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# **BALANCING AUTONOMY AND OVERSIGHT: THE JUDICIAL ROLE UNDER SECTION 37 OF INDIA'S ARBITRATION REGIME**

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## **Introduction**

Out of many prominent speakers gathered at the Court of International Arbitration of the International Chamber of Commerce on the occasion of its sixtieth anniversary which was held in Paris, 1983, one of the speakers namely, U.S. Judge Howard Holtzmann emphasized upon an aspect that judges and arbitrators function as the partners in a complex structure of international justice. However, contrary to this idea, ICJ Judge Keba Mbaye, firmly yet politely disagreed to this limited view taken by Judge Howard Holtzmann, highlights that several countries such as Africa, Latin America and Asia still perceive the concept of arbitration as an external legal mechanism that has been forcefully imposed on them for adjudication of disputes. Reason being, back then such developing countries were least preferred venue to conduct any International Arbitration proceedings and accordingly, delivered fewer arbitrators. The unpopularity of International Arbitration, in early 1980, among developing countries including in India, was because of Indian parties were unable to defend themselves effectively before arbitral tribunal as there were low reserves of foreign exchange in India. The attitude of people towards arbitration has been quite different in earlier times.<sup>1</sup>

The laws of Arbitration are well-established in legal system of India since several years. Over the years, the trajectory of Arbitration Laws has evolved from Arbitration Act of 1940 to the latest enactment of Arbitration and Conciliation Act of 1996 (hereinafter referred as 'the Act'), which extends to entire India, came into force on 22.08.1996. The intent of the legislature in crafting the Act was not to make it of exhaustive nature, instead wanted it to operate as consolidating and amending in nature.

## **Scope and purpose of the Act**

Earlier, the position of arbitration laws has been quite different from what we have now.

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<sup>1</sup> Fali S. Nariman, India and International Arbitration, 41 GEO. WASH. INT'L L. REV. 367 (2009).

However, down the timeline there has been progressive changes when it comes to arbitration laws after enactment of the Act in 1996. Before enactment of 1996 Act, Indian arbitration laws were governed under 'The Arbitration Act of 1940'. The necessity for 1996 Act arose due to the low confidence people have in arbitration process and numerous opportunities provided to the parties to approach court to seek judicial intervention, which resulted in prolong the outcome of the arbitral proceedings. In those times, the Act of 1940 was the one of the reasons that discouraged foreign investors from investing in Indian businesses as the said act holds less importance and faced challenges in its implementation in entirety.<sup>2</sup> This led to need for having more stringent and effective set of laws for governing arbitration proceeding and, therefore, Arbitration and Conciliation Act of 1996 was enacted. The Act 1996 was premised on the United Nations Commission on Trade Law Model Law on International Commercial Arbitration and the Arbitration Rules of the United Nations Commission on International Trade law 1976.

The Apex Court of India has several times stressed upon the significance of minimizing judicial supervision on the arbitration proceedings, so that the ultimate purpose of the Act, to conduct the said proceedings expeditiously, could be achieved. The objective of the New Act has been discussed by the Apex Court in *Fuerst Day Lawson Ltd v Jindal Exports Ltd.*, wherein the Apex Court had observed that the aim of the New Act is to dispense justice in an expeditious manner and to prevent parties from undergoing multiple rounds of litigation, accordingly, the interpretation of the provisions of the New Act must be carried out in such a manner to ensure arbitral proceeding may reach to its conclusion without any undue delay.<sup>3</sup>

However, after putting efforts to limit the judicial intervention yet certain degree of control still lies in the hands of judiciary, so to have adequate amount of judicial oversight through suitable checks and balances, thereby ensuring the powers granted to the arbitrator, under the act, are not misused.

### **Overview of Section 37 of the Act.**

The order passed by the court under Section 8, 9 and 34 is appealable under Section 37. Before the 2015 amendment, an appeal could only be preferred by the aggrieved party against the

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<sup>2</sup> Krishna Brahmabhatt, Evolution of Arbitration Act and Enforceability of an Arbitration Agreement along with Analysis of Judicial Intervention in Arbitration, 3 JUS CORPUS L.J. 556 (August 2022).

