ARBITRA

Your Monthly Guide to Navigate the Evolving Landscape of Arbitration

SEP 2026

COVER STORY

SIGNIFICANT CASE LAWS

PIVOTAL ISSUES

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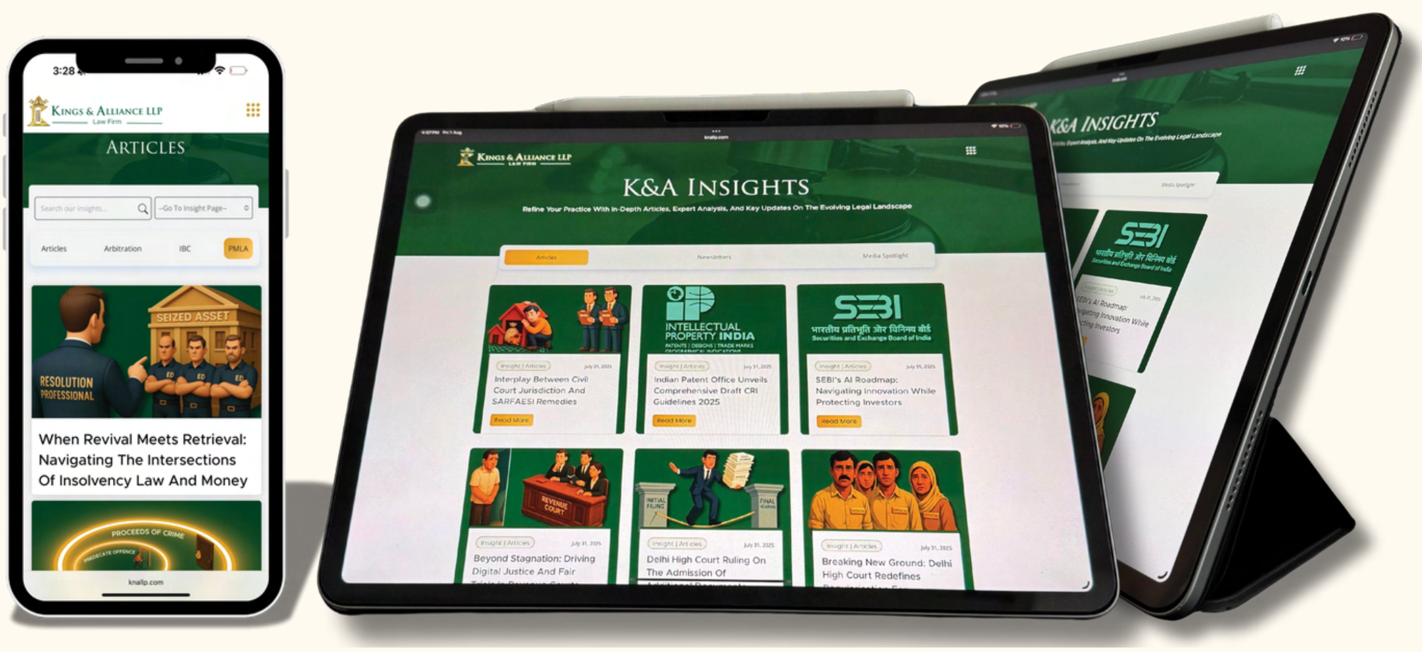
Editor's Note

Boundaries, our cover story this edition of the arbitration round-up reveals a consistent thread around jurisdictions: courts are drawing an increasingly precise line between deference to arbitral autonomy and intervention where tribunals cross defined legal boundaries.

This Month's cover story takes us all the way to the lion city- Singapore. The SICC's dismissal of a US$490 million challenge in The Tata Power Company Limited v. Kleros Capital Partners Limited, where the court held that an infra petita challenge succeeds only on a "clear and virtually inescapable" inference that a tribunal never engaged with an issue at all, not merely because its reasoning was inelegant or contested.

We also look at a ruling drawing a sharp line around an arbitrator's duty to stay within the four corners of the governing contract, even when informal digital communications suggest otherwise, and two further rulings testing where a tribunal's protected discretion ends and its statutory obligations begin. From unexplained, contradictory findings across parallel disputes to the limits of what counts as a "refusal" of interim relief. Across these rulings, courts continue to draw a firm line: minimal curial intervention protects a tribunal's plausible view, but not its silence, its departure from the contract, or its unreasonable contradictions. The full analysis awaits inside. To cap it off, we bring you our latest roundup of notable arbitration jurisprudence spanning under-insurance deductions, foreign-award execution, and Section 33/34 limitation boundaries.

