

ITEM NO.13

COURT NO.7

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 23676/2022

(Arising out of impugned final judgment and order dated 21-11-2022 in MUA227 No. 4455/2022 passed by the High Court of Judicature at Allahabad, Lucknow Bench)

M/S USS ALLIANCE

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

(FOR ADMISSION and IA No.199418/2022-EXEMPTION FROM FILING O.T.)

Date : 06-01-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s)

Mr. Anurag Kishore, AOR
Mr. Manish Mani Sharma, Adv.
Ms. Namni Bhutoria, Adv.

For Respondent(s)

UPON hearing the counsel, the Court made the following
O R D E R

This Court in SLP (C) No. 20195/2017 titled "*M/S Ved Prakash Mithal and Sons Vs. Union of India*" decided on 08.08.2018 has interpreted Section 34 (3) with reference to Section 33 of the Arbitration and Conciliation Act, 1996¹, to hold that the disposal of an application under Section 33 of the Act would be the starting point for limitation. This decision was in the context of an application moved by one of the parties before the arbitral

¹ For short, "Act".

tribunal under Section 33 of the Act. In the present case, the arbitral tribunal in terms of powers given under sub-section (3) of Section 33 of the Act had on its own initiative made corrections in the award dated 18.04.2018, *vide* the award dated 05.05.2018. The *suo-moto* corrections in terms of sub-section (3) of Section 33 of the Act can be made within a period of 30 days from the date of arbitral award.

In our opinion, looking at the purpose and object behind Section 34 (3) of the Act, which is to enable the parties to study, examine and understand the award, thereupon, if the party chooses and is advised, draft and file objections within the time specified, the starting point for the limitation in case of *suo-moto* correction of the award, would be the date on which the correction was made and the corrected award is received by the party. Once the arbitral award has been amended or corrected, it is the corrected award which has to be challenged and not the original award. The original award stands modified, and the corrected award must be challenged by filing objections.

This interpretation would be in terms and accord with the reasoning which has been interpreted in the "*M/S Ved Prakash Mithal and Sons Vs. Union of India*" (*supra*).

In the present case, the objections/application for setting aside the arbitral award were filed on 03.08.2018, which is within a period of ninety days from the date of the corrected award. Hence, the High Court was right in holding that the objections were filed within the limitation period. Even otherwise, the Court has

the power to condone the delay for further period of thirty days. Application for condonation of delay can be filed at anytime till the proceedings are pending. Of course, exercise of discretion and whether or not the delay should be condoned is a different matter.

In view of the aforesaid position, we do not find any good ground and reason to interfere with the impugned judgment and hence, the special leave petition is dismissed.

(BABITA PANDEY)
COURT MASTER (SH)

(R.S. NARAYANAN)
COURT MASTER (NSH)