<sup>3</sup> *Fuerst Day Lawson Ltd. v. Jindal Exports Ltd.*, (2001) 6 SCC 356.

court's order passed under Section 9 for granting or refusing to grant any measure and Section 34 for setting aside or refusing to set aside an arbitral award. Subsequently, further developments took place, which helped in shaping the trajectory of the section 37, therefore, at present an appeal can also be maintainable against the court's order refusing to refer the parties to arbitration under Section 8. Apart from the aforesaid appealable orders passed by the court, an appeal can even lie, in additional two instances, against the order passed by the arbitral tribunal (hereinafter referred as 'the Tribunal') where the tribunal accepts the plea of the party referred to in section 16 (2) or (3) and also granting or refusing to grant an interim measure under section 17. Furthermore, to ensure that there is timely manner of dispute resolution, sub section (3) of Section 37 provides that second appeal will not lie against the appeal orders, however, that may not take away the remedy available to the parties to approach the Apex Court against the appeal order. Every order passed by the tribunal is not appealable under Section 37 of the Act, an appeal only lies against the specific orders that are stated under Section 37(2)(a) and (b).<sup>4</sup>

Taking into account the intent of the Act is to provide mechanism for speedy dispute resolution, intervention of the Court has been minimum, which means the Court under section 34 & 37 of the Act, must exercise its power in restrictive manner and the Court must not go beyond to test whether arbitral award is good or bad. Even though the Act does not provide any absolute bar on judicial intervention in arbitral award, in case necessity arises, the Court is only permissible to interfere to an extent as envisaged under Section 34 of the Act. The appellate court, thus, can neither re-examine the matter on merits once it has been decided by the tribunal nor reassess the evidence to decide correctness of the findings of the tribunal. The appellate court under section 37 may only intervene or set aside the arbitral award if the court under section 34 has acted beyond its jurisdiction or negligent to exercise its power. While exercising the power conferred in Section 37, the interference of the appellate court in the arbitral award must be extremely limited. The need for interference should only be there if the court deem it necessary or, when the arbitral award shocks the conscience of the court or, upon observing that the arbitral award is in contravention to the any present laws and/or provisions of the Act and/or any terms of the contract.<sup>5</sup> The Bombay High Court also took similar stance while dismissing the appeal preferred by the appellant, under Section 37 of the Act, seeking relief against the

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<sup>4</sup> Saurabh Bindal, Avtar Singh's Arbitration & Conciliation and Alternative Dispute Resolution System (12<sup>th</sup> ed. 2023).

<sup>5</sup> Bharat Broadband Network Ltd. v. Paramount Communications Ltd., 2024 SCC OnLine Del 7754.

order passed under section 9 of the Act. The Division Bench held that the scope of interference is very limited and the appellate court cannot exercise its power by interfering unless the findings of the court of first instance in absolutely arbitrary, perverse or capricious.<sup>6</sup>

### **Comparative analysis with other sections of the Act**

To have deeper understanding of the Section 37, it may be pertinent to study its scope and functionality in connections with the other provisions of the act, mainly Section 5, 9 and 34. Keeping into consideration of the fact that an appeal under Section 37 is preferred to assail the orders passed in aforesaid sections, as a result, all of these aforesaid sections had played a crucial role in building and shaping the foundation of Section 37.

