Case Citation: (2026) ibclaw.in 6401 HC

IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VINAY SARAF

ARBITRATION APPEAL No. 303 of 2023

CNR No.: MPHC020371142023

ANJANA

Versus

M/S SULABH SYNTEX

Appearance:

Shri Akash Rathi, learned counsel for the appellant.

Shri Pranay Joshi, learned counsel for the respondent .

Reserved on : 28.09.2026

Pronounced on : 23.10.2026

ORDER

1. This appeal is preferred by the applicant of Section 34 of Arbitration and Conciliation Act, 1996, which was moved on behalf of the appellant for setting aside the arbitral award passed by Arbitration Board of Shrimant Maharaja Tukoji Rao Cloth Market Merchants Association, Indore on 11.12.2018. The appellant preferred an application for setting aside the arbitral award dated 11.12.2018, which has been dismissed by the impugned order dated 14.10.2023, by the learned 11th District Judge, Indore in MJC AV No. 295/2019.

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2. The short facts of the case are that the respondent M/s. Sulabh Syntex preferred a claim before the Arbitration Board of Shrimant Maharaja Tukoji Rao Cloth Market Merchants Association, Indore on 24.05.2018 against the appellant for recovery of Rs. 2,28,210/- on the ground that M/s. Maheshwari Vastra Bhandar purchased the material from the respondent, but the payment was not made. It is alleged in the claim that the appellant Smt. Anjana W/o Kailashchandra Maheshwari is the proprietor of the firm M/s. Maheshwari Vastra Bhandar. After issuance of notice to the appellant, the Arbitration Board vide order dated 11.12.2018 allowed the claim and passed an award for recovery of Rs. 2,27,710/- with interest and arbitration cost of Rs. 9,340/-.

3. It is the case of the appellant that the signed copy of the award was never forwarded by the Arbitration Tribunal to the appellant and appellant has not received the signed copy of the award, and after getting knowledge of the Arbitration Award, the appellant obtained the certified copy of the award on 18.03.2019 from the Secretariat of the Arbitration Board and came to know that such award has been passed against the appellant. When the appellant received a notice from Additional District Judge, Ashta, District Sehore in another execution case, the appellant came to know about the passing of the *ex parte* award and, therefore, she applied and obtained the certified copy of the award. Thereafter on 11.12.2018 the appellant preferred an application under Section 34 of the Arbitration and Conciliation Act, 1996 before the District Judge, Indore for setting aside the arbitral award on various grounds, however, this court is not concerned with

the grounds of challenge, therefore, the same is not being mentioned here.

4. The respondent appeared in the case and filed an application for dismissal of the petition filed by the appellant under Section 34 of the Act, 1996 on the ground that the application is barred by limitation. The application was allowed by the impugned order dated 24.10.2023 and the learned 11th District Judge, Indore dismissed the application as time barred. The Court held that though there is no evidence is available on record that the signed copy of the award was ever dispatched to the appellant, but the appellant herself has obtained the certified copy of the award on 18.03.2019, therefore, the limitation for filing the application under Section 34 of the Act, 1996 has been started from 18.03.2019 and the appellant failed to file the application within the limitation prescribed under Sub Section 3 of Section 34 i.e. 90 days and also failed to file the application within further 30 days and no delay can be condoned, thus the present application preferred by the appellant under Section 34 of the Act was not within the limitation and consequently the same was dismissed by the Court as barred by limitation.

