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

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Judgment reserved on: 22.05.2026
Judgment pronounced on: 06.07.2026

+ O.M.P. (COMM) 2/2025, I.A. 15/2025 (Stay) & I.A. 17/2025
Delay of 59 days in Re-filing the petition)

UNION OF INDIAPetitioner
Through: Mr. Sushil Kumar Pandey, SPC
with Mr. Aman Kumar Pandey
& Mr. Pradip Sharma,
Advocates.

versus

M/S ISC-YUG (JV)Respondent
Through: Ms. Pooja Dua, Ms. Urzica
Chauhan & Ms. Gauri Ojha,
Advocates.

+ O.M.P. (COMM) 7/2025, I.A. 160/2025 (Stay) & I.A. 162/2025
(Delay of 100 days in Re-filing the petition)

UNION OF INDIAPetitioner
Through: Mr. Sushil Kumar Pandey, SPC
with Mr. Aman Kumar Pandey
& Mr. Pradip Sharma,
Advocates.

versus

M/S ISC YUGRespondent
Through: Ms. Pooja Dua, Ms. Urzica
Chauhan & Ms. Gauri Ojha,
Advocates.

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR



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J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. The captioned Petitions, under Section 34 of the **Arbitration and Conciliation Act, 1996**¹, seek to assail the **common Arbitral Award dated 22.09.2023**² passed by the learned Sole Arbitrator in ARB. Nos. 141 and 142 of 2023, the original signed copy of which is stated to have still not been obtained by the Petitioner herein.
2. The Petitions are accompanied by applications, being I.A. 17/2025 seeking condonation of the delay of 59 days in re-filing O.M.P. (COMM) 2/2025, while I.A. 162/2025 has been filed seeking condonation of the delay of 100 days in re-filing O.M.P. (COMM) 7/2025.
3. At the very outset, before this Court adverts to the merits of the captioned Petitions or even the Applications seeking condonation of delay in re-filing the Petitions, learned counsel appearing for the Respondent has raised a preliminary objection as to the maintainability of the present Petitions on the ground that the same are barred by limitation.
4. Therefore, this Court feels it is necessary to first adjudicate the preliminary objection raised by the learned counsel for the Respondent and determine whether the present Petitions are barred by limitation.
5. In the event that the challenge is found to be barred by limitation, it would be neither necessary nor appropriate to enter into a detailed examination of the factual matrix of the case.

¹ A&C Act

² Impugned Award



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BRIEF FACTS:

6. Shorn of unnecessary details, the facts germane for the adjudication of the preliminary issue concerning the limitation are as follows:

- (a) The Petitioner herein floated a tender dated 09.09.2016 for the work of construction of various Limited Height, which was awarded in favour of the Respondent *vide* separate Letters of Acceptance dated 02.12.2016 and 16.01.2017 respectively.
- (b) Pursuant thereto, the parties entered into a contract agreement dated 06.04.2017.
- (c) It is stated that certain disputes arose as between the parties and arbitral proceedings were initiated, which culminated in the common Award dated 22.09.2023 rendered by the learned Sole Arbitrator. It is stated in the Petition that the Award was pronounced through video conferencing.
- (d) It is stated that a signed copy thereof was allegedly not delivered directly to the Petitioner in terms of Section 31(5) of the A&C Act and the signed copy of the Impugned Award was admittedly collected by the learned counsel appearing on behalf of the Petitioner on 09.10.2023.
- (e) Thereafter, an Execution Petition bearing OMP(ENF.)(COMM.) No. 45/2024 came to be filed by the Respondent, pursuant to which the Petitioner moved an application before **Delhi International Arbitration Centre**³ on 16.07.2024 seeking a copy of the Impugned Award.

³ DIAC



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- (f) The Petitioner claims to have received a “copy to copy” of the Impugned Award only on 18.07.2024.
- (g) Aggrieved by the Impugned Award, the Petitioner has preferred the present Petitions under Section 34.