#### **1. Extent of Judicial Interference**

Section 5 of the Act has a pivotal role to play in defining the boundaries between arbitral proceedings and judicial intervention. In certain circumstances, the said provision restrains the Court from exercising its jurisdiction to intervene in arbitration process, however, the powers to interfere is conferred to the Court only in matters governed in Part I, which also includes Section 37. Section 5 is premised on one fundamental principle of minimize supervision of judiciary in the arbitral proceedings, on the other hand, Section 37 provides opportunity to parties to approach the Court by way of an appeal to assail the certain orders passed by the Court and Tribunal. The Apex Court, in *M/s Deep industries Ltd. V. ONGC* has interpreted Section 5 and 37 of the Act, with reference to the judicial power to review vested in the hands of the High Courts under Section 227 of the Constitution of India. Section 5 of the Act, being a non obstante provision imposes limitation on the Court to intervene in arbitration proceedings, except certain provisions of Part I, where it is permissible to interfere. The Apex Court while reiterating text of the Section 37 of the Act, describes its sub section (3) as ‘one bite at the cherry’, which means no second appeal is permitted under said provision, but this will not cease the right to approach the Apex Court in an appeal. Even though Section 5 is a non obstante clause, it cannot override the Article 227 which is constitutional provision. In that case, while entertaining petition under Article 227 against the orders/ judgements dismissing or allowing first appeal under Section 37 of the act, the High Courts must be cautious with its approach if interfering with the same, so that unnecessarily delay could be avoided.<sup>7</sup> The

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<sup>6</sup> *Halliburton India Operations Pvt. Ltd. v. Vision Projects Technologies Pvt. Ltd.*, 2024 BHC-OS : 8918-DB.

<sup>7</sup> *M/S Deep Industries Ltd. v. Oil and Natural Gas Corporation Ltd.*, AIR 2019 SC 1958.

Division Bench of the High Court of Bombay, while dismissing the second appeal preferred by the appellant under Section 37, ruled that Section 5 restrain the court from interfering in these circumstances as also Section 37 strictly prohibits second appeal, except the right to appeal in Supreme Court. Vide the said order the Court has also held that once the District Court has exercised its jurisdiction under Section 37, by either allowing or dismissing the appeal, second appeal will not be maintainable against the said order before the High Court.<sup>8</sup>

## **2. Interim Measures**

According to the Section 9, the parties, who are bound by the arbitration agreement, are entitled to move the court to seek interim reliefs prior the commencement or in the course of arbitral proceedings, or after the award is rendered but before it has not come into effect. The aforesaid provision safeguards the interest of the parties, if an issue in hand is covered by arbitration agreement, in such a way the arbitration proceedings does not become futile. The parties can sought various kinds of interim measures under the said provision such as preservation, sale, detention, inspection of the disputed subject matter, appointment of guardian or receiver or securing amount in dispute, and so on.<sup>9</sup>

The Court must apply triple test which was laid down by the Apex Court, for granting interim relief to parties, who have invoked the jurisdiction of Court under section 9 for said relief. The Court must ascertain if there is a prime facie case. However, where the Court is of a view in rejecting the suit under section 9, it must examine no irreparable loss is caused to either of the parties. Lastly, balance of inconvenience must be in favour of party who had approached the Court to seek interim measures of protection.<sup>10</sup>

For the purpose of maintainability an appeal under Section 37 against the order passed in Section 9, with regard to ex parte interim injunction, where the same issue is also before Commercial Court for adjudication, the Karnataka High Court observed that an appeal against the order under section 9, would be maintainable before the Appellate Court, although the matter, with respect to the interim injunction under Section 9, is also pending consideration before the Commercial Court. The legislature, pursuant to 2019 amendment, inserted a non obstante clause in Section 37, which eliminates any inconsistency in other laws with respect to

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<sup>8</sup> Vinvin Enterprises (P) Ltd. v. Indage Vintners Ltd., 2016 SCC OnLine Bom 168.

<sup>9</sup> Arbitration and Conciliation Act, No. 26 of 1996, § 9 (India).

