2026:DHC:9151-DB

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

% ***Reserved on: 23rd July, 2026***

Pronounced on: 15th October, 2026

\# **CNR No: DLHC010493242024**

\+ **FAO(OS) (COMM) 175/2024, CM APPL. 46184/2024 – STAY (VOL. 1), CM APPL. 46186/2024 – DELAY OF 58 DAYS IN FILING (VOL. 1), CM APPL. 46187/2024 – DELAY OF 55 DAYS IN FILING (VOL. 1)**

DEPARTMENT OF LAND RESOURCES

THROUGH ITS DEPUTY ADVISER
(WATERSHED MANAGEMENT)
MINISTRY OF RURAL DEVELOPMENT,
2ND FLOOR, RIGHT WING, ANNEXE
BUILDING, SHIVAJI STADIUM,
CONNAUGHT PLACE, NEW DELHI-110001

.....APPELLANT

Through: Mr. Rajesh Gogna and Ms. Simran, Advocates.

Versus

M/S MUKESH AND ASSOCIATES

THROUGH ITS COUNSEL
MR. SHIVA SANATANAM SWAMINADHAN,
DIVISION-2/2/6, RANGANATHAR AVENUE
PERUMAL MALAI, MAIN ROAD
NARASOTHIPALLY, SALEM,
TAMIL NADU-604004 **.....RESPONDENT**

2026:DHC:9151-DB

Through: Mr. Ritin Rai, Sr. Adv. with Mr. S. Santanam Swaminadhan, Ms. Abhilasha Shrawat, Mr. Kartik Malhotra & Ms. Shivani Choudhary, Advocates.

 # CNR No: DLHC010703402024

+ FAO(OS) (COMM) 233/2024, CM APPL. 60551/2024 – DELAY OF 60 DAYS IN FILING, CM APPL. 60552/2024 – DELAY OF 92 DAYS IN RE-FILING

DEPARTMENT OF LAND RESOURCES

THROUGH ITS DEPUTY ADVISER
(WATERSHED MANAGEMENT)
MINISTRY OF RURAL DEVELOPMENT,
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TAMIL NADU-604004 **.....RESPONDENT**

Through: Mr. Ritin Rai, Sr. Adv. with Mr. S.

2026:DHC:9151-DB

Santanam Swaminadhan, Ms. Abhilasha Shrawat, Mr. Kartik Malhotra & Ms. Shivani Choudhary, Advocates.

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA, J.

1. These appeals *i.e.* FAO(OS)(COMM) 175/2024 and FAO(OS)(COMM) 233/2024 under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the "**A&C Act**") seek to assail the orders dated 12.02.2024 and 30.01.2024 (hereinafter referred to as "**impugned orders**") passed by the learned Single Judge in O.M.P.(Comm) 591/2020 and O.M.P.(Comm) 589/2020 respectively. *Vide* the impugned orders, the learned Single Judge has rejected appellant's petition under Section 34 of the A&C Act assailing the arbitral award dated 10.01.2020 (as amended on 13.02.2020) passed by the learned Sole Arbitrator in ARB.P. 174/2018 and 171/2018 respectively.

2. The brief background of the case is that, on 10.07.2015, parties entered into a contract wherein, the respondent undertook to monitor and evaluate the Integrated Watershed Management Portal (hereinafter referred to as "**IWMP**"). In July 2017, during Consultancy Monitoring Committee preparations, procedural lapses in awarding the contract to the

respondent were identified. Subsequently, an inquiry was initiated to investigate how the respondent, allegedly lacking the necessary competence, managed to secure the contract. Questions also arose regarding procedural compliances. Due to disputes, the respondent invoked arbitration proceedings bearing ARB.P. 174/2018 and 171/2018 in March 2018 and a Sole Arbitrator was appointed.

3. On 10.01.2020, learned Sole Arbitrator awarded a sum of Rs. 11,23,95,709 to the respondent, with future interest as per the Micro, Small and Medium Enterprises Development Act, 2006 from the date of the award till the date of actual payment. The said award highlighted procedural irregularities in the appellant's actions including bypassing required approvals and delays in addressing disputes. Aggrieved by the said award, petitioner challenged the said award by filling two petitions under Section 34 of A&C Act *i.e.* O.M.P.(Comm) 591/2020 and O.M.P.(Comm) 589/2020. However, learned Single Judge dismissed the said petitions *vide* impugned orders dated 12.02.2024 and 30.01.2024. Hence, the present appeals were filed on 11.05.2024. However, defects were marked on both of the appeals. Thus, the present appeals were refiled.