SUBMISSIONS ON BEHALF OF THE PARTIES:

7. Learned counsel appearing on behalf of the Respondent would submit that the present Petitions are egregiously barred by limitation. It would be submitted that the date that the Petitioner has considered for the calculation of the limitation period is predicated on a wholly misconceived understanding of the facts and circumstances of the present case, as well as the law.

8. Learned counsel for the Respondent would draw the attention of this Court to the pleadings themselves wherein it is stated that the Petitioner gained knowledge of the Impugned Award on 22.09.2023, i.e., the day on which the Impugned Award was pronounced, as has been indicated by the Petitioner in their List of Dates appended to the present Petition.

9. Learned counsel appearing on behalf of the Respondent would further submit that the present Petitions have been carefully worded to merely state that the Petitioner did not receive a signed copy of the Award, while conspicuously omitting two material aspects, *namely*, *first*, whether the counsel appearing for the Petitioner was authorised to receive the Award on its behalf, and *second*, whether, upon such receipt, the signed copy of the Award was in fact not transmitted by the counsel to the Petitioner.

10. It would further be submitted that the Petitioner had knowledge of the Impugned Award since the day the same was pronounced;



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however, it took no steps to obtain a signed copy of the Impugned Award within the prescribed time period. It would be argued that the Petitioner cannot now seek to argue on the strength of the fact that it received the copy of the Impugned Award belatedly, after the Petitioner itself chose not to act promptly and consciously failed to take the requisite steps to obtain a signed copy of the Impugned Award. Having acquiesced in such inaction, the Petitioner cannot now seek to extend or postpone the commencement of limitation by relying upon its own omission.

11. Learned counsel for the Respondent would seek to rely upon the judgment of this Court in *Employees State Insurance Corporation v Mukesh Associates*⁴ to further buttress her argument.

12. It would further be submitted by learned counsel for the Respondent, on *demurrer*, that despite having gained knowledge of the Impugned Award in February 2024, the Petitioner chose to sleep over its rights till July 2024, which is when it chose to prefer an application seeking the copy of the Impugned Award. This, as would be argued by the learned counsel for the Respondent, shows the lackadaisical conduct of the Petitioner and therefore, the present Petitions are liable to be dismissed on the preliminary ground of having been filed belatedly.

13. ***Per contra***, learned counsel for the Petitioner would submit that the present Petitions are not beyond the limitation period, primarily on the ground that the signed copy of the Award was not served upon the Petitioner but was instead served upon the counsel appearing on its behalf. He would submit that such service is not valid in law and that,

⁴ 2026: DHC : 829



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in terms of the judgment of the Hon'ble Supreme Court in *State of Maharashtra v. ARK Builders (P) Ltd.*⁵, limitation would commence only upon receipt of a signed copy of the Award by the party itself and not merely upon service to its counsel.

14. Learned counsel for the Petitioner would also seek to rely upon the Affidavit filed on behalf of the Authorised Officer of the Petitioner dated 04.05.2026 to state that the collection of the Impugned Award by the erstwhile learned counsel for the Petitioner was invalid since he was not authorised to collect the same.

15. It would be submitted by the learned counsel for the Petitioner that the Petitioner only became aware of the Impugned Award after the Execution Petition came to be filed and the present Petitions came to be promptly filed after having received the copy of the Impugned Award.

16. It would also be submitted that the limitation prescribed under Section 34(3) of the A&C Act commences only upon the delivery of a signed copy of the arbitral award in compliance with Section 31(5) of the A&C Act. Since no such signed copy had been delivered to the Petitioner, the limitation period had not begun to run. It would thus be submitted that the Award having been received on 18.07.2024, the limitation would commence thereafter, and therefore, the present Petitions are not barred by limitation.

ANALYSIS:

17. This Court has heard the learned counsel appearing for the parties and, with their able assistance, perused the material on record and the affidavits filed on behalf of the Petitioner.

⁵ [(2011) 4 SCC 616]



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18. The preliminary objection raised by the Respondent goes to the very maintainability of the present Petitions. The question that therefore falls for consideration is whether the Petitions under Section 34 of the A&C Act have been instituted within the period prescribed under Section 34(3) of the A&C Act.

