IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION APPEAL (LODGING) NO.15397 OF 2024
IN
INTERIM APPLICATION (LODGING) NO.2154 OF 2024
IN
ARBITRATION PETITION (LODGING) NO.26154 OF 2023

1. Health Care, Medical & General Stores,]
Dadar, Mumbai.]
2. Sitaram Govind Narkar,]
Partner of Health Care, Medical & General Stores]
3. Swapnil Vijay Shetye,]
Partner of Health Care, Medical & General Stores] .. Appellants

Versus

1. Amulya Investment,]
Through Proprietor Mr. Sameer G. Narvekar]
2. Dayanand Vidyadhar Shetye,]
Partner of Health Care, Medical & General Stores]
3. Chirag J. Shah, Ld. Sole Arbitrator]
Nariman Point, Mumbai] .. Respondents

Mr. Rohaan Cama with Mr. Kyrus Modi and Mr. Gaurav Gupte, i/by Mr. J. Ranawat, Advocates for the Appellants.

Mr. Yogendra Kanchan, i/by Mr. Vasant Dhawan, Advocates for the Respondent No.1.

CORAM : A.S. CHANDURKAR & RAJESH S. PATIL, JJ

The date on which the arguments were heard : 16TH OCTOBER 2024.

The date on which the Judgment is pronounced : 15TH JANUARY 2025.

JUDGMENT : [Per A.S. Chandurkar, J.]

1. Admit. The Arbitration Appeal is taken up for final disposal.

2. This appeal filed under Section 37 of the Arbitration and

Conciliation Act, 1996 *(for short, "Act of 1996")* raises a challenge to the order dated 1st April 2024 passed in Interim Application (Lodging) No.2154 of 2024 *(M/s. Health Care, Medical & General Stores and Ors. Vs. M/s. Amulya Investment, through Proprietor Mr. Sameer Gurunath Narvekar and Ors.)*. By that order, the application seeking condonation of delay in filing the Arbitration Petition under Section 34 of the Act of 1996 has been rejected by holding that the Arbitration Petition was filed beyond the permissible period of three months from passing of the award as well as further period of thirty days as provided under Section 34(3) of the Act of 1996.

3. The facts lie in a narrow compass. The 1st respondent – Amulya Investment, a proprietary firm had business dealings with a partnership firm. Letters dated 15th January 2016 and 7th February 2016 exchanged between the parties contained an arbitration clause. The proprietary firm - Claimant invoked the arbitration clause in the light of disputes arising between it and the appellants. The 1st appellant – M/s. Health Care, Medical & General Stores – hereinafter referred to as *"the Partnership Firm"* comprised of three partners being the 2nd and 3rd appellant as well as the 2nd respondent. The learned Arbitrator passed his award on 1st July 2017 holding the Claimant entitled to various reliefs. It is the case of the Partnership Firm through its partners as well as the partners who were

parties to the arbitration proceedings that they were not served in the said proceedings before the Arbitrator. It was only when the copy of the award was declined to be served on them by the Arbitrator on 10th August 2023 that the limitation for filing proceedings under Section 34 of the Act of 1996 commenced. The Arbitration Petition was accordingly filed on 7th September 2023. The learned Single Judge after hearing both sides recorded a finding that a signed copy of the award had been served on the Partnership Firm as well as its partners on 5th July 2017. On the ground that the Arbitration Petition was filed beyond the permissible period of limitation including the extended period under the proviso to Section 34(3) of the Act of 1996, the proceedings were dismissed as being barred by limitation. Being aggrieved, the Partnership Firm and its two partners have filed this appeal under Section 37 of the Act of 1996.

4. Mr. Rohaan Cama, learned counsel appearing for the appellants submitted that the learned Arbitrator had signed the award on 1st July 2017 and had issued two stamped original copies, one for each party. This would indicate that of the two signed copies, one was probably sent to the Partnership Firm while the other was sent to the Claimant. Under Section 31 of the Act of 1996, it was necessary for the Arbitrator to send a copy of the signed award to each party to the arbitration proceedings. In the arbitration proceedings before the learned Arbitrator there were five

