



**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Arb. Appeal No.451 of 2025**

**Reserved on : 13.05.2026**

**Decided on : 22.05.2026**

**Uploaded on : 22.05.2026**

State of HP and Another.

...Appellants.

Versus

M/s Garg Sons Estate Promoters Pvt. Ltd.

...Respondent.

*Coram*

***Hon'ble Mr. Gurmeet Singh Sandhawalia, Chief Justice.***

***Hon'ble Mr. Justice Bipin Chander Negi, Judge.***

*Whether approved for reporting?<sup>1</sup>*

For the appellants : Mr. Navlesh Verma, Additional Advocate General with Ms. Ayushi Negi, Dy. Advocate General.

For the respondent : Mr. Suneet Goel, Sr. Advocate with Mr. Vivek Negi and Mr. Rajesh Kumar, Advocates, for the respondent.

***Bipin Chander Negi, Judge***

The present appeal has been preferred against the impugned judgment dated 22.10.2024, whereby an application bearing number ***OMP(M) No.74 of 2023*** seeking condonation of delay in filing the objections in ***Abr. Case No.593 of 2023***, titled ***State of HP and Anr. Vs. M/s. Garg Sons Estate Promoters Pvt. Ltd.***, under Section 34 of the Arbitration and Conciliation Act (for the purpose of brevity hereinafter referred to as 'the Act') has been dismissed by the learned Single Judge.

<sup>1</sup> ***Whether the reporters of the local papers may be allowed to see the Judgment? Yes***

2. The Award, in the case at hand, was passed by the learned Arbitrator on 20.02.2023. A signed copy of the Award was received by the appellant No.2 on 20.02.2023 itself. Subsequent thereto, appellant No.2 vide letter dated 11.04.2023, submitted a copy of the Award to the office of the Superintending Engineer, 11<sup>th</sup> Circle, HPPWD, Rampur, District Shimla, HP, for the further necessary action.

3. The office of the Superintending Engineer, 11<sup>th</sup> Circle, HPPWD, Rampur, Shimla, HP, vide letter dated 19.04.2023, further forwarded the Award along with the entire record to the office of the Engineer-in-Chief, HPPWD, Shimla, HP, for examination. At the said office, the matter was examined by the Legal Cell and after examination, the matter was submitted to the Government of Himachal Pradesh vide letter dated 10.05.2023.

4. The matter at the Government level was examined in consultation with the Law Department and as per the opinion of the Law Department, the matter was conveyed to appellant No.1 vide letter dated 27.05.2023.

5. The decision of the Government was conveyed to appellant No.2 vide letter dated 03.06.2023. Based on the same, appellant No.2 took steps to get the objections

drafted. The objections were got prepared and filed after the period of three months from the receipt of the signed copy of the Award, however, within 30 days as provided in the proviso to Section 34(3) of the Act.

6. In the response filed to the application seeking condonation of delay in filing the objections under Section 34 of the Act, a specific objection was taken by the present respondent that for nearly about 2 months, after the receipt of signed copy of the Award i.e. from 20.02.2023 till 11.04.2023, there was no explanation coming forthwith as to what was done by the appellants. In the rejoinder filed, stand taken by the appellants was that the delay in filing the objections was on account of impersonal machinery and bureaucratic methodology.

7. Other than the aforesaid, it was averred in the rejoinder that for 90 days after the receipt of a signed copy of the Award, no explanation was required to be given by the appellants, as to why objections were not filed within the said prescribed period. It was further averred in the rejoinder that the delay, i.e., to be explained by the appellants is qua the period post 90 days of receipt of the signed copy of the Award.

8. The aforesaid contention of the appellants has been rejected, as according to the learned Single Judge, the appellants were required to show "**sufficient cause**" for not having filed the objections under Section 34 of the Act within 90 days from the receipt of the signed copy of the Award, i.e., between 20.02.2023 (date of receipt of award) till 11.04.2023 (date on which a copy of the Award was submitted by appellant No.2 to the office of the Superintending Engineer, 11<sup>th</sup> Circle, HPPWD, Rampur, District Shimla, HP).