4. During the course of the proceedings in the present appeals, on 19.03.2026, serious objection on behalf of learned Senior Counsel for the respondent on the maintainability of present appeals were raised, according to him present appeals were time barred and the delay is not at

all explained in light of the judgment of the Hon'ble Supreme Court in the matter of **Government of Maharashtra vs. Borse Brothers**[1]. Hence, the arguments were heard on the Condonation of Delay for filing and refiling.

5. It is the case of the appellant that these appeals could not be filed within the prescribed limit of time under the Limitation Act, 1963 as the instructions from the concerned department could not be sent to the office of the standing counsel, since the office of the concerned department was not fully functional due to the Lok Sabha Election 2024 and government offices were not functioning to its full capacity till the election process was completed. After elections, government offices started functioning and the present appeals *i.e.* FAO(OS)(COMM) 175/2024 and FAO(OS)(COMM) 233/2024 were finalized and duly filed on 11.05.2024 and 08.05.2024 respectively.

6. Learned counsel for the appellant submits that objections to the impugned orders were filed on 11.05.2024 and such objections were raised on 14.05.2024 by the Registry. On 25.07.2024, appellant removed the objections and on even date, an objection was raised that applications for condonation of delay in refiling these appeals are required to be filed. It is further submitted that the reason for delay in re-filing the present appeals *i.e.* on 25.07.2024, is that the office of appellant's counsel was not functional during this Court's Summer Vacation Break and the limitation

[1] **(2021) 6 SCC 460**

period for refiling these appeals expired during the said break *i.e.* on 11.06.2024.

7. *Per contra*, learned Senior Counsel for the respondent in support of his submissions, (in respect of limitation in filing and refiling) in FAO(OS)(COMM) 175/2024, has submitted the following list of dates:

Sr. No.	Date	Particulars
1.	12.02.2024	S.34 Judgment in OMP (COMM)/591/20 **[Impugned]**
2.	12.04.2024	S.37 Limitation Expires [60 days under S.13(1A) CCA]
3.	11.05.2024	Non-Est Filing of [+29 days Filing Delay from 12.04.2024] NB: Defects marked on Monday 13.05.2025, Defects notified on 14.05.2024 demonstrate that the said filing was non est. NB: Ground of delay in CM.APPL/46186/24: "Lok Sabha Elections"
4.	13.05.2024	Start Date for 30 day Refiling Limitation being the date appeal marked by the registry as per Rule 5, Chapter 1, Part A, Volume V, DHC Rules
5.	14.05.2024	Registry Defect Sheet indicates substantial defects: Defects: 201, 203, 207, 209, 210, 348, 352, 368 1) Entire Appeal filed was only of 24 pages; 2) No vakalatnama filed; 3) No documents filed; 4) Caveat report and proof of service not filed; 5) Service was not affected upon the nominated counsel; 6) Requisite court fee not paid.

6.	10.06.2024	Refiling of Appeal 344 pages re-filed, yet following defects remain: 201, 203, 207, 209, 210, 348, 352 and 368. NB: Appeal refiled during Summer Vacation, despite ground taken in CM.APPL/46187/24 "*... office of the Appellant's Counsel was not functional during the period i.e. due to the Summer Vacation Break at the Hon'ble High Court of Delhi.*"
7.	11.06.2024	Refiling Limitation Expires as per Rule 5, Chapter 1, Part A, Vol V, DHC Rules [30 days from 13.05.2024]
8.	29.06.2024	Registry returned Appeal under Objections.
9.	01.07.2024	First Day after DHC 2024 Summer Vacation Break
10.	24.07.2024	Refiling
11.	09.08.2024	Registry Notified Defects Cured [+58d Refiling delay from 13.05.2024] NB: Only explanation: "*... office of the Appellant's Counsel was not functional during the period i.e. due to the Summer Vacation Break at the Hon'ble High Court of Delhi.*" NB: 40 days passed since reopening of DHC on 01.07.2024, and first refiling was done on 10.06.2024 in the middle of DHC Summer Vacation
12.	12.08.2024	S.37 Appeal listed. Notice issued

8. Further, learned Senior Counsel for the respondent in support of his submissions, with respect to FAO(OS)(COMM) 233/2024, has submitted the following list of dates in respect of limitation in filing and refiling:

S.No	Date	Event
1.	30.01.2024	S.34 Judgment in OMP (COMM)/580/2020 [Impugned]
2.	30.03.2024	S.37 Limitation Expires [60 days under S.13(1A) CCA
3.	11.05.2024	Non-Est Filing of Appeal [+ 42 days Delay from 30.03.2024] NB: Defects marked on Monday 13.05.2025 demonstrate that the said filing was non est as only 26 pages were filed and the appeal was not filed on the Appellate Side of the Delhi High Court. NB: Ground of delay in CM.APPL/60551/20244: "Lok Sabha Elections"
4.	13.05.2024	Start Date for 30-day Refiling Limitation being the date appeal marked by the registry as per Rule 5, Chapter 1, Part A, Volume V, DHC Rules

5.	10.06.2024	Again Non est filing of Appeal [+91 days Filing Delay from 30.03.2024] 338 pages re-filed. Defect Codes 4, 207, 353 and 370 remained unresolved. NB: The Registry's computation dated 15.06.2024 records: *"15-06-2024 17:13:30 — doo 12.02.2024, DOF 11.05.2024, total 89–60 = 29 days of delay in filing." This indicates that the impugned judgment dated 30.01.2024 passed in OMP (COMM.) No. 580/2020 was not filed; instead, the order dated 12.02.2024 passed in OMP (COMM.) No. 591/2020 between the same parties was filed.*
6.	29.06.2024	Registry again returned Appeal under Objections. NB: On the same day, the Appeal returned with objection: (i) Previous defects not cured, and (ii) Limitation still calculated with effect from 12.02.2024.
7.	01.07.2024	First Day after DHC 2024 Summer Vacation Break
8.	03.08.2024	Non Est Refiling of Appeal [+126 days delay from 30.03.2024 and 54 days after earlier re-filing dated 10.06.2024.] (i) Defect Codes 4, 207, 353 and 370 remained pending. (ii) Limitation still calculated with effect from 12.02.2024. NB: The re-filing dated 03.08.2024 done 33 days after the Delhi High Court reopened on 01.07.2024.
9.	26.08.2024	Appeal Re-filed "First Filing" [+149 days Filing delay from 30.03.2024] NB: Defects marked on 28.08.2024 and 03.09.2024: (i) Defects 4, 207, 353 and 370 remained pending. (ii) Limitation was calculated from 30.01.2024.
10.	03.09.2024	Appeal again returned under objections. Defect Codes 207, 215, 223 and 370 were raised.
11.	04.09.2024	Appeal re-filed and returned under objection
12.	12.09.2024	Appeal re-filed. Note: Returned under objections on 13.09.2024. Defect Codes 207, 215, 223 and 370 remained pending.
13.	14.09.2024	Appeal re-filed. Note: On 18.09.2024, returned under objections. Defect Codes 215 and 370 remained unresolved
14.	21.09.2024 25.09.2024 01.10.2024	Appeal re-filed.



15.	08.10.2024	Appeal finally re-filed and defects cured. NB: Only explanation: *"... office of the Appellant's Counsel was not functional during the period i.e. due to the Summer Vacation Break at the Hon'ble High Court of Delhi."*
16.	14.10.2024	Appeal registered as FAO(OS) (COMM.) No. 233/2024
17.	15.10.2024	S.37 Appeal listed. Notice issued

9. Learned Senior Counsel for the respondent submits that a perusal of the E-filing and the limitation report, represents that the appellant deliberately filed a defective Appeal to stop the clock of limitation. The defects dated 14.05.2024 in FAO(OS)(COMM) 175/2024 and defects dated 13.05.2024 in FAO(OS)(COMM) 233/2024 records that at the first instance only 24 and 26 pages respectively were filed. However, the same appeals as of now runs into 350 and 686 pages respectively. It is submitted that the initial filing failed to include the bare minimum required to maintain an appeal, including the arbitral award and the impugned judgment, thus such a filing constitute as a *non-est* filing based on the principles laid down in **Pragati Constructions Consultants v. UOI & Anr.**[2], wherein it is held that:

> *"97.1. Non-filing of the arbitral award along with an application under the Section 34 of the Arbitration Act would make the said application liable to be treated and declared as non est, and the limitation prescribed under*

[2] **2025 OnLine Del 636**

Section 34(3) of the Arbitration Act shall continue to run in spite of such filing.

97.2. Mere non-filing of the statement of truth or a defect in statement of truth being filed, that is, including with blanks or without attestation, would not ipso facto, make the filing to be non est. However, if accompanied with other defects, the court may form an opinion, based on a cumulative list of such defects, that the filing was non est.