5. With the consent of the parties arguments heard for the purpose of final disposal of the appeal. Shri Akash Rathi, learned counsel appearing on behalf of the appellant submits that the important legal question is involved in this case concerning the interplay between Section 31(5) and 34(3) of the Act, 1996 and the question involved is that whether the period prescribed under Section 34(3) can commence merely from the date of on which the party obtains certified copy of the arbitral award from a source

other than the Arbitration Tribunal. Shri Rathi submits that it is an admitted position on record that the signed copy of the award has not been dispatched to the appellant, whereas the same is statutory requirement under Section 31(5) of the Act that after the award is made, a signed copy thereof shall be delivered to each party. He further submits that the limitation for setting aside the arbitral award starts as per Section 34(3) of the Act, which provides that an application for setting aside the arbitral award 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 off by the Arbitration Tribunal. He submits that the signed copy of the arbitral award was not dispatched to the appellant, whereas the same is mandatory requirement under Section 31(5) and the limitation would start only after receipt of the certified copy of the arbitral award as per the provisions of Section 31(5), therefore, no limitation started in the case in hand and the trial Court has committed error in dismissing the application filed under Section 34 of the Arbitration Act for setting aside the arbitral award as barred by limitation.

6. Shri Rathi relied on the judgment delivered by the Supreme Court in the case of **Union of India V/s. Tecco Trichy Engineers and Contractors (2005) 4 SCC 239** and in **State of Maharashtra and Others V/s. ARK Builders Private Limited (2011) 4 SCC 616,** wherein the Supreme Court has held that Section 34 (3) cannot be read in isolation and must be read harmoniously with Section 31 (5), which makes the delivery of the signed

copy of the arbitral award to the parties mandatory. He further submits that the Supreme Court in **Tecco Trichy Engineers and Contractors (supra)** has authoritatively held that the delivery of award under 31(5) is not a mere procedural formality. He relied upon the observations made by the Supreme Court in paragraph 8 of the judgment which reads as under :-

"8. The delivery of an arbitral award under sub-section (5) of Section 31 is not a matter of mere formality. It is a matter of substance. It is only after the stage under Section 31 has passed that the stage of termination of arbitral proceedings within the meaning of Section 32 of the Act arises. The delivery of arbitral award to the party, to be effective, has to be "received" by the party. This delivery by the Arbitral Tribunal and receipt by the party of the award sets in motion several periods of limitation such as an application for correction and interpretation of an award within 30 days under Section 33(1), an application for making an additional award under Section 33(4) and an application for setting aside an award under Section 34(3) and so on. As this delivery of the copy of award has the effect of conferring certain rights on the party as also bringing to an end the right to exercise those rights on expiry of the prescribed period of limitation which would be calculated from that date, the delivery of the copy of award by the Tribunal and the receipt thereof by each party constitutes an important stage in the arbitral proceedings."

7. Shri Rathi further submits that whether the period of limitation for making an application under Section 34 of Act, 1996 for setting aside an arbitral award is to be reckoned from the date on which the copy of the award is received by the objector by any means and from any source or it would start from the date, when the signed copy of award delivered by the arbitrator, the Supreme Court in **ARK Builders Private Limited (supra)** has

laid down ratio that the period of limitation prescribed under Section 34 (3) would start running only from the date when a signed copy of the award is delivered to or received by the parties making the application for setting aside the award under Section 34(1) of the Act. He submits that the legal position on the issue is that if the law prescribes that a copy of the order or award is to be communicated, delivered, dispatched, forwarded, rendered or sent to the parties concerned in a particular way and in case the law also sets the period of limitation for challenging the order or award in question by the aggrieved party, then the period of limitation can only commence from the date, on which the order or award was received by the party concerned in the manner prescribed by law.

8. Shri Rathi further submits that the Supreme Court in **Tecco Trichy Engineers and Contractors (supra)** while considering the internal relationship between Section 31(5), 32 and 34(3) categorically held that the delivery of an arbitral award under Sub-Section 5 of Section 31 is not a matter of mere formality. It is a matter of substance. It is only after the stage under Section 31 has passed then the stage of termination of arbitral proceedings within the meaning of Section 32 of the Act arises. He submits that the statutory scheme makes delivery of the signed award under Section 31(5) a substantive statutory event and the consequences relating to termination and commencement of limitation cannot be started unless the award is delivered as per Section 31(5) and he further argued that in the case in hand, it is an admitted position on record that no signed copy of the