<sup>10</sup> Ambalal Sarabhai Enters. Ltd. v. KS Infraspace LLP Ltd., A.I.R. 2020 S.C. 307.

appeals that are governed under the Act. Therefore, makes it undisputable that final orders allowing or denying the interim relief to the parties under Section 9 will be appealable.<sup>11</sup> The expression ‘any measure’ used in Section 37 is of widest amplitude and that would comprise of interim orders passed by the Court having jurisdiction under Section 9. Apropos to the maintainability of the appeal under section 37 against the Court’s order under Section 9, empowers the court to grant temporary injunction and pass an interim order. Scope of Section 37 includes such orders and therefore, subjects it to appellate review.<sup>12</sup>

### **3. Setting aside arbitral award**

Under the Act, though legislative intent is to reduce the judicial intervention in the proceedings of arbitration, still empowers the court in few instances to interfere with arbitral award only to certain extent. While exercising the powers of the Court as envisaged in Section 34, an arbitral award can be set aside if the conditions specified in Section 34 (2) & (3) are satisfied.

The scope of Section 37 pertaining to the powers of the appellate court under the said provision is quite different from the wide powers of the civil appellate court. Reason being, interference of the appellate court with arbitral award or proceedings is extremely restricted and subject to the conditions prescribed in Section 34, in case the need to exercise of that power arises then that need not to be used casual and a cavalier manner.<sup>13</sup> Regarding the Court’s interference with the ruling given in Section 34, there is no dispute in the fact that the Court under Section 37 must be restrained from interfering in arbitral award, beyond the grounds set out in Section 34. Which means, the powers conferred to the Court in Section 37 does not permits to reappraise the arbitral award on its merits rather it can only examine the decision of the Court is in accordance with the scope provided in the Section 34. Herein, the appellate court in Section 37, must be highly circumspect in interfering with the concurrent findings, where the arbitral award has been upheld by the Court under Section 34.<sup>14</sup> The jurisdiction of Court in Section 37, is limited to determine the validity of the Court’s order under Section 34, and must not extend its jurisdiction in decreeing a claim.<sup>15</sup>

A constitution bench of five judges had been constituted for answering the reference related to

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<sup>11</sup> KLR Grp. Enters. v. Madhu H.V., 2024 SCC OnLine Kar 65.

<sup>12</sup> Road Infrastructure Dev. Co. of Rajasthan Ltd. v. IVRCL Ltd., A.I.R. 2014 N.O.C. 459 (Raj.).

<sup>13</sup> Punjab State Civil Supplies Corp. Ltd. v. Sanman Rice Mills, 2024 SCC OnLine SC 2632.

<sup>14</sup> MMTC Ltd. v. Vedanta Ltd., (2019) 4 SCC 163.

<sup>15</sup> Punjab State Civil Supplies Corp. Ltd. v. Ramesh Kumar & Co., 2021 SCC OnLine SC 1056.

the appellate court's power conferred in Section 34 & 37 to modify the arbitral award. The judgement was delivered with a 4:1 majority of the constitution bench by holding that, while exercising power under Section 34 & 37, the Court has limited power to modify arbitral awards. Vide the said judgement, the court may only exercise such powers if certain conditions are met. Firstly, only a severable award can be modified by segregating the valid portion from the void portion of the award. Secondly, errors from the arbitral award, that are apparent from the record and turns out to be typographical, computation, or clerical in nature, can be rectified. Thirdly, in some circumstances the Court may modify post award interest rate so to avoid another round of litigation. Lastly, if the need to exercise power conferred in Article 142 of the Indian Constitution arises for the Apex Court, then that must be exercised, within the ambit of constitutional powers, with proper care and caution and has to be consistent with provisions of the Act, 1996. <sup>16</sup>Justice Viswanathan, however, have a dissenting opinion on some aspects of the aforesaid judgment. Vide the dissenting opinion, Justice Viswanathan held that Section 34 does not empowers the Court to modify an arbitral award unless it is expressly permissible in the Act, as such interference by the Court would result in merit based review, which is against framework of the Act. He also dissents with approach taken by the majority bench with regard to modification of interest rate post award, as this may complicate enforcement process, especially with foreign awards. According to him, if at all it is a necessary to modify interest rate post award, the authority to do so is with Tribunal, hence, the matter shall be remit back to the Tribunal for execution of such modification. In disagreement with the majority opinion taken by the bench related to the powers to modify an arbitral award in Article 142 of the Indian Constitution, he held that if such power is recognised then this may pose difficulties in finality and certainty of the arbitral award, which the Act aims to provide. As it is disputed position of law that Article 142 of the Indian Constitution cannot be used to go by the substantive statutory provisions. He, further, opined that clerical or any typographical errors cannot be rectified under Section 34. <sup>17</sup>

