

BRIEF BITES

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Legal Updates, Insights and Summary Judgements

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Recent Judgements

ARBITRATION

Arabian Exports Private Limited Versus National Insurance Company Ltd. (SLP (CIVIL) Nos. 16907–16908 OF 2012)



The Supreme Court held that if an insured party claims coercion in reaching a settlement with the insurer, the validity of that settlement remains arbitrable. The Court clarified that such disputes arise under or relate to the original contract, and the arbitration agreement within that contract survives even after the contract is discharged by accord and satisfaction, allowing the matter to be referred to arbitration.

In the instant case the Arabian Exports Private Limited (“Appellant”), had taken two insurance policies from the National Insurance Company Ltd. (“Respondent”), covering its meat processing and cold storage unit as well as stock-in-trade. Due to unprecedented rainfall in July 2005, the appellant’s factory was flooded, causing significant damage. The appellant lodged claims under both policies, but after prolonged delays, the respondent offered a settlement of Rs. 1.88 crores against the claimed Rs. 5.71 crores. Under financial strain and pressure from creditors, the appellant reluctantly signed a discharge voucher in December 2008 but subsequently contested the settlement, invoking the arbitration clause in the policies. The respondent refused arbitration, arguing that the discharge voucher constituted full and final settlement. The Bombay High Court dismissed the appellant’s application under Section 11 of the Arbitration and Conciliation Act, 1996, holding that the acceptance of payment precluded arbitration.

The Supreme Court analyzed whether a dispute could be referred to arbitration after a full and final discharge voucher was signed. It distinguished between voluntary settlements (as in *Nathani Steels Ltd. v. Associated Constructions*) and cases where discharge vouchers were signed under duress or coercion (as in *National Insurance Co. Ltd. v. Boghara Polyfab*). The Court emphasized that under Section 11(6) of the 1996 Act, the judicial role is limited to examining the existence of an arbitration agreement, not adjudicating the merits of claims like coercion or economic duress, which are for the arbitral tribunal to decide. The Court held that even if a settlement appears final, disputes over its validity (e.g., due to coercion) remain arbitrable. The doctrine of *Kompetenz-Kompetenz* reinforced that arbitral tribunals, not courts, should decide such jurisdictional issues.

The Supreme Court held that the High Court erred in rejecting the Section 11 application, as the appellant's plea of economic duress raised an arbitrable dispute. Setting aside the impugned order, the Court appointed a retired Bombay High Court judge as the sole arbitrator to adjudicate the claims. The ruling reaffirmed that courts should not delve into the merits of disputes at the referral stage and that arbitration agreements survive even after alleged full and final settlements unless expressly terminated.

**Gayatri Balasamy Versus M/S.
Isg Novasoft Technologies
Limited (SLP(C) No. 15336-
15337/2021)**



In the instant case, the Supreme Court Bench comprising CJI Sanjiv Khanna and Justices B.R. Gavai, Sanjay Kumar, A.G. Masih, and K.V. Viswanathan held that courts should be permitted to modify arbitral awards when parties challenge the tribunal's decision under the Arbitration and Conciliation Act, 1996 ("Act").

The case arised when a three-judge bench of the Supreme Court directed that the Special Leave Petitions in the instant case be placed before the CJI to consider whether key legal questions should be referred to a larger Bench. The questions include whether courts' powers under Sections 34 and 37 of the Act, extend to modifying arbitral awards and to what extent.

The bench reasoned that denying such modification powers undermines arbitration's core purpose efficient and cost-effective dispute resolution by forcing parties into repetitive proceedings, adding years of litigation under Section 34 (setting aside proceedings), Section 37 (appeal proceedings), and Article 136 (SLP proceedings).

They reasoned that forcing parties into new arbitration proceedings just to fix or modify small parts of an award (instead of allowing the court to modify) would make the process even more cumbersome than ordinary litigation. The majority relied on the doctrine of severability and the doctrine of implied powers, arguing that if courts can partially annul awards, they inherently have the lesser power to modify parts when separable. They clarified this power is limited: courts can correct obvious clerical, computational, or typographical errors without re-examining merits, aligning with inherent powers recognized in past judgments like *Grindlays Bank Ltd. v. Central Government Industrial Tribunal and Others* and analogous provisions under the Civil Procedure Code.