arbitral award was ever delivered or supplied to the appellant by the Arbitral Tribunal or the arbitrator himself in compliance with Section 31(5) of the Act and the learned trial Court treating the date of receipt of certified copy of the award as commencement of limitation and consequently dismissed the application under Section 34 as barred by limitation. The reasoning given by the learned trial Court in the impugned order is incorrect, unjust and liable to be set aside. The approach of the learned trial Court has been contrary to the settled position of law and in the facts and circumstances of the case no limitation has been started from the date of the receipt of the certified copy of the award and consequently the application preferred under Section 34 of the Act for setting aside the arbitration award could not have been dismissed as time barred. He prays for allowing the appeal and setting aside the impugned order passed by the learned trial Court.

9. *Per contra*, learned counsel Shri Pranay Joshi appearing on behalf of the respondent submits that a claim petition was preferred by the respondent M/s. Sulabh Syntex before the Arbitration Board of Shrimant Maharaja Tukoji Rao Cloth Market Merchants Association, Indore in respect of the material purchased by the appellant and arbitration case was registered upon and thereafter the intimation of the proceedings were duly sent to the appellant by the Arbitration Board and the Arbitration Board after considering the fact that she is deliberately not participating in the arbitration proceedings despite being afforded repeated opportunities to appear before the Arbitration Board, the Arbitration Board proceeded ex parte against the appellant and passed the award on 11.12.2018, whereby the claim of the

respondent was allowed and the appellant was directed to pay Rs. 2,27,710/- along with interest and arbitration cost of Rs. 9,340/-.

10. He further submits that the signed copy of the arbitral award dated 11.12.2018 was duly dispatched to both the parties through registered post and the entry of the same is available in the outward register of the Arbitration Tribunal. The entry No. 1318 records the dispatch of the signed copy to the respondent, whereas entry No. 1319 records the dispatch of the signed copy to the appellant, however, the postal receipt of respondent is not available on record as the postal receipt of appellant has been misplaced from the record of the Tribunal. He further submits that the appellant cannot take any undue advantage of the misplacing of the postal receipt and there is a presumption that the signed copy of the award was duly received by the appellant.

11. He further submits that the appellant obtained the certified copy of the arbitral award from the secretariat of the Arbitral Tribunal and the same was received by him on 18.03.2019 and from the receipt of the certified copy of the award, the appellant came to know about the contents of the award also and thereafter the appellant could have filed the application under Section 34 of the Act for the purpose of setting aside the award, but no such application was filed by the appellant within the statutory limitation prescribed by Section 34 of the Act and after 182 days from obtaining the certified copy of the arbitral award the application under Section 34 of the Act has been filed by the appellant, which has been correctly dismissed by

the trial Court on the ground of delay.

12. He further submits that the Supreme Court in **Tecco Trichy Engineers and Contractors (supra)** has held that the delivery of arbitral award to the party, to be effective, has to be received by the party and after explaining the same, the Supreme Court has further observed that the delivery by the Arbitral Tribunal and receipt by the party of the award, sets in motion, several periods of limitation, such as an application for correction and interpretation of an award may be file within 30 days under Section 33(1), an application for making an additional award under Section 33(4) and an application for setting aside an award under Section 34(3) and so on. He submits that from the ratio laid down by the Supreme Court in the matter o f **Tecco Trichy Engineers and Contractors (supra),** it is clear that the limitation starts from the date of receipt of the copy of the award and therefore in the case in hand limitation would start from the date of receipt of the certified copy of the complete award i.e. 18.03.2019.