Let's dive in. Click Here To Submit Feedback



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Substance over form: The SICC standard of setting aside arbitral award for Infra Petita

Can the choice made by the arbitral tribunal to not expressly address every sub-issue justify setting aside a multi-hundred-million-dollar award? The Singapore International Commercial Court (SICC) answered this in The Tata Power Company Limited v Kleros Capital Partners Limited, dismissing three applications brought by Tata Power against "approximately US$490 million" quantum award. The judgment is a firm reaffirmation of Singapore's pro-arbitration posture, and clarifies that an infra petita challenge, a claim that a tribunal failed to decide an essential issue will only succeed where there is a "clear and virtually inescapable" inference that the tribunal never turned its mind to the issue at all.

The dispute can be traced all the way back to two non-disclosure agreements (NDAs) circa 2013, between Tata and Kleros, an investment advisory firm, concerning a large coal mining project in Russia. Tata was found to have breached the NDAs by bypassing Kleros and pursuing the project through other channels; Kleros commenced SIAC arbitration in 2020 and, after a bifurcated liability and quantum process, a majority of the tribunal (Prof Lawrence Boo and Mr Stuart Isaacs KC, with Mr A K Ganguli SA dissenting) awarded Kleros approximately US$490 million for loss of a chance to participate in the project. Tata brought three applications before the SICC: a challenge to two arbitrators' appointments for apparent bias, an application to set aside the Quantum Award, and a consequential application against the Final Award. Its central argument was that the majority had committed infra petita breaches by failing to properly deal with three key issues; causation...

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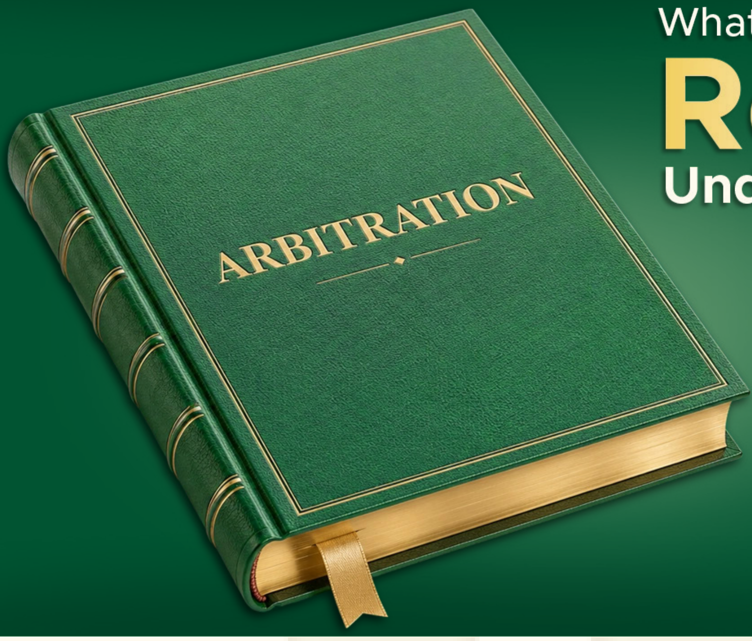
Section 17 Closure and Appealability Under Section 37(2)(b): Delhi High Court



What Counts as

Refusal

Under Section 37?

Two applications for interim protection were pending before an arbitral tribunal. One sought disclosure and protection of assets. The other sought deposit of alleged rent arrears. Alongside them sat a counterclaim of approximately ₹16.78 crore. Then the tribunal stopped hearing all three. The reason was arbitral fees.

In Orbit In-Te-Rio v. American Epay Services Pvt. Ltd., the Sole Arbitrator had directed Orbit to deposit its entire share of arbitral fees before its two applications under Section 17 of the Arbitration and Conciliation Act, 1996 and its counterclaim would be heard. Against an assessed amount of approximately ₹39.03 lakh, Orbit deposited ₹14 lakh. On 27 March 2026, the Tribunal closed Orbit's right to pursue the Section 17 applications and counterclaim for non-payment of the remaining fees.

For Orbit, the practical consequence appeared straightforward. Its applications seeking interim measures would no longer be heard. It therefore approached the Delhi High Court under Section 37(2)(b), which permits an appeal against an arbitral order "granting or refusing to grant an interim measure under Section 17". The question before the Court was consequently sharper than a dispute over arbitral fees: When a tribunal closes a Section 17 application without deciding the interim relief sought, has it effectively "refused" the relief for the purpose of Section 37(2)(b)? The Delhi High Court's answer turns on the distinction between the consequence of an arbitral order and the legal character of what the tribunal...