19. Before advertng to the rival contentions, it would be apposite to note that the limitation prescribed under Section 34(3) of the A&C Act is mandatory in nature. The provision stipulates that an application for setting aside an arbitral award must be made within three months from the date on which the party making the application had received the arbitral award. The proviso empowers the Court to condone delay only up to a further period of thirty days, provided sufficient cause is shown. Beyond the said period, the Court has no jurisdiction to entertain a petition under Section 34. Section 34 of the A&C Act reads as under:

“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....”

20. The language employed by the legislature is explicit and mandatory. The expression “but not thereafter” occurring in the proviso to Section 34(3) places a complete embargo on the power of the Court to condone delay beyond the additional period of thirty days. This Court is guided by the Judgment of the Apex Court in



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Union of India v. Popular Construction Co.⁶ wherein it has been held as follows:

“12. As far as the language of Section 34 of the 1996 Act is concerned, the crucial words are “but not thereafter” used in the proviso to sub-section (3). In our opinion, this phrase would amount to an express exclusion within the meaning of Section 29(2) of the Limitation Act, and would therefore bar the application of Section 5 of that Act. Parliament did not need to go further. To hold that the court could entertain an application to set aside the award beyond the extended period under the proviso, would render the phrase “but not thereafter” wholly otiose. No principle of interpretation would justify such a result.”

16. “Furthermore, Section 34(1) itself provides that recourse to a court against an arbitral award may be made only by an application for setting aside such award “in accordance with” sub-section (2) and sub-section (3). Sub-section (2) relates to grounds for setting aside an award and is not relevant for our purposes. But an application filed beyond the period mentioned in Section 34, sub-section (3) would not be an application “in accordance with” that sub-section. Consequently, by virtue of Section 34(1), recourse to the court against an arbitral award cannot be made beyond the period prescribed.”

21. This Court is further guided by the Judgment of the Hon’ble Supreme Court in ***Simplex Infrastructure Ltd. v. Union of India***⁷, wherein the following has been held:

“18. A plain reading of sub-section (3) along with the proviso to Section 34 of the 1996 Act, shows that the application for setting aside the award on the grounds mentioned in sub-section (2) of Section 34 could be made within three months and the period can only be extended for a further period of thirty days on showing sufficient cause and not thereafter. The use of the words “but not thereafter” in the proviso makes it clear that the extension cannot be beyond thirty days. Even if the benefit of Section 14 of the Limitation Act is given to the respondent, there will still be a delay of 131 days in filing the application. That is beyond the strict timelines prescribed in sub-section (3) read along with the proviso to Section 34 of the 1996 Act. The delay of 131 days cannot be

⁶ (2001) 8 SCC 470

⁷ (2019) 2 SCC 455



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condoned. To do so, as the High Court did, is to breach a clear statutory mandate.

19. The respondent received the arbitral award on 31-10-2014. Exactly ninety days after the receipt of the award, the respondent filed an application under Section 34 of the 1996 Act before the District Judge, Port Blair on 30-1-2015. On 12-2-2016, the District Judge dismissed the application for want of jurisdiction and on 28-3-2016, the respondent filed an application before the High Court under Section 34 of the 1996 Act for setting aside the arbitral award. After the order of dismissal of the application by the District Judge, the respondent took almost 44 days (excluding the date of dismissal of the application by the District Judge and the date of filing of application before the High Court) in filing the application before the High Court. Hence, even if the respondent is given the benefit of the provision of Section 14 of the Limitation Act in respect of the period spent in pursuing the proceedings before the District Judge, Port Blair, the petition under Section 34 was filed much beyond the outer period of ninety days.”

22. The controversy in the present case does not revolve around the statutory position but rather the point from which limitation commenced. According to the Petitioner, limitation began only on 18.07.2024, when it obtained a "copy to copy" of the Impugned Award from DIAC. The Respondent, on the other hand, contends that the signed copy of the Award had already been received by the Petitioner's counsel on 09.10.2023 and that limitation must necessarily be reckoned from that date.

