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NEWSLETTER

APRIL 2026

Court Cannot Expand Scope of Section 34 Review into Merits Re-Appreciation

STATE OF MAHARASHTRA V. M/S COASTAL MARINE CONSTRUCTION & ENGINEERING LTD.

The Supreme Court held that a party which participates in arbitral proceedings without raising a timely objection under Section 16 of the Arbitration and Conciliation Act, 1996 cannot subsequently challenge the tribunal's jurisdiction after an adverse award. The Court observed that failure to raise such objections at the appropriate stage amounts to waiver, and parties cannot be permitted to question jurisdiction after fully participating in the proceedings.

The dispute arose from a contractual arrangement between the Municipal Corporation of Greater Mumbai and the respondent contractor, under which arbitration proceedings were initiated to resolve claims relating to execution of works. The respondent participated in the arbitration without objecting to the tribunal's jurisdiction at any stage. Upon an unfavourable award being passed, the respondent challenged the award, contending that the tribunal lacked jurisdiction. The High Court entertained the objection; however, the Supreme Court set aside this view, holding that the objection was raised belatedly and contrary to the statutory scheme of Section 16.

The ruling reinforces the principle of procedural discipline in arbitration and prevents parties from adopting a strategy of reserving jurisdictional objections until after the outcome of the proceedings. It strengthens the finality of arbitral awards and ensures that arbitration remains an efficient dispute resolution mechanism.

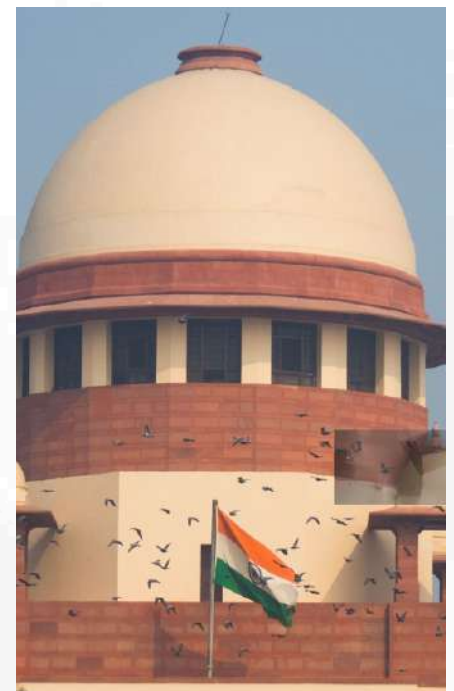


Participation Does Not Cure Inherent Lack of Jurisdiction of Arbitral Tribunal

M/S BHARAT UDYOG LTD. (FORMERLY M/S JAI HIND CONTRACTORS PVT. LTD.) V. AMBERNATH MUNICIPAL COUNCIL & ANR.

The Supreme Court clarified that participation in arbitral proceedings does not preclude a party from challenging the inherent lack of jurisdiction of the tribunal where no valid arbitration agreement exists. The Court held that absence of an arbitration agreement goes to the root of jurisdiction and renders the award a nullity, which cannot be cured by consent or conduct.

The dispute arose when arbitration proceedings were initiated between the parties in relation to contractual claims, despite the absence of a valid arbitration agreement governing the relationship. The appellant participated in the proceedings but subsequently challenged the award on the ground that the tribunal lacked jurisdiction. The respondent argued that such participation amounted to waiver of objections. Rejecting this contention, the Supreme Court held that while procedural objections may be waived, a fundamental jurisdictional defect cannot be cured through participation.



The ruling draws a clear distinction between waiver of procedural rights and absence of jurisdiction, and reinforces that arbitral authority must stem from a valid agreement between the parties. It ensures that arbitration remains rooted in consent and prevents enforcement of awards passed without jurisdiction.