9. Heard counsel for the parties and perused the pleadings and record.

10. At the very outset, it would be appropriate to state that since the learned single judge has refused to condone the delay, in the case at hand, therefore in appeal, this Court would be entitled to consider if delay should be condoned or not afresh. In this respect, reference can gainfully be made to the Apex Court judgement in **Civil Appeal No.11794 of 2025** titled **Shivamma (dead) By LRs. vs. Karnataka Housing Board & Others**, decided on 12.09.2025. Relevant extract whereof reads as follows;

*"It is no more res integra that where a court below*

*refused to condone the delay, then the court sitting in appeal would be entitled to consider if delay should be condoned or not afresh, notwithstanding the decision of the lower court. However, some weight and importance would have to be given to the reasons which swayed the court below from refusing to exercise its discretion. Because refusal to condone the delay is also, nevertheless an exercise of discretion to not exercise discretion. However, the scope, available to the appellate court to substitute its findings in such scenarios would enjoy a considerable degree of play in its joints."*

11. The primary object of the Act as enunciated by the Apex Court in ***Icomm Tele Limited Vs. Punjab State Water Supply and Sewerage Board and Anr. (2019) 4 SCC 401*** is to reach a final disposal of disputes in a speedy, effective, inexpensive and expeditious manner. In order to make the arbitration process more effective, the interference of the Courts has been specifically restricted. The relevant extract reads as follows:-

*"25. Several judgments of this Court have also reiterated that the primary object of arbitration is to reach a final disposal of disputes in a speedy, effective, inexpensive and expeditious manner. Thus, in Centrotrade Minerals & Metal Inc. v. Hindustan Copper Ltd., (2017) 2 SCC 228, this court held:*

*"39. In Union of India v. U.P. State Bridge Corpn. Ltd. [(2015) 2 SCC 52] this Court accepted the view [O.P. Malhotra on the Law and Practice of Arbitration and Conciliation (3rd*

*Edn. revised by Ms Indu Malhotra, Senior Advocate)] that the A&C Act has four foundational pillars and then observed in para 16 of the Report [sic] that:*

*“16. First and paramount principle of the first pillar is ‘fair, speedy and inexpensive trial by an Arbitral Tribunal’. Unnecessary delay or expense would frustrate the very purpose of arbitration. Interestingly, the second principle which is recognised in the Act is the party autonomy in the choice of procedure. This means that if a particular procedure is prescribed in the arbitration agreement which the parties have agreed to, that has to be generally resorted to.”(Emphasis in original)*

26. Similarly, in *Union of India v. Varindera Constructions Ltd.*, (2018) 7 SCC 794, this Court held:-

*“12. The primary object of the arbitration is to reach a final disposition in a speedy, effective, inexpensive and expeditious manner. In order to regulate the law regarding arbitration, legislature came up with legislation which is known as Arbitration and Conciliation Act, 1996. In order to make arbitration process more effective, the legislature restricted the role of courts in case where matter is subject to the arbitration. Section 5 of the Act specifically restricted the interference of the courts to some extent. In other words, it is only in exceptional circumstances, as provided by this Act, the court is entitled to intervene in the dispute which is the subject-matter of arbitration. Such intervention may be before, at or after the arbitration proceeding, as the case may be. In short, court shall not intervene with the subject-matter of arbitration unless injustice is caused to either of the parties.”*

12. Based on the aforesaid, while considering an application for condonation of delay in filing an appeal under

Section 37 of the Act, the Apex Court in **Govt. of Maharashtra (Water Resources Department) represented by Executive Engineer Vs. Borse Brothers Engineers and Contractors Pvt. Ltd. (2021) 6 SCC 460**, observed that an application for condonation of delay under Section 5 of the Limitation Act filed under the Arbitration Act has to be considered in the context of the object of speedy resolution of disputes. The relevant extract is being reproduced herein below:-