However, Justice KV Viswanathan dissented, arguing that granting modification powers under S.34 would amount to judicial overreach, as the Arbitration Act does not explicitly provide for such authority. He emphasized that legislative silence should not be interpreted as permission and cautioned against creating “judicially manageable standards” for modification, which could lead to inconsistent rulings.

In essence, the majority ruling expands judicial discretion in arbitration challenges, aiming to reduce procedural delays, while the dissent warns against encroaching on legislative domain. The judgment sets a precedent for limited judicial modification of arbitral awards, balancing efficiency concerns with the need to respect arbitration’s finality.

CIVIL

**Rakesh Kumar Verma Vs.
HDFC Bank Ltd. (Civil Appeal
No. 2282/2025) HDFC Bank Vs.
Deepti Bhatia (Civil Appeal
No. 2286/2025)**



In the instant case, the Hon'ble Supreme Court of India clarified the role of 'exclusive jurisdiction' clause in a contract and further held that Section 28 of the Indian Contract Act, 1872 does not bar the exclusive jurisdiction clauses.

The present matter pertains to batch of two Civil Appeals in which the lead Appeal filed by one Mr. Rakesh Kumar Verma against HDFC Bank Limited against the judgment of the Hon'ble Patna High Court, which allowed a Civil Revisional Application of HDFC Bank. In the connected Appeal filed by HDFC Bank against Deepti Bhatia wherein HDFC Bank challenged the judgment of the Hon'ble Delhi High Court which dismissed its Civil Revisional Application. In the lead Appeal, vide a letter, HDFC Bank appointed the Appellant on the post of Executive Transaction Banking Group (Operation) in the Wholesale Banking Operations in the year 2002. Pursuant thereto, he joined his service at Wholesale Banking Operations at Exhibition Road, Patna. The appointment letter contained an exclusive jurisdiction clause. In 2016, his service was terminated due to allegations of fraud and misconduct. Being aggrieved, the Appellant instituted a Civil Suit and thereafter, HDFC Bank filed a Petition under Order VII Rule 11 of the Civil Procedure Code, 1908 for rejection of the Plaint on the ground that it is the Courts in Mumbai which have jurisdiction and not the Court where the Suit was instituted. Vide Order dated 14.12.2018, the Ld. Trial Court dismissed the Petition filed by HDFC Bank. Being aggrieved, HDFC Bank file a Revisional Application before the Hon'ble Patna High Court. The Hon'ble Patna High Court allowed the said Revisional Application filed by the Appellant. As such, the Appellant filed the present Civil Appeal in the Hon'ble Supreme Court.

The connected Appeal too rests on the similar set of facts. HDFC Bank terminated the employment of the Appellant i.e. Deepti Bhatia on the grounds of alleged fraud and misconduct. As such, the Appellant filed a Civil Suit in the Rohini Court, Delhi, seeking a declaration that her termination was illegal and reinstatement with full benefits. HDFC Bank contended that the employment agreement contained an exclusive jurisdiction clause which specifically confers jurisdiction on the courts in Mumbai to adjudicate the disputes. The Ld. Trial Court passed an order dated 17.04.2021 and held that it had exclusive jurisdiction to try and entertain the said Suit filed by the Appellant. Being aggrieved, HDFC Bank filed a Civil Revisional Application before the Hon'ble Delhi High Court. The Hon'ble Delhi High Court dismissed the said Civil Revisional Application and affirmed the decision of the Ld. Trial Court. As such, the Appellant filed the present Civil Appeal in the Hon'ble Supreme Court.

The Hon'ble Supreme Court in view of the facts and circumstances of the case, explained that for an exclusive jurisdiction clause to be valid it should be (i) in consonance with Section 28 of the Indian Contract Act; (ii) the Court has been given exclusive jurisdiction must be competent to have such jurisdiction in the first place and (iii) the parties must either impliedly or explicitly confer jurisdiction on a specific set of courts. Accordingly, the Hon'ble Supreme Court dismissed the lead Appeal, and allowed the connected Appeal affirming the decision of the Hon'ble Patna High Court and set aside that of the Hon'ble Delhi High Court.

