

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
(Special Leave Petition (Diary) No. 18079/2020)**

**UNION OF INDIA**

**PETITIONER**

**VERSUS**

**M/s. ASSOCIATED CONSTRUCTION CO.**

**RESPONDENT**

**O R D E R**

**INDU MALHOTRA, J.**

In the present case, an Award was passed by the Sole Arbitrator which was challenged by the Union of India u/S. 34 of the Arbitration and Conciliation Act, 1996. The objections were dismissed *vide* Order dated 17.08.2016. The Union of India filed an appeal u/S. 13 of the Commercial Courts Act r.w. Section 37 of the 1996 Act before the division bench of the High Court. The appeal was dismissed on the ground of delay. The High Court followed the judgment of this Court in *Consolidated Engineering Enterprises v. Principal Secretary, Irrigation Department*<sup>1</sup> wherein the period of limitation for appeals u/S. 37 of the Arbitration and Conciliation Act, 1996 was held to be governed by Article 116 of the Schedule to the Limitation Act, 1963

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<sup>1</sup>(2008) 7 SCC 169.

which prescribes 90 days' for appeals to the High Court under the CPC.

On the issue of limitation for filing an Appeal u/S.37 of the Arbitration and Conciliation Act, 1996, in *Union of India v. Varindera Constructions Ltd.*<sup>2</sup> and *N.V. International v State of Assam & Ors.*<sup>3</sup> the view taken was that the period of limitation for filing an appeal u/S. 37 should be the same as under S. 34 i.e. 120 days.

In the meanwhile, the Commercial Courts Act, 2015 was brought into force on 23.10.2015. Section 10 of the Commercial Courts Act, 2015 provides that where the subject matter of an arbitration is a commercial dispute of a specified value, and if such arbitration is other than an international commercial arbitration, all applications and appeals arising out of such arbitration under the Arbitration and Conciliation Act, 1996 which would ordinarily lie before any principal civil court of original jurisdiction in a district (not being a High Court) shall be decided by the Commercial Court. Section 13 (1A) provides that any person aggrieved by the judgment or order of a Commercial Court at the level of a District Judge, or the Commercial Division of a High Court may file an appeal to the Commercial Appellate Division of that High Court within a period of 60 days' from the date of the judgment or order. The proviso to sub-section (1A) provides that an appeal u/S.

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<sup>2</sup>(2020) 2 SCC 111.

<sup>3</sup>(2020) 2 SCC 109.

37 of the Arbitration and Conciliation Act,1996 would lie before the Commercial Court.

Thus, the conundrum to be answered is as to what would be the appropriate period of limitation applicable to appeals filed u/S. 37 of the Arbitration and Conciliation Act, 1996.

We direct that the matter be listed for final hearing on 16<sup>th</sup> February 2021 at the end of the Miscellaneous List of Fresh matters.

.....J.  
(INDU MALHOTRA)

.....J.  
(AJAY RASTOGI)

New Delhi,  
February 5<sup>th</sup>, 2021

ITEM NO.5 Court 12 (Video Conferencing) SECTION XIV

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

**SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 18079/2020**

(Arising out of impugned final judgment and order dated 15-10-2019 in FAO(OS)(COMM) No. 14/2018 15-10-2019 in CM No. 3178/2018 15-10-2019 in CM No. 3180/2018 passed by the High Court of Delhi at New Delhi)

**UNION OF INDIA**

**Petitioner(s)**

**VERSUS**

**M/S ASSOCIATED CONSTRUCTION CO.**

**Respondent(s)**

**(FOR ADMISSION and I.R. and IA No.110509/2020-CONDONATION OF DELAY IN FILING)**

**Date : 05-02-2021 This petition was called on for hearing today.**

**CORAM :**

**HON'BLE MS. JUSTICE INDU MALHOTRA**  
**HON'BLE MR. JUSTICE AJAY RASTOGI**

**For Petitioner(s)**

**Ms. Aishwarya Bhati, ASG**  
**Mr. Prashant Singh, Adv.**  
**Ms. Ruchi Kohli, Adv.**  
**Mr. Akshay Amritanshu, Adv.**  
**Mr. Arvind Kumar Sharma, AOR**

**For Respondent(s)**

**Dr. Amit George, Adv.**  
**Mr. Arunabha Ganguli, Adv.**  
**Mr. Guntur Pramod Kumar, AOR**

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

**The matter is ordered in terms of the signed order and directing that the matter be listed for final hearing on 16<sup>th</sup> February 2021 at the end of the Miscellaneous List of Fresh matters.**

**(NIDHI AHUJA)**  
**AR-cum-PS**

**(MATHEW ABRAHAM)**  
**COURT MASTER (NSH)**

**[Signed order is placed on the file.]**