### **Grounds to set aside or refuse to set aside an arbitral award under Section 34 & 37 of the Act.**

The law is well settled when it comes to the Court's power in Section 37 to set aside or rejecting to set aside an arbitral award, is extremely limited and restricted to the grounds mentioned in

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<sup>16</sup> Gayatri Balasamy v. ISG Novasoft Technologies Ltd., (2025) 7 SCC 1.

Section 34. The appellate court's jurisdiction in exercising its power under Section 34 and 37 is not similar to powers of First appellate Court in a civil suit. An arbitral award is not liable to be interfered by the appellate court in casual and cavalier manner, and findings of the arbitral tribunal cannot be reversed merely on the ground of having an alternative view on subject matter. At the stage of Appellate review an award could be set aside only if view of the Arbitral Tribunal is perverse or manifestly arbitrary.<sup>18</sup>

Time again and again the Apex Court has emphasised that powers conferred under Section 37 is restricted and there has been no jurisdictional power vested in the Court to independently reassess the award on the basis of its merits by reappraise evidence to find whether the findings of the arbitral tribunal are correct or wrong. If the findings of the tribunal are in direct conflict with the public policy of India, only in these circumstances, the Court's interference is only permissible.

The High Court of Delhi, by placing reliance on decision of the Apex Court in *Associate Builders v. DDA*, ruled that, if at all, an arbitral award is in contravention with substantive law, then an arbitral award cannot be set aside by relying upon the said ground, however, if an award lacks proper reasoning and still is in contravention with Section 31(3), that would be seen as patent illegal on the apparent from the award itself. According to the Amendment in Section 28(3), and decision in *Associate Builders* (supra), the contract must be interpreted by the arbitrator, but if it is interpreted with no fair mind, or view of the arbitrator is not plausible one, or if arbitrator goes beyond its jurisdiction, that would fall within the ambit of patent illegality.<sup>19</sup> If arbitrator has arrived to a decision without going into the evidence or ignoring any vital evidence or considering any document without knowledge of the parties, would amount to patent illegality on the face of the award.<sup>20</sup>

To say so, an arbitral award can be called patently illegal when the illegality in the award goes to the root of the matter. That means, all the legal error would not fall in the ground to challenge under patent illegality. Similarly, if an award is in contravention of law, except where it is against public policy or public interest, or there is an incorrect application of law would not constitute a ground to assail under the expression of patent illegality. In relation to reassessment of evidence at appellate stage, the appellate court will not also be permitted to

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<sup>18</sup> *Konkan Railway Corpn. Ltd. v. Chenab Bridge Project*, (2023) 9 SCC 85.

<sup>19</sup> *Associate Builders v. DDA*, (2015) 3 SCC 49.

<sup>20</sup> *Union of India v. Reliance Industries Ltd.*, 2025 SCC OnLine Del 841.



reappraise the evidence simply because arbitrator had an alternative view on the subject matter. The Apex Court has also laid down some grounds under Section 34 (2-A) which empowers the Court to interfere with an arbitral award. Firstly, when findings of the arbitrator are such that a rational person would never reached. Secondly, if the contract is interpreted in totally unreasonable manner. Thirdly, in case arbitrator has acted beyond its jurisdiction while dealing with the matter or dealt with matter which has been not allotted to them. Fourth, where the findings of the tribunal lack reasons and has been unsupported by evidence or disregarded vital evidence. Lastly, if an arbitrator considers any document which has not been in the knowledge of any parties.<sup>21</sup>

