



SPECIAL LEAVE PETITION (C) NO.17270 OF 2025

SPICEJET LIMITED & ANR. ... RESPONDENTS

SPECIAL LEAVE PETITION (C) NO.17306 OF 2025

SPICEJET LIMITED & ANR. ... RESPONDENTS

ORDER

- 1.** In these Special Leave Petitions, challenge has been raised to the order dated 23.05.2025, passed by the High Court of Delhi at New Delhi in FAO (OS) (Comm) Nos.173 & 171 of 2024 on the applications seeking condonation of delay in filing appeals under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “the Act”), as well as the delay in re-filing those appeals.
- 2.** By the said order, the Division Bench of the Delhi High Court has refused to condone the delay on being

convinced that the petitioners had been fence sitting and that they were also guilty of deliberate and wilful concealment of facts from the Court.

- 3.** Mr. D.S. Naidu, learned Senior Advocate for the petitioners commended us to adopt a liberal view in the light of the fact that the delay in filing the appeals was only of 55 days and the delay caused in re-filing the appeals was 226 days. According to him, given the grounds of challenge as raised, an opportunity ought to be given to the petitioners to contest the proceedings on merits.
- 4.** On the other hand, Mr. Amit Sibal, learned Senior Advocate for the respondents justified the observations made by the Division Bench and urged that the petitioners deliberately concealed the fact of filing of the appeals while choosing to contest the appeals preferred by the respondents herein.
- 5.** Having considered their submissions and after perusing the relevant records, we are of the view that the impugned order does not call for any interference.
- 5.1** Undisputedly, the proceedings under Section 34 of the Act came to be decided on 31.07.2023. The respondents filed two sets of appeals being aggrieved by the said adjudication on 22.08.2023. The present petitioners filed their set of appeals on 23.11.2023 and 24.11.2023, beyond 55 days of the permissible period of limitation.

5.2 The appeals filed by the respondents were heard by the Division Bench on various occasions and ultimately on 17.05.2024, the Division Bench set aside the order passed under Section 34 of the Act and remitted the proceedings for re-consideration. This judgment was the subject matter of challenge by the petitioners before this Court in Special Leave Petition (C) Nos.14936 of 2024 and 14741 of 2024. The Special Leave Petitions came to be dismissed on 26.07.2024, upholding the order of remand passed by the Division Bench. It was thereafter that on 30.07.2024 the petitioners cured the defects in the appeals filed by them after 226 days.

5.3 The Division Bench was of the view that considering the conduct of the petitioners, an inference could be drawn that the petitioners were in fact fence sitting inasmuch as they awaited the adjudication of the appeals preferred by the respondents under Section 37 of the Act as well as the Special Leave Petitions preferred by them against the said order. It referred to the averments made in para 5(e) of CM Application No.45532 of 2024 to hold that the re-filing of the appeals was consciously done only after the Special Leave Petitions came to be dismissed on 26.07.2024. Yet another reason assigned by the Division Bench while refusing to condone the delay was that it found that the petitioners had deliberately and wilfully concealed the fact from the Division Bench that heard the appeals under

Section 37 of the Act that they too had challenged the order passed under Section 34 of the Act. It, therefore, was of the view that the conduct of the petitioners was such that it did not satisfy the conscience of the Court so as to condone the delay.

5.4 While arriving at this conclusion, the Division Bench was alive to the fact that the approach of the Court while dealing with applications for condonation of delay in re-filing, was ordinarily to be expansive.

5.5 We find that on the basis of the material on record, the inference drawn by the Division Bench while refusing to condone the delay cannot be brushed away or that the conclusions drawn were without any basis.

6. Hence, we are not inclined to interfere in exercise of jurisdiction under Article 136 of the Constitution of India.

7. The Special Leave Petitions are accordingly dismissed.

8. Pending application(s), if any, shall also stand disposed of.

.....J
[PAMIDIGHANTAM SRI NARASIMHA]

.....J
[ATUL S. CHANDURKAR]

**NEW DELHI;
JULY 23, 2025.**