Fresh Arbitration Barred After Abandonment of Earlier Proceedings

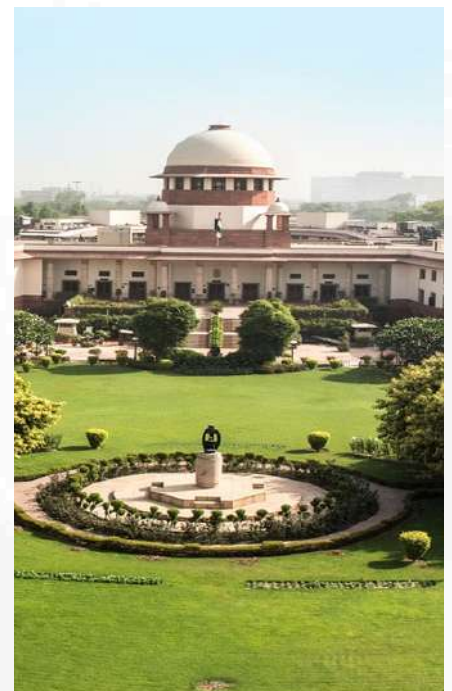
RAJIV GADDH V. SUBODH PARKASH

The Supreme Court held that a party which abandons arbitration proceedings without obtaining liberty to initiate fresh proceedings cannot subsequently invoke arbitration on the same cause of action. Applying the principles underlying Order XXIII Rule 1 of the Code of Civil Procedure, 1908, the Court held that such conduct is barred and amounts to abuse of process.

The dispute arose where the claimant had earlier invoked arbitration in respect of certain claims but withdrew the proceedings without seeking liberty to re-initiate them. Thereafter, the claimant sought appointment of an arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996 for the same cause of action. The High Court allowed the application; however, the Supreme Court set aside this order, holding that the claimant was precluded from initiating fresh proceedings.

The ruling reinforces the principle of finality in arbitration and prevents multiplicity of proceedings.

It clarifies that parties cannot repeatedly invoke arbitration for the same disputes after abandoning earlier proceedings, thereby preserving procedural integrity and efficiency in dispute resolution.



Foreign Arbitral Awards Cannot Be Resisted on Merits at Enforcement Stage

NAGARAJ V. MYLANDLA & ANR. V. PI OPPORTUNITIES FUND-I & ORS.

The Supreme Court reiterated that enforcement of a foreign arbitral award under Section 48 of the Arbitration and Conciliation Act, 1996 cannot be resisted by re-examining the merits of the dispute or by recasting factual issues as violations of public policy. The Court emphasised that the scope of interference at the enforcement stage is narrow and limited to specific statutory grounds.

The dispute arose from objections raised against enforcement of a foreign arbitral award, where the judgment-debtor sought to challenge the findings of the arbitral tribunal on factual and contractual grounds by invoking the public policy exception. The enforcing court declined to entertain these objections, and the matter reached the Supreme Court. Upholding the enforcement, the Court held that public policy cannot be used as a gateway to undertake a merits review of the award.

The ruling strengthens India's pro-enforcement regime for foreign arbitral awards and aligns with international arbitration principles. It reinforces certainty in cross-border dispute resolution by ensuring that enforcement proceedings are not converted into appellate forums.



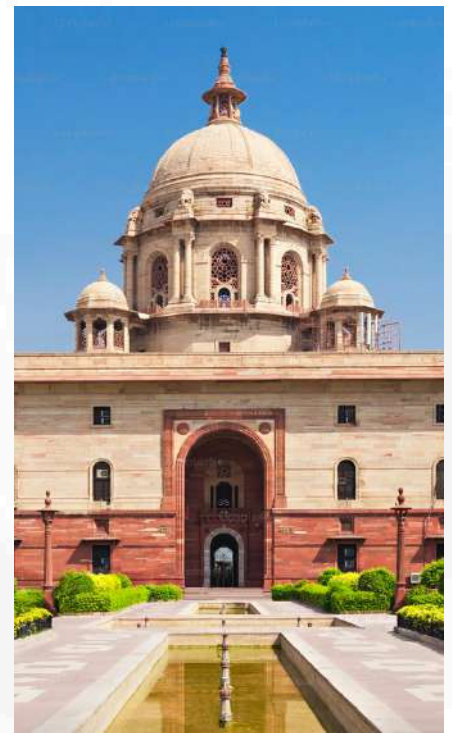
Post-Facto Shareholder Approval Cannot Validate Fraudulent Diversion of Funds

SEBI V. TERRASCOPE VENTURES LIMITED & ORS.