parties, namely, the Claimant, the Partnership Firm and its three partners. This indicated that the three partners were not served with a signed copy of the award and therefore it could not be said that the period of limitation for challenging the award dated 1st July 2017 had even commenced. Referring to the acknowledgments that were placed on record, it was submitted that on the acknowledgments pertaining to the Partnership Firm and two partners, the signature of one Mr. Botekar who was stated to be a Clerk employed with the Partnership Firm could be seen. The acknowledgment insofar as the 3rd appellant was concerned was unsigned. The Clerk Mr. Botekar had not been authorized to receive the envelopes and therefore it could not be said that the signed award had been served on the parties as required by law. To constitute effective service of an award, it ought to be served on the party to the arbitration proceedings. Since Mr. Botekar was merely a Clerk, he was not in a position to take a decision on behalf of the Partnership Firm or its partners. This therefore did not constitute effective service of the award to enable the period of limitation to commence running. He referred to various provisions of the Act of 1996 and further submitted that the copy of the award was not served on the partners of the Partnership Firm at their residential addresses. It was thus clear that the Partnership Firm as well as its partners were neither served in the proceedings before the learned Arbitrator nor was the copy of the award supplied to them. The

learned Single Judge failed to consider these relevant aspects. The impugned order resulted in miscarriage of justice on account of lack of opportunity to challenge the award. To substantiate his contentions, the learned counsel placed reliance on the decisions in (i) *Union of India Vs. Tecco Trichy Engineers & Contractors (2005) 4 SCC 239,* (ii) *The State of Maharashtra & Ors. Vs. M/s. Ark Builders Pvt. Ltd. (2011) 4 SCC 616,* (iii) *Benarsi Krishna Committee & Ors. Vs. Karmyogi Shelters Pvt. Ltd. (Special Leave Petition (Civil) No.23860 of 2010 – Judgment dated 21st September 2012)* and (iv) *Ministry of Health & Family Welfare & Anr. Vs. M/s. Hosmac Projects Division of Hosmac India Pvt. Ltd., FAO(OS) (COMM) 326/2019 & CM No.49717/2019 – dated 20th December 2023* decided by the Delhi High Court. It was thus submitted that the impugned order dated 1st April 2024 passed in Interim Application (Lodging) No.2154 of 2024 in Arbitration Petition (Lodging) No.26145 of 2023 was liable to be set aside and the proceedings under Section 34 of the Act of 1996 be entertained on merits.

5. Mr. Yogendra Kanchan, the learned counsel appearing for the 1st respondent – Claimant opposed the aforesaid submissions and supported the impugned order. He submitted that the Partnership Firm as well as all its partners had been duly served in the proceedings before the Arbitrator. Since they remained absent, the arbitration proceedings were conducted

ex-parte. After the award was passed on 1st July 2017, it was duly served on the Partnership Firm as well as its partners. The burden to show that Mr. Botekar was not authorized to accept the envelopes containing the award was on the partners but this burden was not discharged by them. There was an opportunity to either examine Mr. Botekar or place his affidavit in the proceedings under Section 34 of the Act of 1996. As the appellants failed to discharge this burden, it was rightly held that the Partnership Firm and its partners had received a signed copy of the said award. The learned counsel relied on the decisions that were pressed into service before the learned Single Judge. The learned Single Judge after considering all relevant aspects rightly found that the challenge to the award dated 1st July 2017 was highly belated and beyond the permissible period prescribed for filing proceedings under Section 34 of the Act of 1996. He therefore submitted that the Arbitration Appeal was liable to be dismissed.

6. We have heard the learned counsel for the parties and with their assistance, we have also perused the documents on record. To consider the challenge as raised to the order dated 1st April 2024 in Interim Application (Lodging) No.2154 of 2024 holding the Arbitration Petition as filed to be barred by limitation, it would be necessary to refer to certain undisputed factual aspects. The learned Arbitrator passed his award on 1st July 2017. In paragraph 51 of the award, it has been stated as under :-

> "51. This award has been signed and issued into two stamped original. One for each party and copy of the same is retained by me."

The award, after it was signed, was issued through two stamped original papers. In the arbitration proceedings, the parties arrayed were the Claimant, the Partnership Firm and its three partners. The learned Arbitrator by his communication dated 3rd July 2017 sent a copy of the award to each party to the arbitration proceedings by registered post with acknowledgment. The claimant received copy of the award on 3rd July 2017 and its acknowledgment has been duly signed by the counsel for the claimant. Copy of the award was sent to the Partnership Firm and its three partners through registered post with acknowledgment. The acknowledgment insofar as the Partnership Firm and its two partners, namely, the 2nd appellant and the 2nd respondent bear the acknowledgment of Mr. Botekar dated 5th July 2017. The acknowledgment bearing the name of the other partner, the 3rd appellant is unsigned. It is thus evident that the envelopes sent through registered post addressed to the 1st and 2nd appellants as well as the 2nd respondent bear the signature of Mr. Botekar dated 5th July 2017. The application under Section 34 of the Act of 1996 has been filed on 7th September 2023. In the light of these factual aspects, the question as to whether the Arbitration Petition filed under Section 34 of the Act of 1996 was within limitation or not is required to be considered.