23. It is not disputed that the learned Sole Arbitrator pronounced the Impugned Award on 22.09.2023 through video conferencing. It is equally not disputed that the Petitioner's counsel collected the signed copy of the Impugned Award on 09.10.2023. The Petition itself specifically acknowledges this fact. The only attempt made by the Petitioner is to contend that the receipt of the Impugned Award by its counsel cannot be treated as receipt by the Petitioner itself, since the counsel was allegedly not authorised to receive the same.



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24. This contention, in the opinion of this Court, is wholly untenable. Significantly, the Petition has been drafted with considerable circumspection. While asserting that the Petitioner itself did not receive the signed copy of the Impugned Award, it carefully avoids pleading that the counsel appearing before the learned Arbitrator lacked authority to receive the Impugned Award. Equally absent is any pleading that the counsel, after receiving the signed copy, failed to communicate the same to the Petitioner. These are material facts which were required to be specifically pleaded if the Petitioner intended to contend that the receipt by its counsel could not be attributed to it. The omission assumes greater significance considering that the Petitioner itself admits that the Impugned Award had been collected by its counsel on 09.10.2023.

25. The Petitioner has attempted to cure this deficiency by placing reliance upon an affidavit dated 04.05.2026 of its Authorised Officer, asserting that the erstwhile counsel was not authorised to collect the Impugned Award. This Court is unable to attach any weight to such an assertion. The affidavit has admittedly been filed nearly two years after the institution of the present proceedings and after the Respondent specifically raised the plea of limitation. More importantly, no contemporaneous material has been placed on record to demonstrate that the authority of the counsel stood restricted or that any objection had ever been raised before the learned Arbitrator or DIAC regarding the delivery of the Impugned Award to the learned counsel. A subsequent self-serving affidavit cannot displace the admitted factual position reflected from the record.



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26. It is well settled that an advocate who represents a party in arbitral proceedings acts as the recognised agent of such party for all acts incidental to the conduct of those proceedings unless his authority is shown to have been specifically curtailed. In the absence of any contemporaneous material demonstrating such restriction, this Court finds no reason to hold that the receipt of the signed Impugned Award by the counsel was legally ineffective.

27. Even otherwise, the conduct of the Petitioner completely belies its present stand. The Petitioner admittedly had knowledge of the pronouncement of the Award on 22.09.2023. Despite such knowledge, it chose not to make any endeavour whatsoever to obtain a signed copy of the Impugned Award from the learned Arbitrator or from DIAC within the statutory period prescribed under Section 34(3) of the A&C Act. If indeed the Petitioner had not received the Impugned Award, ordinary prudence demanded that it immediately seek its delivery. Instead, the Petitioner remained completely inactive.

28. There is yet another aspect which militates against the Petitioner's case. *Vide* Order dated 27.02.2026, this Court had called upon the Petitioner to specifically clarify the circumstances surrounding the receipt of the signed copy of the Impugned Award by its erstwhile counsel and the authority under which the same had been collected. The affidavit subsequently filed on behalf of the Petitioner, however, conspicuously fails to answer the queries raised by this Court. Apart from making a bald assertion that the erstwhile counsel was not authorised to receive the Impugned Award, the affidavit neither discloses the basis of such assertion nor explains how the



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Impugned Award came to be collected by the counsel representing the Petitioner in the arbitral proceedings.

29. Equally, the affidavit is silent as to whether the Impugned Award, after being collected by the counsel, was ever transmitted to or brought to the knowledge of the Petitioner. The affidavit thus does not furnish any substantive explanation to the specific issues raised by this Court and falls far short of discharging the burden cast upon the Petitioner to establish that the receipt of the Impugned Award by its counsel could not be treated as receipt by the Petitioner for the purposes of Sections 31(5) and 34(3) of the A&C Act.