*“32. Thus, from the scheme of the Arbitration Act as well as the aforesaid judgments, condonation of delay under Section 5 of the Limitation Act has to be seen in the context of the object of speedy resolution of disputes.”*

13. In the aforesaid context, in **Government of Maharashtra' case** (supra), the Apex Court held that the delay in filing an appeal under section 37 of the Act beyond the prescribed period is to be condoned by way of an exception and not as a general rule. Short delays beyond the prescribed period wherein the party seeking condonation has acted bona-fidely and not in a negligent manner, in the discretion of the Court, can be condoned. The relevant extract whereof reads as follows:-

*“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."*

14. For the purpose of the present lis, we are concerned with Section 34(3) of the Act which reads as follows:-

**"34. Application for setting aside arbitral award:**

*(3) An application for setting aside 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 of 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 thirty days, but not thereafter."*

15. The characteristics of Section 34(3) of the Act have been highlighted in the judgement of the Apex Court in ***P. Radha Bai and Ors. Vs. P. Ashok Kumar and Anr. (2019) 13 SCC 445***, in the following terms.

*“32. Section 34 is the only remedy for challenging an award passed under Part I of the Arbitration Act. Section 34(3) is a limitation provision, which is an inbuilt into the remedy provision. One does not have to look at the Limitation Act or any other provision for identifying the limitation period for challenging an Award passed under Part I of the Arbitration Act.*

*32.2. The time limit for commencement of limitation period is also provided in Section 34(3) i.e. the time from which a party making an application “had received the Arbitral Award” or disposal of a request under Section 33 for corrections and interpretation of the Award.*

*32.3 Section 34(3) prohibits the filing of an application for setting aside of an Award after three months have elapsed from the date of receipt of Award or disposal of a request under Section 33. Section 34(3) uses the phrase “an application for setting aside may not be made after three months have elapsed”. The phrase “may not be made” is from the UNCITRAL Model Law and has been understood to mean “cannot be made”.*

*The High Court of Singapore in ABC Co. Ltd v. XYZ Co. Ltd. Held:*

*“The starting point of this discussion must be*

*the Model Law itself. On the aspect of time, Article 34(3) is brief. All it says is that the application may not be made after the lapse of three months from a specified date. Although the words used are 'may not' these must be interpreted as 'cannot' as it is clear that the intention is to limit the time during which an award may be challenged. This interpretation is supported by material relating to the discussions amongst the drafters of the Model Law. It appears to me that the court would not be able to entertain any application lodged after the expiry of the three months period as Article 34 has been drafted as the all encompassing, and only, basis for challenging an award in court. It does not provide for any extension of the time period and, as the court derives its jurisdiction to hear the application from the Article alone, the absence of such a provision means the court has not been conferred with the power to extend time".*

*32.4 The limitation provision in Section 34(3) also provides for condonation of delay. Unlike Section 5 of Limitation Act, the delay can only be condoned for 30 days on showing sufficient cause. The crucial phrase "but not thereafter" reveals the legislative intent to fix an outer boundary period for challenging an Award.*

*32.5 Once the time limit or extended time limit for challenging the arbitral award expires, the period for enforcing the award under Section 36 of the Arbitration Act commences. This is evident from the phrase "where the time for making an application to set aside the arbitral award under*

*Section 34 has expired". There is an integral nexus between the period prescribed under Section 34(3) to challenge the Award and the commencement of the enforcement period under Section 36 to execute the Award."*

16. Besides the aforesaid, Section 34 of the Act is a substantive remedy available to challenge an Award. The statutory remedy is limited in scope, hence, it is imperative to interpret limitation provisions liberally, or else even the limited window to challenge the arbitral award would be lost and grave prejudice shall be caused to a party against whom an Award has been passed. In this regard, it would be appropriate to refer to the authoritative pronouncement of the Apex Court in ***My Preferred Transformation and Hospitality Pvt. Ltd. and Anr. Vs. Faridabad Implements Pvt. Ltd., (2025) 6 SCC 481 (Civil Appeal No.336 of 2025)***. The relevant extract reads as follows:-

*"41.3. The substantive remedies available under Sections 34 and 37 of the ACA are, by their very nature, limited in their scope due to statutory prescription. It is therefore necessary to interpret the limitation provisions liberally, or else even the limited window available to parties to challenge an arbitral award will be lost. The remedy under Section 34 is precious, and courts will keep in mind the need to secure and protect such remedy while applying limitation provisions. If this limited remedy is denied on stringent principles of limitation, it will*

cause great prejudice and has the effect of (a) denying the remedy, and (b) in the long run, it will have the effect of dissuading contracting parties from seeking resolution of disputes through arbitration. This is against public policy.”