7. To consider as to whether the Arbitration Petition filed under Section 34 of the Act of 1996 was within the prescribed period provided under Section 34(3) of the Act of 1996, it would be necessary to refer to certain relevant provisions of the Act of 1996. Section 2(1)(h) defines the expression "party" to mean a party to an arbitration agreement. Section 31(5) of the Act of 1996 requires that after an arbitral award is made, a signed copy of the award has to be delivered to each party. Under Section 34(3) of the Act of 1996, an application for setting aside an arbitral award cannot be made after a period of three months having elapsed from the date on which the party making such application has received the arbitral award. The period of three months can be extended by a further period of thirty days under the proviso to Section 34(3) on the applicant making out sufficient cause for being prevented from making such application within a period of three months.

These provisions therefore emphasize the requirement of a copy of the arbitral award duly signed by the Arbitrator being required to be delivered to each party to the arbitration proceedings and the manner in which the limitation for challenging the award would commence qua the party making an application under Section 34 of the Act of 1996. The aforesaid provisions have been the subject matter of consideration in the decisions relied upon by the learned counsel for the appellants. Insofar as the expression "party" is concerned, the same has been considered in

detail in *Benarsi Krishna Committee (supra)*. In paragraph 15 of the said decision, it has been held as under :-

> 15. Having taken note of the submissions advanced on behalf of the respective parties and having particular regard to the expression "party" as defined in Section 2(h) of the 1996 Act read with the provisions of Sections 31(5) and 34(3) of the 1996 Act, we are not inclined to interfere with the decision of the Division Bench of the Delhi High Court impugned in these proceedings. The expression "party" has been amply dealt with in *Tecco Trechy Engineer's case (supra)* and also in *Ark Builders Pvt. Ltd.'s case (supra)*, referred to here-in-above. It is one thing for an Advocate to act and plead on behalf of a party in a proceeding and it is another for an Advocate to act as the party himself. The expression "party", as defined in Section 2(h) of the 1996 Act, clearly indicates a person who is a party to an arbitration agreement. The said definition is not qualified in any way so as to include the agent of the party to such agreement. Any reference, therefore, made in Section 31(5) and Section 34(2) of the 1996 Act can only mean the party himself and not his or her

agent or Advocate empowered to act on the basis of a Vakalatnama. In such circumstances, proper compliance with Section 31(5) would mean delivery of a signed copy of the Arbitral Award on the party himself and not on his Advocate, which gives the party concerned the right to proceed under Section 34(3) of the aforesaid Act.

This decision in no uncertain terms indicates that a party as defined in Section 2(1)(h) of the Act of 1996 would mean the party himself and not his or her agent or the Advocate empowered to act on behalf of such party.

8. As regards the making of the arbitral award, signing the same and delivering a signed copy to each party is concerned, the Supreme Court in *Tecco Trichy Engineers & Contractors (supra)* has observed in paragraph nos.6 and 8 as under :-

> "6. Form and contents of the arbitral award are provided by Section 31 of the Act. The arbitral award drawn up in the manner prescribed by Section 31 of the Act has to be signed and dated. According to sub-section (5), "after the arbitral award is made, a signed copy shall be delivered to each party". The term "party" is defined by clause (h) of Section 2 of the Act as

meaning “a party to an arbitration agreement”. The definition is to be read as given unless the context otherwise requires. Under sub-section (3) of Section 34, the limitation of 3 months commences from the date on which “the party making that application” had received the arbitral award. ……”

“8. The delivery of an arbitral award under sub-section (5) of Section 31 is not a matter of mere formality. It is a matter of substance. It is only after the stage under Section 31 has passed that the stage of termination of arbitral proceedings within the meaning of Section 32 of the Act arises. The delivery of arbitral award to the party, to be effective, has to be “received” by the party. This delivery by the Arbitral Tribunal and receipt by the party of the award sets in motion several periods of limitation such as an application for correction and interpretation of an award within 30 days under Section 33(1), an application for making an additional award under Section 33(4) and an application for setting aside an award under Section 34(3) and so on. As this delivery of the copy of award has the effect of conferring certain rights on the party as also bringing to an end the right to exercise those rights on expiry of the prescribed period of limitation which would be calculated from that date, the delivery of the copy of award by the Tribunal and the receipt thereof by each party constitutes an important stage in the arbitral proceedings.”