**Pankaj Arora V. Anil Kumar
Bansal & Ors (2025 SCC Online
Del 2659)**



In the instant case, the Hon'ble Delhi High Court has held that the filing of the Revision Petition challenging an interlocutory order passed by the Commercial Court is barred under Section 8 of the Commercial Courts Act, 2015 which expressly prohibits the filing of civil revision petitions against the interlocutory orders passed by the Commercial Courts.

The Petitioner had filed a Civil Revision Petition before the Hon'ble Delhi High Court under Section 115 of the Civil Procedure Code, 1908 ("CPC") challenging the order dated 30.08.2024 ("Impugned Order") passed by the Ld. District Judge (Commercial), Patiala House Court, New Delhi. The Ld. Advocate for the Respondent argued that Section 8 of the Commercial Courts Act, 2015 sets out that no civil revision petition shall be filed against any interlocutory order, and as such the said Civil Revision Petition filed by the Petitioner is barred by the provisions of Section 8 of the Commercial Courts Act, 2015.

The Hon'ble Court relied on the judgment passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in the matter of Black Diamond Track Parts Private Limited V. Black Diamond Motors Private Limited and held that the said Civil Revision Petition was barred under Section 8 of the Commercial Courts Act, 2015 and further emphasized that allowing such Revision Petition/s or invoking Article 227 of the Constitution of India in commercial matters would defeat the very purpose of the Commercial Courts Act which is to ensure the speedy disposal of the commercial disputes. The Hon'ble Court further clarified that while jurisdiction under Article 227 is not completely barred, the same must be exercised sparingly and only in exceptional circumstances. Accordingly, the Hon'ble Court dismissed the Revision Petition filed by the Petitioner and granted liberty to the Petitioner to seek remedies in accordance with law, and no opinion was expressed on the merits of the case.

TAX

Shashi Ranjan Constructions Private Limited vs. Union of India [2025 (5) TMI 633]



In this ruling, the Hon'ble Patna High Court, ruled on the hotly contested issue of taxability of transfer of development rights in the hands of the developer/promoter, especially as part of the joint development agreement ('JDA') which was entered into prior to the coming into effect of GST.

The Petitioner as a developer entered into a JDA on 27.11.2014, along with some landowners, and in such JDA petitioner agreed to build, deliver and give possession to the owner 43% (36 flats) of the total built-up area in the shape of shops/offices/flats and reserved car parking spaces and/or any other built-up areas. 57% of the total built-up area of the said building exclusively belong to the Developer/Petitioner. After the construction of the building was complete, the completion certificate was granted on 20.12.2018. Department initiated proceeding against the petitioner by issuing a show cause notice under Section 73 of the Bihar GST Act, 2017 on 09.10.2023. The impugned demand order was passed on 30.11.2023 on the ground that petitioner had received non-monetary consideration towards allotment of 36 flats under the JDA, raising a demand of Rs. 7 crores (approx.).

The Petitioner submitted before the Court that the Agreement was executed prior to 01.07.2017 so GST will not be applicable on the transactions pursuant to such agreement because the land stood transferred on the date of execution of the agreement; for this he relied upon CIT vs. Balbir Singh Maini (2018) 12 SCC 354. He further submitted that development rights were made taxable through Notification No. 4/2019-Central Tax (Rate) dated 29.03.2019 and because this notification does not have retrospective effect, the petitioner cannot be taxed for such development rights, as it will not cover transaction of FY 2018-19.

The Department contended that transfer of development rights was taxable since the introduction of GST and even before Notification No. 04/2019.

The department stated that what was taxed was not development rights of HSN 9972 but the supply of construction service of HSN 9954 and there was no exemption under GST to transfer of build-up area by a developer against consideration received from landowner in the form of development rights. Department also cited the case of Prahitha Construction Private Limited vs Union Of India 2024 (2) TMI 902.