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The Consistency Mandate: Delhi High Court Holds Unexplained Flip-Flops by Common Arbitrators Violates Public Policy

In large-scale public infrastructure projects, government agencies and contractors frequently execute separate, parallel contracts for contiguous project packages. To ensure commercial predictability and avoid conflicting findings on identical boilerplate terms, parties intentionally appoint common arbitrators across related project disputes. However, in a judgment delivered on Aug. 14th 2026 by the Division Bench of the High Court of Delhi in Ssangyong Engineering & Construction Co. Ltd. v. National Highways Authority of India reveals what happens when this institutional strategy breaks down and establishes that unreasoned, contradictory findings by common tribunals breach the fundamental public policy of Indian law.

The dispute stemmed from two major highway construction contracts awarded by NHAI to Ssangyong: Package C-5 and Package C-6. In both projects, an identical operational dispute emerged surrounding a document styled as a "Payment Certificate" issued during execution. NHAI asserted that the certified figures were overstated and contained substantial mathematical errors, seeking to adjust the amounts. To maintain consistency and structural coherence, two common arbitrators- A.K. Yadav and Ashok Khurana, were appointed to serve on both three-member arbitral tribunals tasked with adjudicating the parallel package disputes. The High Court confronted a critical question of arbitration law: Can a tribunal containing common arbitrators adopt diametrically opposite interpretations of an identical contract clause across parallel disputes between the same parties without...

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Section 9 and Section 14(d): Why the Bombay High Court Refused Interim Restoration of a Terminated PSU Contract

A contractor can have a credible case that its termination was disproportionate and still fail to persuade a court to temporarily restore the contract. That distinction lies at the heart of the Bombay High Court's decision in P. Perumal Transports v. Bharat Petroleum Corporation Limited & Connected Matters, decided on 14 August 2026.

The dispute arose from BPCL's tender for transportation of bulk LPG by road in Tamil Nadu. Certain transporters had offered tank trucks held under Agreements to Sell (ATS). Under the tender conditions, once a Letter of Intent (LoI) was issued, an ATS truck had to be transferred into the successful bidder's name within 120 days, along with the necessary Registration Certificate (RC) and Petroleum and Explosives Safety Organisation (PESO) licence. For the lead petitioner, the LoI was issued on 19 October 2025. The 120-day period therefore expired on 19 February 2026. The RC transfer was completed on 18 February. The PESO position was different: the application for transfer was made on 23 February and the licence was transferred on 26 February, seven days after the contractual deadline. BPCL continued allocating LPG loads to the tanker beyond 20 February. It was only later that BPCL sought an explanation, issued a show-cause notice and ultimately terminated the contract on 15 June 2026. The caution deposit of ₹1 lakh was also forfeited. The transporter invoked arbitration and approached the High Court under Section 9 of the Arbitration and Conciliation Act, 1996. Its immediate objective was to stay the termination and secure a direction requiring BPCL to resume LPG load allocations while the dispute...

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Arbitrator Cannot Rewrite Contracts: Bombay High Court Strikes Down Interest Granted Outside Partnership Terms

When family ties and commercial ventures interact, contractual boundaries can easily blur. Yet Indian arbitration law leaves little room for such ambiguity: regardless of the informality of parties' day-to-day dealings, an arbitral award cannot stray beyond the confines of the agreement governing the dispute. Section 28(3) of the Arbitration and Conciliation Act, 1996, draws this statutory boundary by requiring an arbitral tribunal to decide disputes in accordance with the terms of the contract under which the arbitration is conducted. In Sandeep Dixit v. Rekha Dixit & Ors., the Bombay High Court weighed into a bitter family fallout to re-examine the broad scope of an arbitrator's jurisdiction.

The issue began within a family-run partnership firm, where Rekha Dixit extended a substantial financial lifeline by injecting ₹5 crore as a loan into the business. Over time, personal and professional friction eroded trust among the partners. As relations soured beyond repair, the parties turned to arbitration to untangle their joint enterprise; by seeking to settle accounts, formalize Rekha Dixit's retirement, and recover her financial contributions. During the arbitral proceedings, Rekha Dixit sought the return of her ₹5 crore loan along with a 9% interest, the additional interest claim specifically supported by whatsapp chats between the partners. And when the sole arbitrator rendered the award, Rekha Dixit secured a complete victory on paper. The tribunal accepted her argument, ordering the firm and Sandeep Dixit along with the remaining partners to refund the ₹5 crore principal alongside a substantial 9% annual interest based on those WhatsApp chats...