97.3. Similarly, non-filing or filing of a defective vakalatnama; the petition not being signed or properly verified; changes in the content of petition being made in form of addition/deletion of facts, grounds, or filing of additional documents from arbitral record, or filing with deficient court-fee, each of these defects, individually would not render to filing of an application under Section 34 of the Arbitration Act to be treated and declared as non est. ***However, presence of more than one of such defects may, in the given set of facts involved in a case, justify the conclusion of the court that filing of the application was never intended to be final and therefore, is liable to be declared non est.****"*

10. Learned Senior Counsel further submits that it is trite in law that merely because government is involved, a different yardstick for

condonation of delay cannot be laid down. In **State of MP v. Bherulal**[3], **UOI v. Besco Ltd.** [4]and **State of Maharashtra v. Borse Bros. Engineers & Contractors (P) Ltd. (*Supra*)** , Hon'ble Supreme Court has held that since the object of A&C Act is speedy resolution of disputes, the expression 'sufficient cause' is not elastic enough to cover a delay beyond what is contemplated by the provision. Further, in the same judgment it has been held that condonation of delay is an exception and not a rule, and the same needs to be exercised sparingly where the delay is *bonafide*. Moreover, in **State of MP v. Ramkumar Chaudhary**[5], Hon'ble Supreme Court clarified that sufficient cause must be traced to events or circumstances arising within the period of limitation and the Appellant's failure to meet the same undermines the plea for condonation.

11. It is submitted that FAO(OS)(COMM) 175/2024 and FAO(OS)(COMM) 233/2024 has been filed with a delay of 29 days and 42 days respectively and the only explanation offered is a vague reference to Lok Sabha Election 2024, that can not constitute a 'sufficient cause'. Further, the appellant has offered no explanation as to how the Lok Sabha Elections, 2024 prevented the appellant from communicating instructions to its counsel.

[3] **(2020) 10 SCC 654**
[4] **2024 SCC OnLine Del 8467**
[5] **2024 SCC OnLine SC 3612**

12. Learned Senior Counsel submits that FAO(OS)(COMM) 175/2024 and FAO(OS)(COMM) 233/2024 have been re-filed with a delay of 58 days and 120 days respectively and explanation forthcoming for the said delay is that the office of appellant's counsel was not functional due to Court's Summer Vacation Break. However, as per learned Senior Counsel, the said statement stands belied by appellant's own conduct. Since, it is an admitted fact that the present appeals were refiled on 10.06.2024 *i.e.* during the summer break.

13. Learned Senior Counsel further submits that this Court reopened after summer break on 01.07.2024, however, FAO(OS)(COMM) 175/2024 and FAO(OS)(COMM) 233/2024 were refiled on 25.07.2024 and 03.08.2024 respectively, for which delay there is no explanation forthcoming from the appellant.

14. It is submitted that the appellant deliberately chose not to file the present appeals on time in order to delay the execution proceedings in OMP(Enf)(Comm)/136/2020 and OMP(Enf)(Comm)/137/2020. Pertinently, the present appeals came to be registered only after an order of deposit dated 18.07.2024 and 07.10.2024 were passed by this Court against the appellant in the enforcement proceedings. The appellant was adopting delaying tactic, not warranting any liberal approach, reliance for the same is placed upon **DDA v. Durga Construction Co.**[6].

[6] **2013 SCC OnLine Del 4451**

15. Refuting the submissions made on behalf of the respondent, learned counsel for the appellant submits that after announcement of the Lok Sabha Elections 2024 *vide* order dated 04.01.2024, some of the officers of the appellant department were directed to report for duty at the office of Central District Election officer on 08.01.2024. Further, *vide* subsequent communications, officers of the Appellant Department were engaged in the process of elections (which continued till end of May 2024).

16. Learned Counsel for the appellant further submits that these appeals were filed in a hurry, without sufficient documents, on 11.05.2024. However, a large number of defects were raised, whereunder, a fair type of copy of large number of documents had to be filed and the same required a lot of time. The delay caused in refiling the appeals were inevitable since the records were very old. Learned Counsel further submits that despite the fact that the office of the appellant's counsel was not working due to summer vacations for some days, all the defects in FAO(OS)(COMM) 175/2024 and FAO(OS)(COMM) 233/2024 were removed on 05.08.2024 and 03.10.2024 respectively.

