to deposit a sum of Rs. 30,00,00,000/- (Rupees Thirty Crores Only) within three weeks from today before the jurisdictional High Court which is examining the application filed under sub-section (3) of Section 36 of the 1996 Act.

2. It is needless to state that the High Court without being influenced by any of the observations either made in the earlier proceedings or by the Executing Court or by this Court shall independently consider the application filed under Section 36(3) of the 1996 Act on its own merits and all questions including the question of maintainability of the said application is kept open to be urged by both the parties.

3. It is also stated that on account of the petition filed under Section 34 of the 1996 Act having been belatedly, an application under sub-section (3) of Section 34 of the 1996 Act is said to have been filed for condonation of delay. Hence, said application shall also be decided by the jurisdictional High Court in



accordance with law and on its own merits. It is also needless to state that the payment or release of the amount would be governed by the orders that may be passed in the application filed under Section 36(3) of the 1996 Act and necessarily appropriate orders may be passed in that regard if so required.

4. List after three weeks.”

2.3 The directions of the Supreme Court were complied with and a sum of rupees thirty crores was deposited in this court on 31.07.2026. An application for withdrawal of the amount was filed in the enforcement petition and was allowed by the order dated 25.08.2026.

3. Learned counsel for the judgment debtor contends that the application filed under Section 33(1) of the Act was responded to by the decree holder but was neither considered nor disposed of by the arbitral tribunal (for short ‘the tribunal’). The argument is that during the pendency of the application under Section 33(1) of the Act, the judgement debtor awaited the adjudication and consequently there is a delay in filing the petition under Section 34 of the Act. It was a *bona fide* belief that the limitation for filing the petition under Section 34 of the Act shall commence from the date of adjudication of the application under Section 33 of the Act. It is contended that in the enforcement proceedings, a specific objection was raised that the enforcement petition is pre-mature and upon rejection of the objection the petition under Section 34 of the Act was filed within a reasonable time. It is canvassed that refusal to condone the delay would render the judgement debtor remediless despite the delay being *bona fide*.



The submission is that the court has the discretion to condone the delay up to thirty days in case of sufficient cause.

4. *Per Contra*, the application filed by the judgement debtor was under Section 33(1)(b) and not under Section 33(1)(a) of the Act and was not maintainable in the absence of the consent of the other party. The submission is that the failure to file the petition under Section 34 of the Act within the prescribed period was an intentional and dilatory tactic reflecting negligence on the part of the judgement debtor in pursuing the statutory remedy. The contention is that the judgement debtor has not asserted that the application filed was for seeking rectification of an error or ambiguity contemplated under Section 33 of the Act. Section 33(2) of the Act is relied upon to contend that an application filed under Section 33(1) of the Act is to be considered by the tribunal within thirty days from the receipt of the request. The argument is that the period of thirty days expired during the limitation period for filing the petition under Section 34 yet the petition under Section 34 was not filed within three months from receipt of the award.

4.1 It is further contended that the thirty days period for deciding the application under Section 33 expired on 07.02.2026 and the limitation to file the petition under Section 34 of the Act expired on 11.03.2026 and there is no explanation for not filing the petition within this period. The contention is that though the petition under Section 34 of the Act was filed on 08.04.2026 but a copy thereof was



not supplied to the decree holder till 28.04.2026. Reliance is on the e-mail dated 09.04.2026 wherein the judgement debtor brought to notice of the tribunal the order dated 20.03.2026 passed by this court but there was no request made for deciding the application under Section 33 of the Act and this proves that it is not a case of *bona fide* delay.

4.2 The decision of the Supreme Court in ***Geojit Financial Services Ltd. Vs. Sandeep Gaurav*** 2025 SCC OnLine 1811, the decision of Division Bench of this court in ***Delhi Development Authority Vs. M/s. Integrated Techsystems Pvt. Ltd.***, 2026 SCC OnLine Del 4214, the decisions of this court in ***Public Works Department, Govt. of NCT of Delhi Vs. M/s. Shyam Sunder Tyagi***, 2026 SCC OnLine Del 5360, ***Union of India Vs. M/s Azfarduddin Engineers and Govt. Contractor***, 2026 SCC OnLine Del 5656, ***Sushil Pandit Vs. Adsert Web Solutions Pvt. Ltd.***, 2011 SCC OnLine Del 3452, ***Union of India and Ors. Vs. Nav Bhart Nirman Company and Anr.***, 2003 SCC OnLine Del 837, ***CMI Limited Vs. Bharat Sanchar Nigam Ltd.***, O.M.P 266/2004 are relied upon to buttress the argument that delay in invoking the statutory remedy under Section 34 should not be condoned in the absence of a *bona fide* and sufficient explanation.

4.3 The Supreme Court in ***Geojit Financial Services Ltd.*** (supra) is relied upon to contend that filing of an application not maintainable under Section 33 of the Act cannot constitute sufficient cause for condoning the delay in filing a petition under Section 34 of the Act.



