

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**FAO No. 3393 of 2018 (O&M)  
Date of decision: 14<sup>th</sup> February, 2023**

Punjab Grains Procurement Corporation Ltd.

Appellant

Versus

Mahavir Rice and General Mill Hakimpur

Respondent

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Ms. Brea Sandhu, Advocate for the appellant.

Mr. Akhil Kashyap, Advocate for the respondent.

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**AVNEESH JHINGAN, J (Oral):**

1. Aggrieved of dismissal of objections under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act'), the appellant is in appeal under Section 37 of the Act. The appeal is accompanied by an application for condoning delay of 195 days in filing thereof.
2. The facts in brief are that the parties entered into an agreement for custom rice milling. The clause in agreement provided for mechanism of dispute resolution through arbitration. There was a dispute between the parties. Arbitration proceedings culminated into award dated 25.7.2014. Objections under Section 34 of the Act were filed accompanied by an application for condonation of delay of 844 days. The objections were dismissed as time barred.
3. Learned counsel for the appellant submits that due to

negligence of the officials of the appellant-corporation the delay occurred and the defaulting officials were charge-sheeted.

4. For convenience, Section 34 (3) of the Act is reproduced below:

*“(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.”*

5. The Supreme Court in ***Union of India v. Ms Popular Construction Co., AIR 2001 SC 4011; M/s Consolidated Engg. Enterprises v. Principal Secy. Irrigation Deptt. and others, (2008) 7 SCC 169*** and ***Chintels India Ltd. v. Bhayana Builders Pvt. Ltd., 2021 AIR (SC)1014*** held that applicability of Section 5 of the Limitation Act is excluded by Section 34(3) of the Act and that delay beyond 30 days after expiry of limitation period cannot be condoned.

6. In case in hand, petitions under Section 34 of the Act were filed with delay of 844 days.

7. It is settled law that Section 5 of the Limitation Act cannot be invoked for condoning the delay in filing objections under Section 34 of the Act. In the present case, the delay is beyond the period provided in the proviso to Section 34(3) of the Act for condoning the delay.

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**[3]**

- 8. No interference is called for with the impugned order.
- 9. The appeal is dismissed.
- 10. Since the main appeal is dismissed, pending applications, if any, render infructuous.

**[AVNEESH JHINGAN]  
JUDGE**

**14<sup>th</sup> February, 2023**  
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|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable         | : | Yes / No |