17. Heard learned counsel for the parties and perused the records.

18. Both the appeals in hand were filed on 11.05.2024 but the Registry had returned the said appeals under objections and same were again filed

on 10.06.2024. Subsequently, after a series of objections and removing them, these appeals *i.e.* FAO(OS)(COMM) 175/2024 and FAO(OS)(COMM) 233/2024 were refiled on 09.08.2024 and 08.10.2024 respectively.

19. During the course of hearing, on the issue of *non-est* filing, a specific query was put to the learned counsel for the appellant that whether these appeals at the very initial stage on 11.05.2024 were filed along with the impugned orders and arbitration award or not. Learned counsel for the appellant submitted that he will not be able to answer the said specific query, since he doesn't have any records for the same. Accordingly, this Court inquired from the Registry and it was informed that the initial filing was without the impugned orders and arbitration award. Thus, in terms of the Judgment rendered by the full Bench of this Court in **Pragati Constructions Consultants (*Supra*)**, this Court doesn't find any hesitation in holding that the initial filing of these appeals on 11.05.2024 was a *non-est* filing, which cannot be treated as a valid filing and therefore, did not stop the cycle of limitation. Accordingly, 10.06.2024 will be considered as the date of filing of both the appeals.

20. It is significant to note that the Hon'ble Supreme Court in **Borse Bros. Engineers & Contractors (P) Ltd. (*Supra*)** has settled the issue of limitation period in filing an appeal under Section 37 of the A&C Act. It has been held that the limitation period for filling an appeal under Section

37 of the A&C Act, having "specified value" of not less than three lakhs rupees, is 60 days, as mentioned in Section 13(1A) of the Commercial Courts Act, 2015.

21. It is noted that FAO(OS)(COMM.) 175/2024 and FAO(OS)(COMM) 233/2024, have been filed challenging the judgment dated 12.02.2024 and 30.01.2024 respectively. Thus, in the considered opinion of this Court, both the appeals, having been filed on 10.06.2024, have been filed beyond the limitation period of 60 days. Therefore, these have been filed after a delay of 119 days and 132 days *i.e.* beyond the period of 60 days.

22. Even, after filing of these appeals on 10.06.2024, defects were marked by the registry on 29.06.2024. Subsequently, after a series of marking of objections and refiling, both the appeals *i.e.* FAO(OS)(COMM.) 175/2024 and FAO(OS)(COMM) 233/2024 were finally refiled, without any objections, on 09.08.2024 and 08.10.2024 respectively. According to Rule 3 Chapter IV of the Delhi High Court Original Side Rules, 2018, limitation period for refiling is 30 days. Therefore, in these appeals, limitation period for refiling expired on 28.07.2024, after counting 30 days from the date of marking of objections *i.e.* 29.06.2024. In view of the above, there is delay in refiling of both the appeals (of 11 days and 71 days respectively), when compared with the defects marked by the Registry on 29.06.2024 in both the appeals.

23. Admittedly, in the application filed for condonation of delay in filing both the appeals, the only ground taken by the appellant is that the government offices were not functioning to its full capacity due to the Lok Sabha Election 2024. Further, in the application filed for condonation of delay in re-filing both the appeals, the only ground taken by the appellant for the said delay is that the office of appellant's counsel was not functional during this Court's Summer Vacation Break. Apart from these grounds, nothing has been placed on record. As already noted above, the first filing of both the appeals is a *non-est* filing and that being the position, the appeals were actually filed on 10.06.2024. This Court finds merit in the submission of the learned Senior Counsel for the respondent that the delay in filing both the appeals has not been properly explained and the same cannot fall under category of 'sufficient cause'.

24. In **Borse Bros. Engineers & Contractors (P) Ltd. (*Supra*)**, Hon'ble Supreme Court while analysing the expression "sufficient cause" for the purposes of condoning delay under A&C Act and Commercial Courts Act, 2015, observed and held as under: -

> "**58.** Given the object sought to be achieved under both the Arbitration Act and the Commercial Courts Act, that is, the speedy resolution of disputes, the expression "sufficient cause" is not elastic enough to cover long delays beyond the period provided by the appeal provision itself. Besides, the expression "sufficient cause" is not itself a loose panacea for the ill of pressing negligent and stale claims. This Court, in Basawaraj v. LAO [Basawaraj v. LAO, (2013) 14 SCC 81] , has held : (SCC pp. 85-88, paras 9-15)

"9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See Manindra Land & Building Corpn. v. Bhutnath Banerjee [Manindra Land & Building Corpn. v. Bhutnath Banerjee, AIR 1964 SC 1336] , Mata Din v. A. Narayanan [Mata Din v. A. Narayanan, (1969) 2 SCC 770] , Parimal v. Veena [Parimal v. Veena, (2011) 3 SCC 545 : (2011) 2 SCC (Civ) 1] and Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai [Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai, (2012) 5 SCC 157 : (2012) 3 SCC (Civ) 24] .)