Section 34(2)(b)(ii) provides that the ground to assail an award if it is in contravention with public policy of India. An award, which is contrary to the public policy of India, can be set aside by the Court under this provision, if it is (i) against the fundamental policy of Indian Law (ii) against the interest of India (iii) contrary to justice or morality (iv) suffers from patent illegality.<sup>22</sup> The ground of public policy, to assail an award, is attracted when it shows patent illegality goes to the root of the matter. To assail an award on the ground of public policy, the patent illegality must go to the roots of the matter. Besides, the grounds mentioned hereinabove, if the Court finds that an award is unreasonable or unfair and even shocks the Court's conscience, under these circumstances an award will be liable to set aside by the court.<sup>23</sup>

The scope of the Court's interference with an award in Section 37, is squarely similar to that of the grounds provided in Section 34, therefore, to set aside or reject to set aside an award on the ground of Public Policy of India must be interpreted in accordance with the grounds provided in Section 34. The Appellate Court is permissible to interfere with an arbitral award when it violates of public policy of India, especially when there is a breach of 'fundamental policy of Indian law'. The scope of the Court's interference with an award, which is contrary to justice and morality, can be set aside when it is in conflict with basic notion of morality and justice and shocks the Court's conscience.<sup>24</sup> In case, there is a violation of substantive law in an award, it may therefore, comes under the expression of patent illegality.<sup>25</sup> Merely there has been a wrong application of law by the tribunal, would not suffice the reason for the Court's

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<sup>21</sup> Delhi Airport Metro Express (P) Ltd. v. DMRC, (2022) 1 SCC 131.

<sup>22</sup> Arbitration and Conciliation Act, No. 26 of 1996, § 34(2)(b)(ii).

<sup>23</sup> J.G. Engineers (P) Ltd. v. Union of India, (2011) 5 SCC 758.

<sup>24</sup> Associate Builders, *supra* note 18, at 11.

<sup>25</sup> AC Chokshi Share Broker (P) Ltd. v. Jatin Pratap Desai, (2025) 5 SCC 321.

intervention. Likewise, if findings of the tribunal appear to be patently illegal on the face of it still the court has been not empowered to reappraise the evidence. The findings of the arbitrator if it seem to be perverse, would not be challenged on the ground of 'public policy of India, but still could fall within of patent illegality, if it visible on the face of the award.

Nevertheless, an award would liable to be set aside on the basis of patent illegality, if an award is based on no evidence or arbitrator has disregard vital evidence while arriving to a conclusion.<sup>26</sup> Such interference with an award under section 34(2)(b)(ii) is warranted in instances where aforesaid conditions are met, however, this will not empower the court to re visit or re assess the merits of the matter and is only subject to instances where an award is arbitrary, capricious or perverse, or where it shocks the Court's conscience, or if illegality goes to the root of the matter.<sup>27</sup> The Apex Court while allowing the appeal, held that the Court in appellate jurisdiction cannot set aside the award on the basis the appellate court having better view than taken by the arbitrator.<sup>28</sup>

### **Limitation period:**

In relation to the limitation period, the Act has been silent about the filing of an appeal under Section 37, but according to Section 43 of the Act, which states that the Limitation Act, 1963 (hereinafter referred as Limitation Act) shall apply to arbitrations as it applies to proceedings in Court.<sup>29</sup> Apropos to appeals under Section 37, limitation period is prescribed in Article 116, of the Limitation Act, which states that for filing an appeal from any other Court to the High Court, limitation period is ninety days and for filing an intra-High Court appeal, period is thirty days, respectively from the date of the order has been passed. However, Section 5 of the Limitation Act extends the limitation period if the Court is satisfied that there is a 'sufficient cause' for that delay in filing of an appeal. The applicant must justify the inordinate delay in filing the appeal with plausible reasons. It is not only the number of days of delay, which has been important factor in considering the application of condonation of delay, but the sufficient cause for delay in filing an appeal would also be a relevant aspect for consideration.<sup>30</sup>

Relatively, the time limit to file an application under Section 34, is within three months,

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<sup>26</sup> PSA Sical Terminals (P) Ltd. v. V.O. Chidambranar Port Trust, (2023) 15 SCC 781.

