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Bharat Rasayan Finance Ltd. Vs Ravi Chand Sindhu

F.A.O. No. 254/2010

Court: Delhi High Court

Date of Decision: Jan. 15, 2014

Acts Referred:
Arbitration and Conciliation Act, 1996 â€" Section 34, 34(3)

Citation: (2014) 3 ARBLR 489

Hon'ble Judges: Valmiki J. Mehta, J

Bench: Single Bench

Advocate: Mukesh Gupta, Advocate for the Appellant; Inderjeet Singh, Advocate for the Respondent

Judgement

Valmiki J Mehta, J.
The present appeal is filed against the judgment of the court below dismissing the objections of the appellant under

Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as "the Act") as being barred by time. Objection petition under

Section 34 has been found to be barred by time on the ground that the award is dated 17.08.2009 and the objections under Section 34 have been

filed on 27.11.2009, i.e. after the three months period of passing of the award. The court below has clearly erred because as per Section 34(3) of

the Act period of three months starts from receipt of the award and not from the date of the award. The impugned order does not even discuss the

date of receipt of the award by the appellant/petitioner. I may note that the appellant/petitioner has stated at page 4 of this appeal that the award

was received by the appellant from the National Stock Exchange with covering letter dated 24.08.2009. If this be so then the objections would

have been within a limitation period of 90 days. In any case, even if the objections were filed after 90 days, Section 34 of the Act states that there

can be condonation of delay for a period of 30 days more, i.e. objections can be filed in a total period of four months.

2. In the present case, since there is no finding of the court below that the award was received by the petitioner on a particular date, the impugned

order dismissing the objections as barred by time is clearly misconceived.

3. The impugned order dated 08.03.2010 is accordingly set aside and the matter is remanded to the court below for deciding the objections afresh

after considering the documents and evidence if so required to be led on behalf of the appellant/petitioner as to when the appellant/petitioner

received the award for the period of limitation to commence against the appellant. Appeal is accordingly allowed, leaving the parties to bear their

own costs. Parties to appear before the District & Sessions Judge (Central), Tis Hazari Courts, Delhi on 18.02.2014 and the District & Sessions

Judge will thereafter mark the objections under Section 34 of the Act for decision to a competent court in accordance with law.