5. Heard learned counsel for the parties at length.
6. Learned counsel for the parties are *ad idem* that in view of paragraph 2 of the order dated 04.05.2026 passed by the Supreme Court, the present application for condonation of delay is to be considered by this court independently without being influenced by any observations made in the earlier proceedings or in the enforcement proceedings and that the application should not be kept pending due to pendency of the SLP.
7. Under Section 34(3) of the Act, the limitation for filing a petition under Section 34 of the Act is three months from the receipt of the arbitral award. The proviso thereto empowers the court to entertain the petition within a further period of thirty days, on an applicant being prevented by sufficient cause. In other words, the delay up to thirty days in case of sufficient cause can be condoned by this court and not beyond.
8. Admittedly, the delay in the case in hand is less than thirty days i.e. of twenty-seven days. The issue of maintainability of the application under Section 33(1)(b) in the absence of consent of the other party need not be dilated upon for deciding the present application for condonation of delay.
9. The relevant dates mentioned above are not disputed by the parties. There was no consent given by the decree holder but the fact remains that on 08.01.2026, the judgement debtor filed an application



under Section 33(1)(b) of the Act and this was responded to by the decree holder by filing a reply on 10.01.2026. The tribunal under Section 33(2) of the Act is obligated to consider the request made under Section 33(1) of the Act within thirty days of its receipt. There is no distinction made in Section 33(2) with regard to the application made under clause (a) or (b) of sub-section 33(1). The fact remains that the application was not considered by the tribunal.

10. The argument that the judgement debtor deliberately and negligently delayed filing the petition under Section 34 of the Act or adopted dilatory tactics has no merit. In the enforcement proceedings, the judgement debtor raised a preliminary objection of pendency of the application under Section 33 of the Act. Upon rejection of the objection by this court *albeit*, the judgement debtor challenged that order before the Supreme Court but within eighteen days thereof filed the petition under Section 34 of the Act. In such circumstances, the delay in filing the petition cannot be held to be dilatory tactics or negligence in pursuing the statutory remedies. The fact remains that the remedies were being availed by the judgement debtor at every stage from filing of an application under Section 33(1) of the Act; raising the preliminary objection in the enforcement proceedings; challenging the order of this court dated 20.03.2026 and in the meantime filing the petition under Section 34 of the Act.

11. The contention of learned counsel for the decree holder that under Section 33(2) of the Act, the tribunal had to decide the request



under Section 33(1) within thirty days and that there was no occasion thereafter for the judgement debtor not to file the petition under Section 34 of the Act, is of no avail. The petition is filed with a delay of twenty-seven days and the matter would have been different if the delay had been of more than thirty days. The issue at this stage is not the consequence of non-consideration of the request under Section 33(1) of the Act within thirty days. The only pin-pointed controversy is as to whether twenty-seven days delay in filing the petition under Section 34 of the Act for the reasons mentioned in the application including the filing of the application under Section 33(1) is a sufficient cause or not for condonation?

12. The argument of the learned counsel for the decree holder that by bringing on record of the tribunal the order of this court dated 20.03.2026, without any specific request by the judgement debtor for deciding the application under Section 33(1) of the Act, the judgement debtor cannot claim *bona fide* conduct, is misconceived. The relevant portion of the e-mail dated 09.04.2026 is reproduced below:

“Following the respondents’ application under Section 33(1) of the Arbitration and Conciliation Act, 1996, and the Claimants’ subsequently reply, the Claimants filed an execution petition before the Hon’ble High Court of Delhi. This matter was heard on March 20,2026.

Please find attached the order passed by the Hon’ble High Court for the Tribunal’s record.”

13. The submission of the learned counsel of the decree holder that



although the petition under Section 34 of the Act was filed on 08.04.2026 but the copy thereof was served upon the decree holder on 28.04.2026, is of no avail. The decree holder has not pressed the case that it was a non-est filing. The objections were raised by the registry of this court were removed by the judgement debtor and thereafter the petition was listed.

14. There cannot be a quarrel with the proposition that the power of the court under Section 34(3) of the Act to condone the delay is to be exercised keeping in view the paramount objective of the Act i.e. an expeditious and time-bound conclusion of the arbitration proceedings. The condonation of delay in arbitration matters is to be considered with a comparatively more strict approach as compared to Section 5 of the Limitation Act, 1963. Be that as it may, the proviso to Section 34(3) of the Act empowers the court to condone the delay up to thirty days on existence of a sufficient cause. The delay is of twenty-seven days and it is duly explained that there was a sufficient cause preventing the judgement debtor from filing the petition under Section 34 of the Act.