13. Shri Joshi strongly relied upon the judgment delivered by the Single Bench of Bombay High Court in **Rahul S/o Omprakash Gandhi V/s. The Akola Janta Commercial Co-operative Bank Limited 2023 SCC OnLine Bombay 814,** wherein in the similar circumstances, the Bombay High Court has decided that the entire object and purport of Section 31(5) of the Act is that when a signed copy of the award shall be delivered to each party, appears to be that the party to the award should be make known the nature, effect and importance of the award. The purpose of the provision, of

imparting knowledge to the party, as to the contents of the award and it is not important that whether a signed copy is delivered or the certified copy of the signed award is obtained by the party. The Bombay High Court further held that in either case knowledge/information as to the contents of the award stands attributed to the party, and the time as provided in Section 33(1) and 34(3) of the Arbitration & Conciliation Act, begins to run thereunder. He relied on the relevant paras of the judgment which read as under :-

*"**9.** The entire object and purport of section 31(5) of the A and C Act, when it states that a signed copy of the award shall be delivered to each party, appears to be, that the party to the award should be made known the nature, effect and import of the award, so that each party, may then take a decision whether to challenge the award further by instituting appropriate proceedings under section 34 of the A and C Act, before the Court, or in case there are any inaccuracies, corrections, interpretations or need for an additional award therein, to get it corrected by filing an application under section 33 of the A and C Act, before the Arbitrator. This also so, for the reason that both section 33(1) and 34(3) of the A and C Act, provide for limitations of time in this regard to approach either the Arbitral Tribunal or the Court for the said purpose and therefore the delivery of the award as contemplated in section 31(5) has the effect of setting in motion these time periods, within which the remedies available are to be-availed of by the party. It is in this context it has to be understood that the signed copy of the award has to be delivered to the 'party', as defined in section 2(h) of the A and C Act, so that a decision can be taken by the 'party' regarding the future course of action to be adopted, within the time frame as stipulated by the provisions of the Statute. The delivery of the signed copy of the award, is therefore information, brought to the notice and knowledge of each party, as to the contents of the award, so as to make the 'party', aware that the limitation to raise a challenge, has started to run,*

which knowledge/information is equally available to the 'party', when it receives the certified copy of the award signed by the Arbitrator. The purpose of the provision, of imparting knowledge to the 'party', as to the contents of the award, is achieved whether a signed copy is delivered or the certified copy of the signed award is obtained by the 'party'. In either case knowledge/information as to the contents of the award stands attributed to the 'party', and the time as provided in section 33(1) and 34(3) of the A and C Act, begins to run therefrom. The situation is quite different when the award is not delivered to the 'party', or obtained by the 'party', but is delivered or obtained to/by the counsel or agent of the 'party' as the knowledge of the 'party', as defined in section 2(1)(h) of the A and C Act, is what is contemplated by section 31(5), as in that circumstances a plea can successfully be raised by the 'party', of non-compliance with the requirement of section 31(1) which would entitle it to claim that the time for challenging the award under section 34(3) or for correction/interpretation/modification of the award or passing of an additional award did not begin to run.

9.1. *All the judgments cited by Mr. Bhattad, learned counsel for the petitioner, contemplate the requirement of section 31(5) vis-a-vis the time as prescribed in section 34(3) for challenging of the award. In fact, the factual position in Anilkumar Jinabhai Patel (supra) is quite similar to the factual position as extant in the present matter.*

10. *Section 32(1) of the A and C Act pressed into service by Mr. Bhattad, learned counsel for the petitioner, merely contemplates that the arbitration proceedings stand terminated by the final arbitral award, or by an order of the Arbitral Tribunal under sub-section (2) thereof. It does not contemplate that the arbitral proceedings stand terminated, only upon delivery of the arbitral award, as contemplated by section 31(5) and therefore nothing turn around the language of section 32(1) insofar as the present issue is concerned.*