In *M/s. Ark Builders Pvt. Ltd. (supra)*, the Supreme Court has held that Section 31(5) of the Act of 1996 contemplates not merely the delivery of any kind of a copy of the award but a copy of the award that is duly signed by the members of the Arbitral Tribunal. The limitation prescribed under Section 34(3) would commence only from the date a signed copy of the award is delivered to the party making an application for setting aside the award.

9. From the aforesaid, the following aspects are clear :-

(a) Under Section 2(1)(h) of the Act of 1996, a "party" means a person who is a party to an arbitration agreement. In the present case, a perusal of the award dated 1st July 2017 indicates that the parties to the said proceedings were the claimant through its proprietor and the partnership firm through its three partners. In other words, there were in all five parties to the arbitration proceedings.

(b) Under Section 31(5) of the Act of 1996, after the arbitral award is made a signed copy has to be delivered to each party. It is thus mandatory that each party to the arbitration proceedings is required to be served with a signed copy of the arbitral award. In the present case in paragraph 51 of the award dated 1st July 2017, the Arbitrator has stated that he had signed the award and had issued two copies that were stamped. He has further stated that one signed copy

was meant for each party, meaning the claimant and the partnership firm. One copy of the signed award was retained by the Arbitrator. Thus, besides the original arbitral award the Arbitrator prepared two stamped arbitral awards for being served on the claimant and the partnership firm. As noted above, there were five parties to the arbitration proceedings.

(c) Under Section 34(3) of the Act of 1996, an application for setting aside an award cannot be made after lapse of three months from the date of which the party making an application for setting aside the arbitral award has received the arbitral award or if a request is made under Section 33 from the date on which that request has been disposed of by the Arbitral Tribunal, on showing sufficient cause such application can be entertained beyond the period of three months upto a further period of thirty days. Thus, the limitation prescribed under Section 34(3) of the Act of 1996 would commence only from the date a signed copy of the arbitral award is delivered to the party that makes the application for setting it aside. In the present case, the 2nd and 3rd appellant state that they were not served with a copy of the arbitration award. According to the claimant, such award was served on the partnership firm and the 2nd appellant through Mr. Botekar, the Clerk.

10. The Delhi High Court in *Ministry of Health & Family Welfare (supra)* considered the issue as to whether the delivery of a true copy of the

arbitral award to an authorised representative of a party would constitute delivery upon such party in accordance with Section 31(5) of the Act of 1996 for determining the period of limitation. After referring to the decisions of the Supreme Court in *Tecco Trichy Engineers & Contractors* and *Benarsi Krishna Committee (supra)*, it was held that the expression "party", as defined in Section 2(1)(h) of the Act of 1996, indicated that the same would mean a person who is a "party" to the arbitration agreement. The said definition was not qualified in any way to include the agent of the party to such agreement. It further observed that the expression "party" would also not include a lawyer of such party. The limitation under Section 34(3) of the Act of 1996 would commence only "when the party making the application has received the award". On the aforesaid basis, it was held that service on the authorized representative would not constitute valid service of the award for the purposes of Section 31 of the Act of 1996. In paragraph 15 of the said judgment, it has been observed as under :

> 15. Having taken note of the submissions advanced on behalf of the respective parties and having particular regard to the expression "party" as defined in Section 2(h) of the 1996 Act read with the provisions of Sections 31(5) and 34(3) of the 1996 Act, we are not inclined to interfere with the decision of the Division Bench of the Delhi High Court impugned in these proceedings. The expression "party" has been amply

> dealt with in *Tecco Trechy Engineer's case (supra)* and also in *Ark Builders Pvt. Ltd.'s case (supra)*, referred to here-in-above. It is one thing for an Advocate to act and plead on behalf of a party in a proceeding and it is another for an Advocate to act as the party himself. The expression "party", as defined in Section 2(h) of the 1996 Act, clearly indicates a person who is a party to an arbitration agreement. The said definition is not qualified in any way so as to include the agent of the party to such agreement. Any reference, therefore, made in Section 31(5) and Section 34(2) of the 1996 Act can only mean the party himself and not his or her agent or Advocate empowered to act on the basis of a Vakalatnama. In such circumstances, proper compliance with Section 31(5) would mean delivery of a signed copy of the Arbitral Award on the party himself and not on his Advocate, which gives the party concerned the right to proceed under Section 34(3) of the aforesaid Act.