30. It is only after the Respondent initiated execution proceedings that the Petitioner addressed a communication dated 16.07.2024 to DIAC seeking a copy of the Impugned Award. Such conduct unmistakably demonstrates that the Petitioner was content in allowing the statutory period to lapse and only sought to obtain another copy once execution proceedings had commenced. A litigant cannot be permitted to take advantage of its own inaction and thereafter seek to postpone the commencement of limitation on the ground that it obtained another copy of the Award at a later point in time.

31. The submission that limitation commenced afresh on 18.07.2024 merely because DIAC supplied another copy of the Impugned Award deserves outright rejection. Acceptance of such a proposition would virtually render Section 34(3) of the A&C Act otiose. A party, despite having knowledge of an Award and despite its authorised representative having received the signed copy, could indefinitely postpone limitation by simply applying for another copy months or years later. Such an interpretation would defeat the



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legislative object of ensuring finality and expedition in arbitral proceedings.

32. The reliance placed by the Petitioner upon **ARK Builders (P) Ltd.** (*supra*) is equally misplaced. There can be no quarrel with the proposition that limitation commences upon delivery of a signed copy of the Award in terms of Section 31(5) of the A&C Act. However, the said decision cannot be read to mean that where the signed Award has admittedly been received by the counsel representing a party, the limitation would nevertheless remain suspended until the party chooses to obtain another copy for itself. The ratio of **ARK Builders (P) Ltd.** (*supra*) cannot be extended to protect a litigant who, despite having knowledge of the Award and whose counsel has admittedly received the signed copy, remains indolent and seeks to revive limitation by procuring another copy at a much later stage.

33. This Court also finds merit in the submission of the Respondent that the present Petitions are founded upon selective pleadings. While the Petitioner repeatedly emphasises that it did not personally receive the Impugned Award, it has deliberately refrained from disclosing the circumstances in which its erstwhile counsel received the signed copy or whether such copy was communicated to the Petitioner. A litigant invoking the discretionary jurisdiction of this Court is expected to approach the Court with complete candour. Suppression of material particulars assumes added significance where the issue concerns limitation, which goes to the very jurisdiction of the Court to entertain the Petition.

34. The judgment of this Court in **Employees State Insurance Corporation** (*supra*) correctly recognises that a party cannot



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indefinitely postpone limitation by remaining passive despite knowledge of the Award and thereafter seek to rely upon its own omission to contend that limitation had not commenced. The principle squarely applies to the facts of the present case.

35. Once it is held that the signed copy of the Impugned Award had been received by the Petitioner's counsel on 09.10.2023, limitation under Section 34(3) of the A&C Act necessarily commenced from that date. Even assuming the maximum permissible period available under Section 34(3), including the additional period of thirty days, the outer limit for maintaining the present Petitions stood exhausted long before they came to be instituted. The Court's jurisdiction to entertain the Petitions consequently stood extinguished upon expiry of the said period.

36. The applications seeking condonation of delay in re-filing cannot improve the Petitioner's case. Re-filing delay becomes relevant only where the original institution of the Petition is itself within the period prescribed by law. Where the Petition is barred at the threshold by limitation under Section 34(3), questions relating to delay in re-filing become wholly academic.

DECISION:

37. In view of the foregoing discussion, this Court has no hesitation in holding that the Petitioner has failed to establish that limitation commenced only on 18.07.2024. The admitted receipt of the signed Impugned Award by the Petitioner's counsel on 09.10.2023 constitutes valid receipt for the purposes of Section 31(5) of the A&C Act and consequently triggers the commencement of limitation under Section 34(3) of the A&C Act. The present Petitions, having been instituted



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beyond the maximum period prescribed under the statute, are hopelessly barred by limitation and are not maintainable.

38. Accordingly, the preliminary objection raised by the Respondent is sustained. The present Petitions, being barred by limitation, are dismissed.

39. The present Petitions, along with pending application(s), if any, are disposed of in the aforesaid terms.

40. No order as to costs.

HARISH VAIDYANATHAN SHANKAR, J.

JULY 06, 2026/va