11. Section 36(1) of the A and C Act, provides that when the time for making an application to set aside the arbitral award under section 34 has expired, then subject to section 36(2) the award shall be enforced as a decree under the Code of Civil Procedure. The contention of Mr. Bhattad, learned counsel for the petitioner, is that since the signed copy of the award was not delivered to the petitioner, in terms of section 31(5) of the A and C Act, the time for making the application for setting aside the arbitral award had not expired and the execution proceedings were therefore infirm, is in my considered opinion taking a too literal and narrow view of the language of section 31(5) of the A and C Act, which would defeat the very purpose and object of the Act itself, as once a 'party', is held to have received/obtained the signed copy of the award, maybe a certified copy, as indicated above the information regarding the contents of the award stands attributed to the party, and therefore the time, would begin to run for raising a challenge to the award. Once that time has expired, it cannot be permitted to be said that though a certified signed copy was obtained by the 'party', from the Arbitrator, still the time under section 31(1) or 34(3) of the A and C Act, did not run and expire, as a signed copy of the award, in terms of section 31(5) was not delivered to the 'party'. It is a settled position of law, that where the literal meaning of a provision, entails in doing violence to the meaning, intent and purpose of the Act, it would call for a purposeful and constructive meaning to be given to the language of the provision.

12. This is more so for the reason that section 36 of the A and C Act, as it earlier stood, was substituted by Act 3 of 2016, w.e.f. 23-10-2015, whereby even the filing of an application under section 34 of the A and C Act, did not prohibit the filing of an application for enforcement of the award as contemplated by section 36(1) of the A and C Act, and such enforcement could only be stalled, in case the requirement of section 36(2) stood granted by the Court executing the award, upon satisfaction of the

parameters as set forth in section 36(3) of the A and C Act, to the satisfaction of the Court executing the award, for reasons to be recorded in writing. This would indicate that even filing of an application under section 34(3) of the A and C Act, within the time frame as contemplated therein, does not have the effect of stalling the enforcement of the award by invoking section 36(1) of the A and C Act.

13. *The application under section 34 of the A and C Act, was filed by the petitioner on 8-6-2015, in which, the following statement is made:*

"Subject-matter of this application is award passed in Arbitration case No. ARB/AJCCB/01/2012 of the above named disputant before the Arbitral Tribunal presided over by Adv. G.N. Divekar, Yeotmal, of dated 27-1-2015, and this application is presented within the period of limitation from the date of receiving of the signed copies of the award."

This would clearly indicate an admission on part of the petitioner that the signed copy of the award was received by the petitioner on the basis of which the application under section 34(1) of the A and C Act, was being filed by the petitioner. The above statement is made on oath as the application under section 34 of the A and C Act, in which it is contained is duly sworn before the Notary Public and there is no reason whatsoever to doubt its authenticity.

14. *Even presuming the contrary contention of the petitioner that he had not received the signed copy of the award from the Arbitrator, however, in the instant case it is not disputed that the petitioner had obtained the certified copy of the signed award from the Arbitrator on 7-3-2015, whereupon the application under section 34 of the A and C Act, came to be filed by the petitioner, on 8-6-2015 (page 99), which came to be rejected on account of the petitioner, not paying the requisite Court fee, by the order dated 4-8-2015, challenge to which before this Court in a writ petition was*

withdrawn to file an appeal under section 37 of the A and C Act, which was never done, as a result of which, the rejection of the application under section 34 as filed by the petitioner attained finality. Now to contend that the enforcement proceedings under section 36(1) of the A and C Act, were infirm on the ground that a signed copy of the award, within the meaning of section 31(5) of the A and C Act, was not supplied, to the petitioner, in my considered opinion, is a plea which would not be available to the petitioner, as the information/knowledge of the passing of the award and its contents, stood received by the petitioner upon receipt of the certified signed copy of the award from the Arbitrator, on 7-3-2015."