The Court rejected the writ petition on the following grounds:

- a. An agreement has to be read as whole and just because the agreement had been registered it cannot be said that owner had transferred the ownership of land to the developer.
- b. Based on the terms of the JDA, developer did not get any right on the land until the completion of the project and after the project was completed and completion certificate issued, the petitioner got the right to sell his area of 57% of the total built-up area.
- c. Consideration was received by the petitioner in the form of development right long before issuance of completion certificate or first occupancy and such development rights are amenable to GST.
- d. Transfer of development rights were taxable since the introduction of GST and Notification No. 04/2018-Central Tax (Rate) dated 23.01.2018 does not create taxability of development rights but this notification merely fixes the time of supply as the time when the developer/builder transfers possession and right in the constructed complex.

W&B Comments: Taxability of transfer of development rights is still an ongoing issue in many jurisdictions but the Telangana High Court, Bombay High Court (Nagpur Bench) and now the Patna High Court have held that such transactions are taxable under GST. It may be worth mentioning here that in this case the petitioner did not argue on the point of development rights being a right arising out of land and hence an immovable property. Care must be taken while seeking guidance from these rulings because development rights may have been acquired by various means: obtained by a promoter in a JDA, bought from the local authority / governmental authority for monetary consideration or granted as compensation under land acquisition.

Empire Steel Holdings vs. Union of India 2025 (4) TMI 1574



In this ruling, the Hon'ble Madra High Court, quashed the GST registration cancellation mae without application of mind and by following improper procedure and granted relief of restoration of registration to the petitioner.

The petitioner is registered under GST w.e.f. 03.10.2017. Due to the slowing down of the business, the petitioner shifted the registered address at a commercial space in a mall to the residential address of the proprietor w.e.f. November 2022. Thereafter, the physical verification of the previous address was conducted by the proper officer, and he found it to be locked. He issued a show cause notice on the ground: "discrepancies noticed while the conduct of Physical Verification", allowing the petitioner 3 days to reply but hastily, the registration was cancelled retrospectively w.e.f. 04.10.2017. The petitioners filed a revocation application before the Joint Commissioner which was followed by another SCN (from the Joint Commissioner) which also concluded in a adverse order within 10 days with the order, mentioning the ground: "Non-Genuineness of the Party". Before the Joint Commissioner there was also the point of levy of penalty on the ITC in GSTR 2A of the petitioner, which was decided in favour of the petitioner.

The petitioner challenged both the orders (original order and the rectification order) before high court and submitted that inspection of the place of business was carried out without the presence of the petitioner in violation of the CGST Rules and 'discrepancies noticed while the conduct of physical verification' is not one of the grounds listed in Rule 29 of the CGST Rules. She also submitted that the documents submitted by her to prove the genuineness of the business have not been considered by the department before passing the impugned orders.

The department submitted that the investigation by the department has proved that the business is not genuine as the officers also visited the amended place of business but it was also found to be locked and non-operative. Basis such lack of operation of business, GSTR-2A of the period from 2017 to FY 2022-23, wherein petitioner availed the ITC of Rs.2.95 crores was presumed to have been wrongly availed and utilized by way of fake and ineligible GSTR-3B returns.

The Court quashed the SCN and the order basis the following observations:

a. The visit note of the PV of the shop (initial place of business) is invalid, because officer did not record the statements of the nearby shop owners, it has not been signed by any witness and no other person from the department accompanied the proper officer during the PV.

b. In light of the exonerating facts recorded by Joint Commissioner, registration of the petitioner cannot be cancelled: the order of penalty was dropped by the Joint Commissioner wherein it was recorded that the petitioner was non-existent, and it was also recorded that the credit in GSTR 2A was valid on the ground that GSTR 1 have actually been filed, suppliers of the petitioner are genuine and though the business of the petitioner was non-operational at the registered Principal Place of Business, but the Noticee (Proprietor) is in existence. It was also noted that no investigation was conducted to verify the genuineness of the transaction i.e. inward and outward supply of the petitioner before issuance of the show cause notice.