The Supreme Court held that post-facto shareholder ratification cannot cure fraudulent diversion of funds raised through preferential allotment, and that the Securities and Exchange Board of India (SEBI) retains the authority to impose penalties for violations of the PFUTP Regulations notwithstanding parallel proceedings before the Whole Time Member.

The dispute arose from allegations that funds raised by the company through preferential allotment were diverted for purposes other than those disclosed to investors. The respondents contended that subsequent shareholder approval validated the utilisation of funds and that parallel proceedings before SEBI's Whole Time Member precluded action by the Adjudicating Officer. Rejecting these arguments, the Court held that fraudulent conduct cannot be legitimised through subsequent ratification and that SEBI's enforcement powers operate independently.

The ruling reinforces regulatory oversight in securities markets and clarifies that compliance failures involving investor funds cannot be retrospectively regularised. It strengthens the deterrent framework under the PFUTP Regulations and underscores the importance of transparency and accountability in capital raising.



Existence of Guarantee Determined by Substance of Transaction, Not Form of Document

CANARA BANK OVERSEAS BRANCH V. ARCHEAN INDUSTRIES LTD.

The Supreme Court held that the existence of a contract of guarantee is to be determined based on the substance of the transaction and the conduct of the parties, and not merely on the nomenclature or form of the document. The Court observed that a clear and unequivocal undertaking to discharge the liability of a third party, if established from the surrounding circumstances, would constitute a valid guarantee.

The dispute arose from a financial arrangement where the bank sought to enforce obligations against the respondent on the basis that it had acted as a guarantor for credit facilities extended to a third party. The respondent contended that no formal guarantee agreement existed and that its communications did not amount to a legally enforceable guarantee. The matter travelled through the lower forums, where differing views were taken on whether the correspondence and conduct constituted a binding guarantee.



The Supreme Court examined the nature of the communications exchanged between the parties, the commercial context of the transaction, and the conduct of the respondent in supporting the borrower's obligations. It held that courts must look beyond the label of a document and assess whether there was a clear intention to assume liability in the event of default. On facts, the Court concluded that the respondent's undertaking satisfied the essential elements of a guarantee.

The ruling reinforces the principle that in commercial and banking transactions, substance prevails over form, and that parties may be held liable as guarantors based on their conduct and commitments, even in the absence of a formally titled guarantee document.

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DSA Legal, formerly Deepak Sabharwal & Associates, is a full-service firm with a legacy since 1967, trusted by leading Indian and global clients across 10 offices in India and key international locations. Our work spans a wide range of practice areas, including banking and finance, infrastructure and construction, mergers and acquisitions, cross-border ventures, corporate advisory, capital markets, and information technology. We support clients with end-to-end transactional, regulatory, and dispute-resolution needs across sectors such as energy, real estate, telecom, and technology. With a blend of sector insight and practical problem-solving, we help businesses navigate complex deals, compliance requirements, and multi-jurisdiction matters with clarity and confidence.

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- Awarded as the “Full Service Law Firm of the Year” by Achromic Point
- Awarded the Best Corporate Recovery Firm of the Year.
- Awarded the Best Law Firm of the Year – Due Diligence.
- Recognised as the Best Law Firm of the Year.
- Awarded the Best Insolvency Law Firm of the Year.
- Recognised as the Best Lawyer of the Year - Deepak Sabharwal
- Awarded the Best Arbitration Firm of the Year.
- Recognised as the Best Litigation Firm of the Year.
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