17. In cases, other than under the Act, wherein bureaucratic processes are the reasons for delay in approaching the Court by the State, the door for condonation of delay is not completely shut. Though while considering such cases, Courts are circumspect and reluctant. In instances, wherein bureaucratic procedures are cited as “sufficient cause” for condonation of delay, the true test for condoning delay is whether the “explanation” demonstrates that the State acted with reasonable diligence and whether the delay occurred despite sincere efforts to act within time owing to the inherent complexities of governmental decision-making (**See Shivamma** Supra).

18. The aforestated Court’s circumspection in considering whether the explanation proffered demonstrates reasonable diligence on the part of the State stems from the fact that condoning delay, as a matter of course in the name of public interest for the Government, institutionalises inefficiency. Resultantly, neither does its officers act with vigilance nor does its instrumentalities streamline procedures

for timely action. Public interest is better served by timely governmental action rather than by condoning its lapses as a matter of course. Limitation statutes, are enacted in every civilised jurisdiction for the sake of finality, certainty, and public order. Repeated indulgence in condoning delays on grounds of bureaucratic inefficiency would amount to eroding the very object of limitation statutes. Law of limitation has to be applied with all its rigour (**See Shivamma** Supra).

19. For reasons stated supra (paragraph 16), while considering an application for condonation of delay in filing objections under Section 34 of the Act, it is imperative to interpret limitation provisions liberally. In the case at hand, the time limit of 90 days stood expired and the objections were filed during the extended time limit for challenging the arbitral award. While examining the explanation offered, the Court has to be conscious of the impersonal nature of the governmental functioning (no one in charge of the matter is directly hit or hurt by the judgment sought to be subjected to appeal), bureaucratic methodology imbued with the note-making, file-pushing and passing-on-the-buck ethos, the hidden forces that are at work in preventing an appeal by the State being presented within the prescribed period of limitation so as not to allow a higher Court to pronounce

upon the legality and validity of an order of a lower Court and thereby secure unholy gains. Besides "Every day's delay must be explained" does not mean that a pedantic approach should be made. The doctrine must be applied in a rational common sense pragmatic manner. The explanation offered in the case at hand, though involving bureaucratic procedures, when examined in the aforesaid perspective reflects a genuine and bona fide cause for the delay in filing the objections under section 34 of the act.

20. A challenge to an Award by way of objections under Section 34(3) of the Act can be laid within 120 days of the receipt of the Award. As has already been stated supra, an Award can only be enforced under Section 36 of the Act after the expiry of 120 days. The nexus between Section 34(3) to challenge the Award and commencement of enforcement under Section 36 of the award is evident. Nothing has been acquired both in equity and justice by the respondent in the case at hand prior to the expiry of 120 days after receipt of the Award, which would be lost, if in case, the application for condonation of delay is allowed in the case at hand.

21. Hence, for the reasons/sufficient cause stated in

the application & the aforesaid position of law, delay in filing the present objections is condoned and impugned judgment dated 22.10.2024, passed by the learned Single Judge, is set aside. The matter is remanded back to the learned Single Judge for the consideration of the objections under Section 34 of the Act.

The present appeal is disposed of in the aforesaid terms, so also the pending application(s), if any.

**(G.S. Sandhawalia)**  
**Chief Justice**

**(Bipin Chander Negi)**  
**Judge**

**22<sup>nd</sup> May, 2026**  
(Gaurav Rawat)

High Court of J&K