<sup>27</sup> Union of India, *supra* note 19, at 10.

<sup>28</sup> Punjab State Civil Supplies Corpn. Ltd. v. Sanman Rice Mills, 2024 SCC OnLine SC 2632.

<sup>29</sup> Arbitration and Conciliation Act, No. 26 of 1996, § 43.

<sup>30</sup> Satyadhara Communications (P) Ltd. v. Indiasign (P) Ltd., 2019 SCC OnLine Del 9413.

however, further thirty days' time period has been provided to approach the Court only if an applicant could satisfy the Court with the sufficient cause for the delay, no additional opportunities will be given to the applicant beyond the aforesaid period. Even if sufficient cause has been made out in the application filed under Section 34 for extension of time, as prayed for, is beyond thirty days, the proviso to sub section (3) of the Section 34 clearly lay down no delay can be condoned beyond thirty days.<sup>31</sup> The aforesaid limitation period set forth in the Section 34, to assail the arbitral award, is absolute and even under Section 5 of the Limitation Act, the said limitation period cannot be extended by the Court. The reason for such limitation is clearly the objective of the Act i.e., 'to minimize the supervisory role of Courts in the arbitral proceedings'.

In case where dispute falls under the Commercial Courts Act, the value of subject matter is not less than three lakhs, there is no applicability of Article 116 & 117 of the Limitation Act on appeals under Section 37. Instead, such cases would come under Section 13(1-A) of the Commercial Courts Act, which mentions forum for adjudication and period of limitation of sixty days for filing of appeals under Section 37.<sup>32</sup>

While dismissing the appeal, the Division Bench of the Delhi High Court held that merely because appellant is a government entity would not be entitle it to special treatment when it comes to condonation of delay in filing the appeal under Section 37, thus, a different yardstick cannot be applied for the government in condoning the delay.<sup>33</sup>

Lastly, considering the purpose of the Act i.e., speedy disposal of disputes, the delay can be condoned only if it short delay or, there has been 'sufficient cause' for that delay, the applicant acted in bona fide manner but not in negligent manner and, no prejudice is caused to other party.

## Conclusion

Given that, the primary objective of the Act is to facilitate the resolution of disputes expeditiously with low cost, coupled with minimal interference of judiciary in arbitration proceedings and arbitral award, so to avoid rounds of litigation. Section 37 of the Act provides

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<sup>31</sup> Consolidated Engineering Enterprises v. Principal Secretary (Irrigation Department), 2008 (7) SCC 169.

<sup>32</sup> State of Maharashtra v Borse Bros Engineers Contractors (P)(Ltd.), (2021) 6 SCC 460.

<sup>33</sup> Union of India v. Besco Ltd., 2024 SCC OnLine Del 8467.

blend of two functions, on the one hand, it empowers the Court to exercise its supervisory powers over specific orders, on the other hand, such powers must be exercised in restrictive manner, with complete consciousness and not in cavalier manner. The intent of the legislature in crafting the Section 37, has been reflected in the judicial precedents, where the appellate court while exercising its power in an appeal cannot re assess the merits of the arbitral award at that stage, however, at the same time to ensure an award does not suffers from any perversity, patent illegality or violate any fundamental policy of India, empowers the appellate court to interfere to preserve the institution of justice. Furthermore, the tool like limitation period, is a step towards timely resolution of disputes and prevents prolonged delay by eliminating multiple rounds of litigation. The approach of Court in having minimal judicial intervention is not only strengthening the efficiency of the arbitral proceedings but also aligns with the purpose of the Act by creating an ecosystem which is reliable, cost-effective and expeditious resolution of the disputes.