



2026:AHC:184518-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
APPEAL UNDER SECTION 37 OF ARBITRATION AND CONCILIATION
ACT 1996 No. - 3 of 2026

Tentiwala Products Limited

.....Appellant(s)

Versus

Manoj Industrial Enterprises

.....Respondent(s)

Counsel for Appellant(s)	: Shalini Goel, Rama Goel Bansal
Counsel for Respondent(s)	: Akhilesh Singh for Rajendra Singh

Chief Justice's Court

HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.

1. This appeal is directed against order dated 30 October 2025 passed by the Commercial Court No.2, Agra, whereby the application filed by the appellant under Section 34 of the Arbitration and Conciliation Act, 1996 ('the Act') has been dismissed as not maintainable.
2. The appellant had approached the Zonal Micro and Small Enterprises Facilitation Council, Agra ('the Council') with its claim against the respondent. The Council, by its award/order dated 10 May 2024, came to the conclusion that the claim made was barred by limitation, however, in the operative portion, it was directed that the proceedings were terminated under Section 32(2)(c) of the Act.
3. Feeling aggrieved of the award, the appellant filed application under Section 34 of the Act before the Commercial Court. The Commercial Court, by its order impugned dated 30 October 2025, came to the conclusion that as the proceedings have been closed by the Council under Section 32(2)(c) of the Act, the same was not an award and therefore, the application under Section 34 of the Act was not maintainable and consequently, dismissed the same.
4. Counsel for the appellant made submissions that the Commercial Court was not justified in dismissing the application under Section 34 of the Act, inasmuch as once the Council came to the conclusion that the claim made was barred by limitation, the reference was liable to be dismissed and thereafter, the observations made regarding termination of the

proceedings under Section 32(2)(c) of the Act being wholly unnecessary, the Commercial Court was required to ignore the said observation and decide the application under Section 34 on merits.

5. Submissions were made that in a case where objection pertaining to limitation is decided in favour of the claimant, Hon'ble Supreme Court in **Indian Farmers Fertilizer Cooperative Limited Vs. Bhadra Products : (2018) 2 SCC 534**, has laid down that even such an order would be an interim award and an application under Section 34 of the Act would be maintainable, however, in the present case wherein the claim itself has been rejected, the rejection of the application under Section 34 of the Act is wholly unjustified and the order deserves to be set aside.

6. Counsel for the respondent attempted to support the order passed by the Commercial Court in view of the observations made by the Council regarding termination of proceedings under Section 32(2)(c) of the Act, however, could not support the fact regarding the very indication of the said aspect in its award/order dated 10 May 2024.

7. We have considered the submissions made and have perused the material available on record.

8. The claimant-appellant had filed the claim before the Council wherein, under Issue No.1, the Council came to the conclusion that the entry for payment by the appellant shown in the ledger account did not appear to be genuine and as a result, held the reference as barred by limitation. However, in the order passed, it was directed as under:

"Order

The reference is dismissed as time barred. The Arbitration proceedings are terminated u/s 32(2)(c) of Arbitration and Conciliation Act 1996.

Parties to bear their own costs.

Order made on 16.03.2023 and detailed reasons signed on 10-05-2024."

9. It would be seen that though the Council dismissed the reference as time barred, it went on to observe that the proceedings were terminated under Section 32(2)(c) of the Act.

10. The provisions of Section 32(2)(c) of the Act, deal with circumstances

where the Arbitral Tribunal is required to terminate the arbitral proceedings where it finds that the continuation of the proceedings has for any other reason become unnecessary or impossible. The said provision has nothing to do in a case where the Arbitral Tribunal has come to the conclusion that the reference/claim made is barred by limitation. The order, in fact, would be covered by provisions of Section 32(1) of the Act which provide for termination of arbitral proceedings by way of final arbitral award which, in the present case, is on account of the Council coming to the conclusion that the claim made was time barred.

11. In that view of the matter, the observations made regarding termination of proceedings under Section 32(2)(c) of the Act were superfluous only and were not required at all. Once the said indication made in the order is found to be superfluous, as the Commercial Court, by the order impugned, without going through the award as a whole and only referring to the purported termination of the proceedings under Section 32(2)(c) of the Act, has dismissed the application under Section 34 by terming that the said order was not an award, the order cannot be sustained.

12. Consequently, the appeal is **allowed**. The order dated 30 October 2025 passed by Commercial Court No.2, Agra in Arbitration Case No. 18 of 2025 is set aside.

13. The matter is remanded back to Commercial Court No.2, Agra to hear and decide the application under Section 34 of the Act, on merits.

(Kshitij Shailendra, J) (Arun Bhansali, CJ)

September 3, 2026

AHA/AKShukla