15. In all fairness the judgements relied upon by the learned counsel for the decree holder are being dealt with hereinafter:

15.1 In *Union of India Vs. M/s Azfarduddin Engineers and Govt. Contractor* (supra), the internal departmental delay was held not to constitute sufficient cause for condoning the delay of twenty-nine days in filing the petition under Section 34 of the Act. This decision does



not address the circumstances arising in the present case.

15.2 In ***Public Works Department, Govt. of NCT of Delhi*** (supra), the explanation that the arbitral record was voluminous was not found to be a sufficient cause in absence of particulars furnishing as to how the volume of the record prevented timely removal of the Registry's objections. The decision is not applicable to the facts of the present case.

15.3 In case of ***CMI Limited*** (supra), this court considered the matter on merits and noted that an application under Section 33 of the Act was filed after six months of passing of the award whereas under Section 33 of the Act, the limitation for filing application is within thirty days of the receipt of the award. The prayer for condonation of delay was accordingly rejected. In the present case, the application under Section 33(1) of the Act was filed within the prescribed period.

15.4 The decision of the Division Bench of this court in case of ***Delhi Development Authority Vs. M/s. Integrated Techsystems Pvt. Ltd*** (supra) wherein the internal departmental movement of the file and the time consumed therein was not considered to be a sufficient cause for condoning the delay of sixty-nine days in filing the appeal under Section 37 of the Act also dealt with the challenge to acceptance of the application under Section 33(1)(b) of the Act. The challenge was allowed and it was held that the arbitral tribunal had no jurisdiction to entertain an application under Section 33(1)(b) of the Act when the other party had denied the consent to vest jurisdiction



upon the tribunal. This decision is relevant to the issue of maintainability of an application under Section 33(1)(b) of the Act.

15.5 The Supreme Court in *Geojit Financial Services Ltd* (supra) held as under:

“35. We summarize our conclusion as under:-

- (i) Where an application under Section 33 of the 1996 Act has not been filed, the legislature was conscious enough to state that it would be the date of the receipt of the award which would earmark the commencement of limitation for an application for setting aside of an award in terms of Section 34 of the 1996 Act. Whereas, in the case where an application under Section 33 of the 1996 Act has been filed, the legislature was conscious enough to lay down that it would be the date of disposal of such request or application, that would be the starting point for calculation of limitation.
- (ii) Where such an application under Section 33 of the 1996 Act is filed, irrespective of whether the arbitral tribunal upon considering such application, either makes or does not make any correction or modification or choose to render or to not render an additional award in terms of Section 33 of the Act, 1996, the starting point or the period of limitation for challenging the same under Section application under Section 33 by the arbitral tribunal, as long as the application under Section 33 of the 1996 Act had been filed within the prescribed period of limitation



under sub-section (1) thereto AND with notice to the other party. Any other interpretation to the contrary, would do violence to plain and Unambiguous language used in Section 34 sub-section (3) of the 1996 Act.

- (iii) In the aforesaid scenario, neither the date of passing of the original award or date of receipt of the same by the party nor the date of receipt of the corrected award or date of receipt of the decision of the arbitrator disposing the application under Section 33 of the 1996 Act is of any significance. What is of significance, under Section 34 sub-section (3) of the Act, 1996 is the date on which the application or request under Section 33 came to be disposed by the arbitral tribunal.
- (iv) In the same breath, where a request is made under Section 33 of the 1996 Act, it is immaterial for the purpose of computation of limitation under Section 34 sub-section (3) whether such request fell within the purview of the said provision or not. What is material is only that such request was made in the manner delineated under Section 33 i.e., it fulfilled the twin conditions of being made; (I) "within thirty days from the receipt of the arbitral award" and (II) "with notice to the other party" stipulated therein."

16. The Supreme Court in *Geojit Financial Services Ltd.* (supra) held that in case of an application under Section 33 filed within thirty days of receipt of the award and with notice to the other party, the limitation for filing a petition under Section 34 shall commence from



the date of disposal of the application irrespective of the outcome of the application under Section 33. In case of non-filing of an application under Section 33 the limitation for filing a petition under Section 34 shall commence from the date of receipt of the award. The legislature consciously stipulated that in case of filing of the application under Section 33 the limitation clock shall start clicking from the disposal of the application irrespective of the fact that the arbitral tribunal makes correction or modification or not whereas in case in hand, the request is for condonation of delay under Section 34(3) and not that the limitation should be computed from the disposal of the application under Section 33 of the Act.

17. In view of the above discussion, there is a sufficient cause explained for condoning the delay of twenty-seven days in filing the petition under Section 34. The delay is condoned and the application is allowed.

O.M.P. (COMM) 217/2026, I.A. 12200/2026, I.A. 12201/2026 & I.A. 12202/2026

18. Put up on 28.09.2026 along with OMP(ENF.) (COMM) 56/2026.

AVNEESH JHINGAN, J
SEPTEMBER 02, 2026/Pa

Reportable:- Yes