14. Shri Joshi further relied on the judgment delivered by the Chhattisgarh High Court in **Union of India V/s. Bhola Prasad Agrawal and Another 2022 SCC OnLine Chhattisgarh 1644,** wherein the Chhattisgarh High Court has held that the provision of delivery of a signed copy of the arbitral award to each of the parties to the proceeding has meant for the purpose that the parties should aware of the contents of the award passed and if any of them has grievance, he can proceed further in accordance with law. The High Court further held that therefore, mere non-delivery of a signed copy of the award as contained in Section 31(5) of the Arbitration Act does not create any prejudice to the appellant and accordingly the District Judge has rightly rejected the appeal moved under Section 34(2) of the Arbitration Act on the ground of limitation. He further submits that the judgment delivered by the Chhattisgarh High Court in the matter of **Bhola Prasad Agrawal and Another (supra)** has considered the issue, which is involved in this case and, therefore, the said judgment is relevant to the case in hand.

15. He also relied upon the another judgment of Chhattisgarh High Court delivered in **Lalkumar Patel and Others V/s. The Chief Engineer and Others W.P. (227) No. 96 of 2021 decided on 18.03.2026,** whereby the learned Single Judge has held that the purpose of the provision, of imparting knowledge to the party, as to the contents of the award, is achieved whether a signed copy is delivered or the certified copy of the signed award is obtained by the party. In either case knowledge/information as to the contents of the award stands attributed to the party, and the time as provided in Section 33(1) and 34(3) of the Arbitration & Conciliation Act, begins to run therefrom. The Court further observed that once a party, is held to have received/obtained the signed copy of the award, may be a certified copy, as indicated above, the information regarding the contents of the award stands attributed to the party, and therefore the time, would begin to run for raising a challenge to the award. Once the time is expired, it cannot be permitted to be said that though a certified signed copy was obtained by the party, still the time under Section 31(1) or 34(3) of the Arbitration & Conciliation Act, did not run and expire, as a signed copy of the award, in terms of Section 31(5) was not delivered to the party. The Chhattisgarh High Court finally held that a too literal and narrow view of the language of Section 31(5) of the Arbitration & Conciliation Act, which would defeat the very purpose and object of the Act itself and the same cannot be considered.

16. Learned counsel further relied on the judgment delivered by the Supreme Court in **Anilkumar Jinabhai Patel (dead) through Legal Representatives V/s. Pravinchandra Jinabhai Patel and Others (2018) 15 SCC**

178, wherein the Supreme Court has held that the service of the arbitral award on one of the appellant will be deemed to be the service to all the appellants and respondent No. 10 and they cannot plead non-compliance of Section 31(5) of the Act. The counsel submits that the trial Court has not committed any error in dismissing the application as barred by limitation. He prays for dismissal of the appeal.

17. After considering the arguments advanced by the counsel for the parties and from perusal of record, it appears that it is not in dispute that an *ex parte* award was passed by the Arbitral Tribunal in the case in hand on 11.12.2018 and a certified copy of the same was obtained by the appellant on 18.03.2019, whereas the application for setting aside the arbitral award was filed by the appellant before the competent Court on 16.09.2019 and by the impugned order dated 14.10.2023, the application filed under Section 34 of the Act, 1996 has been dismissed by the trial Court as barred by limitation.

18. The core question involved in this case is that whether the receipt of a certified copy of the award would be treated as the date of initiation of limitation for filing the application under Section 34 of the Act, 1996. The further question, which is involved in this Case that where an arbitral award has been made and signed, but the signed copy has not been delivered by the Arbitral Tribunal to one of the party, then from which date the period of limitation for an application under Section 34 of the Act would commence, if the party has obtained the certified copy later on. The further question involved in this case that whether in such a situation the award is

enforceable as a decree under Section 36 of the Act and the fate of an execution application would depend on delivery of signed copy of award to the opposite party.

19. The legal position in this regard is that the limitation for filing an application under Section 34(3) runs from the date of receipt of the signed copy of the award, which has to be delivered by the Tribunal as per the provisions of Section 31 (5) to the parties to the proceedings. From the date of the receipt of the signed copy of the arbitral award, three months limitation period would start and the party who wants to challenge the award can file the application for setting aside the award within the period of three months. In the exceptional circumstances and if the Court is satisfied that the applicant was prevented due to sufficient cause, then Court can condone the delay of 30 days occurred in filing the application for setting aside the award and not thereafter.

