

Court No. - 1

Case :- APPEAL UNDER SECTION 37 OF ARBITRATION AND CONCILIATION ACT 1996 No. - 271 of 2022

Appellant :- Smt. Sudha

Respondent :- Union Of India And 3 Others

Counsel for Appellant :- Ravi Kant,Vatsala

Counsel for Respondent :- A.S.G.I.,Pranjal Mehrotra,Rajesh Kumar Jaiswal

Hon'ble Shekhar B. Saraf,J.

1. Heard learned counsel for the appellant and learned counsel appearing for the respondents.
2. This is an appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “the Act”) against an order passed by the learned District Judge, Rampur dated August 8, 2022.
3. Counsel on behalf of the appellant submits that the appeal before the learned District Judge, Rampur was filed within the period prescribed under Section 34(3) of the Act as only the certified copy of the arbitral award was received by the appellant on August 6, 2022 and signed copy of the arbitral award was never received by the appellant. Counsel further submits that the appeal against the said award was filed before the learned District Judge on August 6, 2022, and therefore, there was no delay in filing of the said appeal.
4. Per contra, counsel appearing on behalf of the respondents submits that the appeal was filed after about a year of passing of the award, and accordingly, since Section 5 of the Indian Limitation Act is not applicable to Section 34 of the Act, the learned District Judge has acted properly.
5. Upon perusal of the order passed under Section 34 of the Act, it appears that the learned District Judge has only recorded the submission of the appellant that the signed copy of the arbitral award was never received

by her. However, there does not appear to be any finding as to when the signed copy of the award was served upon the appellant.

6. In my view, the learned District Judge should have inquired and found out the date of receipt of the signed copy of the arbitral award. In absence of having done so, the learned District Judge has failed to appreciate the law established by the Supreme Court in the case of ***Dakshin Haryana Bijli Vitran Nigam Limited vs. Navigant Technologies Private Limited*** reported in **(2021) 7 SCC 657** wherein it has been specifically held that the period of limitation for challenging an award under Section 34 of the Act commences from the date on which the party making the application has received a signed copy of the arbitral award. Relevant paragraphs of the said judgment are delineated below:-

“35. The date on which the signed award is provided to the parties is a crucial date in arbitration proceedings under the Arbitration and Conciliation Act, 1996. It is from this date that:

35.1. The period of 30 days for filing an application under Section 33 for correction and interpretation of the award, or additional award may be filed.

35.2. The arbitral proceedings would terminate as provided by Section 32(1) of the Act.

35.3. The period of limitation for filing objections to the award under Section 34 commences.

36. Section 34 provides recourse for judicial scrutiny of the award by a court, upon making an application under sub-sections (2) and (3) for setting aside the award. The period of limitation for filing the objections to the award under Section 34 commences from the date on which the party making the application has “received” a signed copy of the arbitral award, as required by Section 31(5) of the 1996 Act. Section 34(3) provides a specific time-limit of three months from the date of “receipt” of the award, and a further period of thirty days, if the court is satisfied that the party was prevented by sufficient

cause from making the application within the said period, but not thereafter.”

7. In view of the fact that the learned District Judge has not recorded any finding with regard to date of receipt of the signed copy of the arbitral award, I am of the view that the matter is required to be remanded to the learned District Judge for taking a fresh decision.

8. In light of the above, the appeal is allowed. The order dated August 8, 2022 is quashed and set aside and the matter is remanded to the learned District Judge with a direction to examine the records and ascertain the date of receipt of the signed copy of the arbitral award and thereafter pass a reasoned order.

Order Date :- 19.3.2024

Rakesh

(Shekhar B. Saraf, J.)