

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). _____ OF 2023
(ARISING OUT OF S.L.P (CIVIL) NO(S). 12180/2023)

M/S JAITLEY CONSTRUCTION CO.

APPELLANT(S)

VERSUS

UNION OF INDIA

RESPONDENT(S)

O R D E R

Leave granted.

By the impugned order dated 6th February, 2023, the High Court has not condoned the delay of 244 days in preferring an appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, "the Arbitration Act"). In view of what is held in paragraph 63 of the decision of this Court in the case of *Government of Maharashtra (Water Resources Department) represented by Executive Engineer vs. Borse Brothers Engineers and Contractors Private Limited*¹, delay in filing an appeal under Section 37 of the Arbitration Act, beyond the stipulated period of limitation, can be condoned by way of an exception and not by way of a rule, by exercising the power under Section 5 of the Limitation Act, 1963.

After having perused the grounds taken in the application for condonation of delay and the documents produced along with the application, we find that this case will have to be held as an exception as observed in paragraph 63 of the aforesaid decision.

Sufficient cause is made out to condone the delay.

Signature: Anita Malhotra
Digitally signed by
Anita Malhotra
Date: 2023.11.29
11:30:11 IST
Reason: I am the author

We, therefore, set aside the impugned order dated 6th February, 2023 and condone the delay in preferring the appeal under Section 37 of the Arbitration Act. We remit the appeal to the High Court for deciding afresh. The High Court will proceed to decide the appeal on its own merits.

The Appeal is, accordingly, allowed.

.....J.
(ABHAY S.OKA)

.....J.
(PANKAJ MITHAL)

NEW DELHI;
NOVEMBER 24, 2023.

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). 12180/2023

(Arising out of impugned final judgment and order dated 06-02-2023 in FAO (COMM) No. 34/2023 in CM Appl. No.5502/2023 passed by the High Court of Delhi at New Delhi)

M/S JAITLEY CONSTRUCTION CO.

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

(IA NO.242263/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 24-11-2023 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s) Mr. Ankit Anandraj Shah, AOR
Mr. Avneesh Upadhyaya, Adv.
Mr. Kumar Aditya, Adv.
Mr. Karan Shankar Mani, Adv.
Mr. Ananay Chopra, Adv.

For Respondent(s) Mr. R. Bala, Sr. Adv.
Mr. Aditya Kashyap, Adv.
Ms. Megha Saxena, Adv.
Mr. Amrish Kumar, AOR
Mr. Nachiketa Joshi, Adv.
Mr. Shashwat Anand, Adv.
Mrs. Kanika Singhal, Adv.
Mrs. Sweksha, Adv.
Mr. Siddhartha Sinha, Adv.
Mr. N.C. Zohang, Adv.

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

Leave granted.

The Appeal is allowed in terms of the signed order.

Pending application stands disposed of accordingly.

(ASHISH KONDLE)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)

[THE SIGNED ORDER IS PLACED ON THE FILE]