11. As per paragraph 51 of the award dated 1st July 2017, the Arbitrator signed two copies of the award, one for each party. The Claimant accepts delivery of one signed copy of the award. It is likely that the other signed copy of the award was sent to the Partnership Firm. Though there were five parties before Arbitrator, only two copies of the award were signed by the Arbitrator in original. Thus, from the material on record, it is clear that as there were only two copies of the award signed in original, the

requirement of Section 31(5) of the Act of 1996 of delivering a signed copy of the award to each party could not have been satisfied as there were five parties before the Arbitrator.

12. In the application dated 15th January 2024 seeking condonation of delay in filing the Arbitration Petition, the Partnership Firm and its two partners specifically averred in paragraph 3 that the said parties had never been served with the ex-parte award dated 1st July 2017 stated to have been sent by the Arbitrator. It was further stated that proof of service in that regard be directed to be placed on record. In the affidavit-in-reply filed on behalf of the Claimant it was stated in paragraph 8 that with regard to the averments made in paragraph 3 of the application for condonation of delay, the statements made therein were denied and that the Partnership Firm and its two partners be put to strict proof thereon. It was averred that the award dated 1st July 2017 had been served by registered post and the proof of service along with affidavit-of-service was filed in the execution application. There is an affidavit-in-rejoinder filed by the Partnership Firm and its two partners dated 1st February 2024. In response to paragraph 8 of the affidavit-in-reply filed by the Claimant, it was reiterated that they had not received any communication from the Arbitrator.

From the affidavits of the contesting parties, it is evident that while

the appellants denied service of the signed copy of the award on the Partnership Firm and its partners, the claimant seeks to rely upon the acknowledgments signed by Mr. Shivaji Govind Botekar on the envelopes addressed to the Partnership Firm, the appellant no.2 and the respondent no.2. It would therefore be necessary to consider whether service of the said envelopes containing the arbitral award on Mr. Shivaji Govind Botekar would amount to service of the arbitral award as contemplated by Section 31(5) of the Act of 1996 on the Partnership Firm, the appellant no.2 and the respondent no.2. As regards service of the envelope upon the 3rd appellant is concerned, the postal acknowledgment does not bear any signature whatsoever. The said acknowledgment is neither signed by the 3rd appellant or by Mr. Botekar. It is therefore clear that the 3rd appellant was not served with any envelope stated to contain the arbitration award passed by the learned Arbitrator. Even before this Court there is no acknowledgment placed on record indicating service of the impugned award on the 3rd appellant.

13. As per the provisions of Section 31(5) of the Act of 1966, each party to the arbitration proceedings is required to be delivered a signed copy of the award. The said provision is held to be mandatory in nature and it is only after compliance of this requirement that the period of limitation for challenging the award would commence. In our view, the

acknowledgments signed by Mr. Shivaji Govind Botekar stated to be an employee of the Partnership Firm would not amount to service of the arbitral award on the parties to the arbitration proceedings as required under the Act of 1996. In *Benarsi Krishna Committee (supra)*, it has been held in clear terms that service of the arbitral award on an agent or a party or on an Advocate appointed by such party would not amount to service of the arbitral award for the purposes of the Act of 1996. When service of the arbitral award on an agent or a party has been held to be not permissible, service on an employee of such party would lie on a lower pedestal and would not qualify as service of the arbitral award on a party to the arbitration proceedings. The provisions of Sections 2(1)(h), 31(5) and 34(3) of the Act of 1996 have been interpreted to have a mandatory effect and hence strict and complete compliance would be necessary. Such compliance however does not appear to be made in the present case. It is thus held that the Partnership Firm and the appellant no.2 were not served with the signed copy of the award.

As regards appellant no.3, in the absence of any service of the award on him, it will have to be held that there was no service of the signed award on the 3rd appellant. The impugned order does not indicate that the learned Single Judge has gone into this aspect of the matter. The postal receipt with unsigned acknowledgment indicating absence of any signature on the same by the 3rd appellant to whom it was addressed

makes it clear that there has been no service of the signed award on the 3rd appellant. The finding recorded by learned Single Judge of proper service on the appellants including the 3rd appellant would have to be interfered with.