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Delhi High Court Reaffirms Averaging Principle in Under-Insurance Claims, Sets Aside Arbitral Award

HDFC Ergo General Insurance Company Ltd. v. National Aluminium Company Ltd. concerns a challenge under Section 34 of the Arbitration and Conciliation Act, 1996 to an arbitral award arising from an insurance claim after a fire damaged a generator transformer at NACL's captive power plant. The arbitral tribunal had ruled that no deduction for under-insurance was warranted and awarded over Rs.4.25 crore to NACL. Setting aside the majority award, the Delhi High Court held that the tribunal had ignored Clause 10 of the insurance policy and Section 64VB of the Insurance Act, 1938, both of which mandated proportionate deduction where the insured value was lower than the actual value of the property. The Court reaffirmed the Supreme Court's rulings in Sikka Papers and I.C. Sharma, observing that the averaging principle applies even where the claim relates to repair costs, held that the award suffered from patent illegality.

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Madhya Pradesh Court clarifies; High Court can execute foreign Arbitral Awards as Deemed Decrees

Moshers v. Shri Mittal Agritech Pvt. Ltd. concerned the execution of a foreign arbitral award rendered under the GAFTA Arbitration Rules after the Madhya Pradesh High Court had already declared the award enforceable under Sections 47 to 49 of the Arbitration and Conciliation Act, 1996. The respondent contended that, since the High Court lacked ordinary original civil jurisdiction, the decree should be transferred to a subordinate court for execution under the Code of Civil Procedure. Rejecting the objection, the Court held that once a foreign award is declared enforceable under Section 49, it becomes a deemed decree of the very High Court that recognised it and may be executed in the same proceedings. Relying on Fuerst Day Lawson Ltd. v. Jindal Exports Ltd., LMJ International Ltd. v. Sleepwell Industries Co. Ltd., and Government of India v. Vedanta Ltd., the Court observed that the Arbitration Act envisages a composite process of enforcement and execution, thereby avoiding multiplicity of proceedings.

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Delhi High Court Reaffirms Limited Scope of Judicial Review Under Section 34, Upholds Rs. 46.92 Lakh Arbitral Award

India Tourism Development Corporation v. Bajaj Electricals Ltd. arose from a petition under Section 34 of the Arbitration and Conciliation Act, 1996 challenging an arbitral award directing ITDC to pay Bajaj Electricals Rs.46.92 lakh, along with interest, for unpaid dues under a contract for the illumination of Safdarjung Tomb. ITDC contended that the arbitrator had erroneously interpreted the contractual terms and ignored material evidence while assessing deductions from the final bill. Dismissing the challenge, the Delhi High Court held that the arbitrator's findings were based on a plausible appreciation of the contract and evidence on record, warranting no interference under Section 34. The Court reiterated that it cannot reappreciate evidence or substitute its interpretation merely because another view is possible, observing that judicial review is confined to the limited grounds prescribed under the Arbitration Act.

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Delhi High Court Imposes Rs. 5 Lakh Costs for Misusing Section 33 While Clarifying Limitation Under Section 34

Delhi Metro Rail Corporation Ltd. v. HCC Samsung JV concerned whether a Section 34 petition challenging an arbitral award was barred by limitation after DMRC had first filed an application under Section 33 of the Arbitration and Conciliation Act, 1996 seeking "corrections" to the award. The dispute arose from a contract for civil works, with DMRC's Section 33 application effectively seeking a review of the award on merits rather than correction of clerical or computational errors. The Delhi High Court held that, in light of the Supreme Court's decisions in Geojit Financial Services Ltd. v. Sandeep Gurav and NHAI v. T. Younis, the limitation period under Section 34 begins from the disposal of a formally filed Section 33 application, irrespective of its merits. However, observing that DMRC had blatantly misused Section 33 to secure additional time for challenging the award, the Court imposed punitive costs of Rs. 5 lakh while restoring its Section 34 petition.

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Delhi High Court Upholds 'Take or Pay' Deduction in Ethanol Supply Dispute, Declines to Interfere with Arbitral Award

Dhampur Sugar Mills Ltd. v. Indian Oil Corporation Ltd. arose from a petition under section 34 of the Arbitration and Conciliation Act, 1966 challenging an arbitral award rendered in a dispute concerning ethanol supply agreements between Dhampur Sugar Mills and Indian Oil Corporation. The dispute centred on IOCL's deduction of damages under the reciprocal "Take or Pay/Supply or Pay" clause after Dhampur allegedly failed to supply the minimum contracted quantity of ethanol and its claim for reimbursement of losses arising from delayed issuance of statutory Form-C declarations. Dismissing the petition, the Delhi High Court held that the arbitrator had adopted a plausible interpretation of the contractual terms and the evidence on record. The Court observed that Section 34 does not permit reappreciation of evidence or interference merely because another view is possible, and upheld the arbitral award as free from patent illegality or perversity.

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