20. The enforcement of award is also dependent upon the receipt of the signed copy of the award by the parties and Section 36 (1) permits enforcement only in case, where the time for making an application to set aside arbitral award under Section 34 has expired. Meaning thereby if the limitation period for filing the Section 34 application has not been expired then the award would not be enforceable under the provisions of the law. If the Tribunal has dispatched the award by a registered post and there is no evidence of the delivery of the award, then as per the provisions of Section 27 of the General Causes Act the delivery of the award will be presumed

and, therefore, the limitation would be counted from the expiry of one month from the date of posting. The further point, which is involved in this case is that whether any prejudice would be caused to award holder, if the larger limitation is made applicable to the party, who wants to challenge the arbitral award, but the same would be contrary to the provisions of Section 34.

21. Section 2(1)(h) of the Act defines the party, which means party to an arbitral agreement and Section 3(1) provides that unless otherwise agreed by the parties any written communication is deemed to have been received, if it is delivered to the address personally or at his place of business, habitual residence or mailing address and if none of the places referred to in Clause-A can be found after making the reasonable enquiry a written communication is deemed to have been received, it is sent to the addresses last known place of business, habitual residence or mailing address by a registered letter or by any other means, which provides a record of the attempt to deliver it. The communication is deemed to have been received on the day, it is shown delivered. This is the procedure prescribed in the Act itself for the purpose of delivery of written communication to the party to the arbitration.

22. In the case in hand even as per the findings recorded by the trial Court, there is no evidence of dispatching the signed copy of the award to the appellant and, therefore, as per the procedure prescribed under Section 3(1) of the Act, 1996, no such copy has been delivered and it cannot be deemed to have been received by the appellant. Section 31(1) and 31(5) provides that

a arbitral award shall be made in writing and shall be signed by the member of the Arbitral Tribunal and after the arbitral award is made, a signed copy shall be delivered to each party. Section 33 (1) provides that within 30 days from the receipt of the arbitral award, unless another period of time has been agreed upon by the party, a party with notice to the other party may request the Arbitral Tribunal to correct errors or give an interpretation. Similarly Section 34 (3) provides that an application for setting aside award may not be made after three months have elapsed from the date, on which the party making the application has received the arbitral award or if a request has been made under Section 33 from the date, on which the request has been disposed off by the Arbitral Tribunal provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months, it may entertain the application within a further period of 30 days, but not thereafter.

23. Section 36 (1) and (2) provides that where the time for making an application to set aside the arbitral award under Section 34 has expired, then subject to the provisions of Sub Section 2, such award shall be forced in accordance with the provisions of the Code of Civil Procedure, 1908 in the same manner, as if, it was the decree of the Code and where an application to set aside the arbitral award has been filed in the Court under Section 34, the filing of such an application shall not by itself render the award unenforceable, unless the Court grants an order of stay of the execution of the said arbitral award. Section 39(1) and (2) provides that the Arbitral Tribunal shall have a lien on the arbitral award for any unpaid cost of the

arbitration and if in case an Arbitral Tribunal refuses to deliver its award except on payment of cost demanded by it, the Court may on an application in this behalf, pass an order that the Arbitral Tribunal shall deliver the arbitral award to the applicant on payment in the Court of the cost demanded. After considering all these provisions of the Act, it appears that the delivery or supply of the signed copy of the award is a mandatory condition as per the provisions of Section 31 (5) of the Act. In the case in hand the signed copy of the award has not been delivered to the appellant admittedly.