10. In Arjun Singh v. Mohindra Kumar [Arjun Singh v. Mohindra Kumar, AIR 1964 SC 993] this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".

11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only [Ed. : The matter between two asterisks has been emphasised in

original.] so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned [Ed. : The matter between two asterisks has been emphasised in original.] , whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide Madanlal v. Shyamlal [Madanlal v. Shyamlal, (2002) 1 SCC 535] and Ram Nath Sao v. Gobardhan Sao [Ram Nath Sao v. Gobardhan Sao, (2002) 3 SCC 195] .)

12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. 'A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.' The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.

13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 28, Para 605 p. 266: '605. Policy of the Limitation Acts.—The courts have expressed at least three differing reasons supporting the existence of statutes of limitation, namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence.' An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches. (See Popat & Kotecha Property v. SBI Staff Assn. [Popat &

Kotecha Property v. SBI Staff Assn., (2005) 7 SCC 510] , Rajender Singh v. Santa Singh [Rajender Singh v. Santa Singh, (1973) 2 SCC 705] and Pundlik Jalam Patil v. Jalgaon Medium Project [Pundlik Jalam Patil v. Jalgaon Medium Project, (2008) 17 SCC 448 : (2009) 5 SCC (Civ) 907] .)

14. In P. Ramachandra Rao v. State of Karnataka [P. Ramachandra Rao v. State of Karnataka, (2002) 4 SCC 578 : 2002 SCC (Cri) 830] this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in Abdul Rehman Antulay v. R.S. Nayak [Abdul Rehman Antulay v. R.S. Nayak, (1992) 1 SCC 225 : 1992 SCC (Cri) 93] .

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."

(emphasis supplied in original)

59. Likewise, merely because the Government is involved, a different yardstick for condonation of delay cannot be laid down. This was felicitously stated in Postmaster General v. Living Media (India) Ltd. [Postmaster General v. Living Media (India) Ltd., (2012) 3 SCC 563 : (2012) 2 SCC (Civ) 327 : (2012) 2 SCC (Cri) 580 : (2012) 1 SCC (L&S) 649] ["Postmaster General"], as follows : (SCC pp. 573-74, paras 27-29)

"27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the

prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

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63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals filed under Section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1-A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be ***condoned by way of exception and not by way of rule***. In a fit case in which a party has otherwise acted bona fide and not in a

> negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches."
>
> **(emphasis supplied)**

25. Thus, in view of Apex Court's decision in **Borse Bros. Engineers & Contractors (P) Ltd. (*Supra*)**, even if the Government is involved, a different yardstick cannot be applied for condonation of delay. In the present case, the very first filing being *non-est*, as observed hereinabove, on account of non-filing of the impugned order and arbitration award, shows the lack of *bonafide* in filing the present appeals. Further, the only reason stated for condonation of delay in filing in both the appeals, as stated hereinabove, that government offices were not functioning to its full capacity due to the Lok Sabha Election 2024, is completely vague and cannot in any manner justify the delay in filing both the appeals. The said reason cannot in any manner be covered under the expression "sufficient expression" as observed in the aforesaid judgment.

26. There is no explanation for each day's delay and no plausible reason is forthcoming as to how Lok Sabha Election 2024 prevented the appellant for taking necessary steps for filing the present appeals within the limitation period. Keeping in view the mandate laid down in the aforesaid judgment that condonation of delay is an exception and not a rule, this

Court is of considered opinion that the appellant have failed in showing the "sufficient cause" for condonation of delay.

27. Accordingly, applications for condonation of delay in filing, CM APPL. 46186/2024 in FAO(OS)(COMM) 175/2024 and CM APPL. 60551/2024 in FAO(OS)(COMM) 233/2024, is dismissed and consequently, present appeals are dismissed and disposed of.

28. Pending applications, if any, stands disposed of.

29. Order be uploaded on the website of this Court, *forthwith.*

NITIN WASUDEO SAMBRE
(ACTING CHIEF JUSTICE)

AMIT SHARMA
(JUDGE)

OCTOBER 15, 2026/sg