W&B Comments: This decision is an encouraging sign in the development of jurisprudence surrounding the cancellation of GST registration by the department. Physical verification is an investigation process and to maintain its credibility the officers have to strictly follow the prescribed procedure. Merely because a business is going through a slowdown, such practical realities cannot be overlooked to cancel registration specially when it was proved that there input side was genuine. Regarding registration, the CBIC recently issued Instructions No. 3 of 2025 dated 17.04.2025. However, more needs to be done by the CBIC as the hasty and irregular cancellation of registration is also a big problem in GST. The indiscriminate retrospective cancellation of registration also needs to be reined in because it impacts the who chain of credit.

Telangana Recycling Private Limited vs. State Of Telangana - 2025 (5) TMI 994

In this case the Telangana High Court, quashed the show cause notice as well as the impugned order on the grounds of being completely vague and does not contain any specific charge against the petitioner.

The Petitioner was issued a show cause notice dated 29.03.2025, alleging that the commodities mentioned in the e-way bills generated by him do not match the registrations and that the functioning of the petitioner was in contravention of the GST Act and Rules. The notice also did not have any supporting documents, and his registration was cancelled with retrospective effect w.e.f. 29.12.2024. The cancellation order even further recorded that the huge e-way bills are raised which seem suspicious.

The petitioner filed writ petition against this order and submitted that since the show cause notice is vague and does not provide any specific details regarding the contravention of GST Act and Rules, he was unable to submit a proper explanation. He submitted that due to such lack of proper notice, any enquiry or the order stands vitiated.

On the other hand, the department contended that the show cause notice showed that it had supporting documents attached providing case specific details and the cancellation is justified since the petitioner neither filed any reply nor appeared for the scheduled personal hearing.

The Court held that the show cause notice is very vague and does not contain any charge framed against the petitioner hence, petitioner was unable to reply to it. It also observed that communicating the specific charges in the supporting documents is not sufficient. They cannot be considered part of the show cause notice, and the specific charges should actually be contained in the show cause notice. Citing the landmark case of *Oryx Fisheries Pvt., Ltd., Vs. Union of India* [(2010) 13 SCC 427], the court quashed the show cause notice and the order.

W&B Comments: The summary style and incomplete show cause notices and orders issued by the department in case of cancellation of registration should be discouraged by this judgment. Rather than investigating whether the business carrying out genuine business activity, cancellation on the basis of suspicions is completely contrary to law.

Sri Ram Stone Works vs. State of Jharkhand – 2025 (5) TMI 772



In this case, the Hon'ble Jharkhand High Court set aside the scrutiny notice issued under Section 61 on the ground that the issue raised therein is without jurisdiction.

The petitioner was issued notice under Section 61 on the ground that after scrutiny of the returns the department has found that returns filed under the Act, quoted lower market price than the actual market price. The petitioner challenged that ASMT 10 notice before the High Court. The petitioner submitted that the scope of such notice is limited to the extent of discrepancy occurring in the returns, and issuance of notices by comparing taxable value of disclosed in the returns with the market price of goods, is beyond the scope of Section 61 of the Act. The scope of such notice is limited to 'discrepancies'.

The department argues that such notice also contains other allegations as to discrepancies and in any case scrutiny of returns is a procedural notice with no adverse civil consequences and Petitioner could have just clarified in the reply instead of approaching the High Court.

The Court quashed the notice by observing that that while carrying out the scrutiny for the competent officer to embark upon an exercise of comparing the price at which Petitioners have sold their goods with that of prevalent market price is without jurisdiction. The Court observed that unless transactions of sale are shown to be sham transactions, the mere fact that the goods were sold at a concessional rate/rate less than market price would not entitle the Revenue to assess the difference between the market price and the price paid by the purchaser as transaction value.

W&B Comments: It is well settled principle that the provision of the tax law have to be strictly interpreted and the Court strictly interpreted the scope of Section 61 of the CGST Act and held that the issue raised in the notice issued under it is beyond Section 61. On the issue of valuation, there is nothing in Section 15 of the Act to question the business decision of pricing the sale of goods less than or more than the market value, unless the two parties are related to each other.



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