24. The counsel for the appellant relied upon the judgment delivered by the Supreme Court in **Tecco Trichy Engineers and Contractors (supra)** and in **ARK Builders Private Limited (supra)** and in both the cases the Supreme Court has held that the delivery of the arbitral award to the party is mandatory. The Supreme Court in **Anilkumar Jinabhai Patel (supra)** has held that the limitation would commence only from the date of receipt of the signed copy. Similar view was expressed by the Supreme Court in **Dakshin Hariyana Bijli Vitran Nigam Limited V/s. Nevigent Technology Private Limited (2021) 7 SCC 657,** wherein the Supreme Court has held that the receipt of the signed copy of the award is the date on which limitation for objections under Section 34 would commence. In the matter of **M/s. Motilal Agarwala V/s. State of West Bengal (2025) 8 SCR 2400,** the Supreme Court has held that supply of a signed copy of the award to an Assistant Engineer, who attended the proceedings is not sufficient and the State should come to know of the award and when the knowledge of the award received by the

State from the receipt of the notice of execution then the limitation would start from that day.

25. From the above pronouncements of the Supreme Court, it is no more *res integra* that if the aggrieved party has not been served with the signed copy of the award by the Arbitral Tribunal under Section 31(5) of the said Act, limitation for filing an application under 34 (3) of the said Act would not commence, however, in the case in hand a peculiar circumstance is involved that the appellant herself has applied and obtained the certified copy of the award and the same was delivered to her on 18.03.2019, whereas the application for setting aside the award was filed by her on 07.09.2019 and the delay occurred from the receipt of certified copy of the award considered by the trial Court for the purpose of dismissing the application. The main question is that whether receipt of a certified copy by the party herself would be the starting point of the limitation.

26. The judgments relied by the appellant are exactly not on the same point, however, the judgment relied by the respondent specially the judgment delivered by the Single Bench of Bombay High Court in **Rahul S/o Omprakash Gandhi (supra)** and Chhattisgarh High Court in **Bhola Prasad Agrawal and Another (supra)** are dealt with the similar issue and more relevant to the case in hand, wherein the Bombay High Court and Chhattisgarh High Court have considered the effect of receipt of certified copy of the award by the party and held that in any case the receipt of certified copy of the award would be accepted as beginning of the running of

limitation period for the purpose of filing the objections under Section 34.

27. The very purpose for delivery of the signed copy of the award is that the party should come to know that an award has been passed by the Arbitral Tribunal and if the party is aggrieved by anything stated in the award, the party may approach to the competent Court within limitation for setting aside the award. The application under Section 34 for setting aside the award can be filed along with the signed copy of the award or with the certified copy of the award, meaning thereby if a party receives the certified copy of the award, the party may file the application under Section 34 and there would be no difficulty for the party to file the application for setting aside the award. Once the certified copy is received and a party is aggrieved by the award and does not choose to file the application for setting aside the same within the limitation period prescribed by the law, then the party would have to suffer for the negligent inaction.

28. In the case in hand, the trial Court has calculated the limitation not from the date of passing of the award, but from the date of receipt of certified copy of the award and the appellant could have filed the application for setting aside the award within three months from the date of the receipt of certified copy of the award or within further 30 days, if the appellant was prevent by any sufficient cause for not filing the same within the period, but in the case in hand the appellant has filed the application for setting aside the award after 183 days from the date of the receipt of certified copy of the award and the same cannot be treated within limitation. The provisions of the

Section 31(5) cannot be interpreted in a manner that if the Arbitral Tribunal has not delivered the signed copy of the award, then the award would not be enforceable in any case or no limitation would start to file the objections under Section 34 despite receipt of the certified copy and the party in default will enjoy the unlimited limitation. This interpretation would defeat the interest of justice and, therefore, in view of this Court after obtaining the certified copy of the award the limitation for filing the objection had been started. This Court is of the considered view that the limitation for filing the objection would start from the date of receipt of the certified copy. In this case the application was not filed within limitation from the date of receipt of certified copy and, therefore, the trial Court has not committed any error in dismissing the application of the appellant as barred by limitation.

29. Consequently the appeal fails. The order passed by the trial Court appears to be just and proper and is hereby affirmed. No order as to costs. Record of the trial Court be returned along with the copy of this order.

(VINAY SARAF)
JUDGE

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