14. In the application for condonation of delay, it was stated by the appellants that they were not served with any notice of arbitration issued by the learned Arbitrator resulting in the ex-parte award dated 1st July 2017. In the execution proceedings filed by the Claimants, the learned counsel for the appellants appeared before the Execution Court and sought relevant documents that were filed in the proceedings. An application for grant of certified copy of the Execution Application as well as documents filed along with it was made by the 2nd respondent on 21st April 2023. He obtained certified copy of the Execution Application on 15th June 2023. On 5th August 2023, the learned counsel representing the appellants issued a communication to the learned Arbitrator seeking a certified copy of the said proceedings. By his reply dated 10th August 2023, the learned Arbitrator informed the learned counsel for the appellants that he had returned all the papers to the Claimant and that he was not having custody of the same. It has thus been stated that on the refusal by the learned Arbitrator to furnish relevant documents to the appellants as well as a certified copy of the award as per the letter dated 10th August 2023,

the limitation for filing proceedings under Section 34 of the Act of 1996 commenced. It is stated that the appellants filed the Arbitration Proceedings under Section 34 of the Act of 1996 on 7th September 2023. Thereafter the application for condonation of delay came to be filed. Along with the said application, an affidavit of their learned counsel was also filed.

15. The learned Single Judge recorded a finding that as the envelopes containing the arbitral award were delivered at the mailing addresses of the appellants and the same were received and / or deemed to be received by them at such mailing addresses, there was compliance with the provisions of Section 31(5) of the Act of 1996. Reliance was placed on the decision in *Francisco A. D'souza & Anr. Vs. L & T Finance Limited, Mumbai, 2015 (5) Mh.L.J. 390* for holding that this amounted to service of the arbitral award on the appellants. The facts of the said case indicate that various notices were sent to the concerned parties at their last known address. By relying upon the provisions of Section 27 of the General Clauses Act, 1908 it was held that there was deemed service of the notices. In the present case the arbitral award is not shown to have been served on the appellants but on Mr. Shivaji Govind Botekar. In our view, the ratio of the decision in *Benarsi Krushna Committee and others (supra)* is clear that copy of the signed arbitral award is required to be served on a

party as defined by Section 2 (1)(h) of the Act of 1996. Hence, the ratio of the decision in *Francisco A. D'souza & Anr. (supra)* is not applicable to the facts of the case in hand.

Assuming that one signed copy of the arbitral award was sent to the Partnership Firm, the acknowledgment has been signed by Mr. Shivaji Govind Botekar stated to be an employee of the partnership firm which we have found is not a proper service of the signed award on the party to the arbitral award under Section 2(1)(h) of the Act of 1996. This aspect does not appear to have been gone into by the learned Single Judge. The same according to us goes to the root of the matter and the only conclusion that can be drawn is that there has been no compliance with the requirements of Section 31(5) of the Act of 1996.

16. For aforesaid reasons, we are of the view that, firstly, the Arbitrator prepared only two sets of his award in original that were signed by him. Though there were five parties to the arbitration proceedings, he prepared only two signed copies of the award by treating the Claimant and the Partnership Firm as the only parties. As a result, there has been non-compliance of the requirements of Section 31(5) of the Act of 1996 on account of failure on the part of the Arbitrator in not preparing such number of signed copies of the award as there were parties as defined by Section 2(1)(h) of the Act of 1996. Since a copy of the signed award has

not been shown to be prepared or served on the partners of the Partnership Firm who were parties to the arbitral proceedings, the Arbitration Petition filed by them under Section 34 of the Act of 1996 will have to be held as filed within limitation by treating the period of limitation to commence from 10th August 2023 when there was a denial by the learned Arbitrator to issue them a copy of the award.

Accordingly, the following order is passed :-

(a) The impugned order dated 1st April 2024 passed by the learned Single Judge refusing to condone the delay in filing the Arbitration Petition under Section 34 of the Act of 1996 is set aside.

(b) It is held that the Arbitration Petition filed by the appellants under Section 34 of the Act of 1996 is within limitation. The said proceedings under Section 34 shall be decided on merits.

(c) It is clarified that this Court has not examined the merits of the proceedings filed under Section 34 of the Act of 1996 and all points in that regard are kept open.

17. The Arbitration Appeal is partly allowed in aforesaid terms. The parties shall bear their own costs.

[RAJESH S. PATIL, J.] [A.S. CHANDURKAR, J.]