

IBC DOSSIER

Bulletin on Landmark Judgments under IBC, 2016



Marg Limited Vs. SREI Infrastructure Finance Ltd. & Connected Matters.

Brief Facts

In the present case, an application was filed under Section 34 of the Arbitration and Conciliation Act, 1996, to challenge the arbitral verdict. Marg Limited (Petitioner) received the award on November 30, 2019, and submitted the Section 34 application on November 16, 2023, raising the question of whether the delay violated the statutory limitation period.

SREI Equipment Finance Limited (Respondent) contended that, under Section 34(3) of the Arbitration Act, an application to set aside an arbitral ruling must be filed within three months of receiving the award. A further thirty-day extension may be granted at the court's discretion if the applicant can demonstrate adequate grounds for the delay. However, after this period, the Act expressly precludes the court from hearing the application.

The Respondent claimed that the limitation period expired long before the application was filed. Even if the

Supreme Court's pandemic-related easing of limitation periods were considered, the extended deadline would have expired by May 2022. Furthermore, the Respondent stated that even after accounting for the moratorium period imposed by the Respondent company's Corporate Insolvency Resolution Process (CIRP), which ended on August 11, 2023, the application remained barred by limitation.

However, the Petitioner relied on many judgments to back up its claim that the application was filed within the time frame allowed. It argued that the Supreme Court's pandemic-related rulings prolonged the limitation period until February 28, 2022, with an additional ninety days allowed thereafter, bringing the deadline to May 2022. Furthermore, the Petitioner cited the moratorium provisions in Section 14 of the Insolvency and Bankruptcy Code (IBC) and asserted that the time the CIRP was ongoing should be excluded from the limitation period.

The Petitioner asserted that after the CIRP expired on August 11, 2023, the limitation period resumed, and the ninety-day extension allowed due to the pandemic would commence on August 12, 2023, with the ultimate deadline on November 11, 2023. Because the court was on vacation during this time, the Petitioner contended that the application filed on November 16, 2023, should be examined on time.

Decision

The High Court noted that the Petitioner received the arbitral award on November 30, 2019, triggering the limitation period under Section 34(3) of the Arbitration Act. The three-month deadline for submitting an application to set aside the award ended on February 28, 2020, and an additional thirty-day period during which the court could exercise its discretion to excuse any delay ended on March 30, 2020. However, before this period expired, the COVID-19 epidemic began to impact judicial procedures on March 15, 2020, prompting the Supreme Court to issue a series of judgments extending the limitation period.

During the pendency of the CIRP concerning the Respondent company, which began on October 8, 2021, and ended with the approval of the Resolution Plan on August 11, 2023, the Petitioner argued that the Supreme Court's ninety-day extension should begin after the CIRP ended, allowing the Petitioner to file the application by November 11, 2023.

The High Court, however, determined that the Petitioner could not benefit from both the pandemic-related exemption and the IBC moratorium. The High Court held that the Supreme Court's extension was meant to aid vigilant litigants who were unable to initiate actions within the stipulated limitation time due to the pandemic. It ruled that the petitioner had to show that the epidemic completely hindered them from filing the application on time. However, by March 15, 2020, the Petitioner had already used the three-month period and fifteen days of the extended thirty-day period given by Section 34(3).

If the petitioner wanted to take advantage of the pandemic-related relaxation, the application had to be submitted before May 29, 2022. The High Court decided that the Petitioner attempted to benefit from the IBC moratorium by deferring the ninety-day extension to a date of its choice, which it deemed unacceptable.

The High Court found that the petitioner was barred from proceeding after May 30, 2022, by the IBC moratorium rather than the epidemic. As a result, the Petitioner could no longer benefit from the pandemic relaxation.

The High Court, therefore, dismissed the application as time-barred.

[Link of the Order](#)

<https://ibbi.gov.in/uploads/order/453841657aff93f8fcdd638af5522b8c.pdf>



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