

Order Rejecting A Section 16 Plea Cannot Be Immediately Challenged Under Section 34: Supreme Court

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Introduction

In ***MCM Worldwide Private Limited v. Construction Industry Development Council* [2026 INSC 425]**, the Supreme Court clarified whether an order passed by an arbitral tribunal rejecting a jurisdictional objection under Section 16 of the Arbitration and Conciliation Act, 1996 can be immediately challenged under Section 34 of the Act. The Supreme Court held that where an arbitral tribunal rejects a plea that it lacks jurisdiction, the arbitral proceedings must continue and the challenge to such rejection can be raised only after the final award is passed. Such an order cannot be treated as an interim award capable of an immediate challenge under Section 34.

The judgment also clarifies the scope of ***Indian Farmers Fertilizer Cooperative Limited v. Bhadra Products* [(2018) 2 SCC 534]**, which had held that a decision on limitation, when decided as a preliminary issue, may amount to an interim award. The Supreme Court clarified that the said principle does not apply where limitation is raised as a jurisdictional objection under Section 16 and the plea is rejected.

In this article, we navigate through the facts of the case and the findings rendered by the Supreme Court.

Brief Facts

The dispute arose out of arrangements between MCM Worldwide Private Limited and Construction Industry Development Council. MCM Worldwide had initially filed a civil suit for recovery of its alleged dues. Construction Industry Development Council sought reference of the parties to arbitration under Section 8 of the Arbitration Act.

The suit was disposed of on that basis. Since the parties could not agree on appointment of an arbitrator, MCM Worldwide approached the Delhi High Court under Section 11(6) of the Arbitration Act. A sole arbitrator was thereafter appointed.

During the arbitral proceedings, Construction Industry Development Council filed an application seeking rejection of the claim petition on the ground that the claims were barred by limitation. The arbitral tribunal rejected the application.

Construction Industry Development Council first challenged that order under Section 34 of the Arbitration Act. The challenge was rejected on the ground that the order was not amenable to Section 34. In appeal, the Delhi High Court granted liberty to Construction Industry Development Council to file an application before the arbitral tribunal under Section 16 of the Arbitration Act.

Pursuant to such liberty, Construction Industry Development Council filed an application under Section 16, contending that the arbitral tribunal lacked jurisdiction as the claims were barred by limitation. The arbitral tribunal rejected this application.

Construction Industry Development Council again filed a petition under Section 34 challenging the rejection of its Section 16 application. Although MCM Worldwide initially

objected to the maintainability of the Section 34 petition, the matter proceeded on merits in view of the reliance placed on ***Indian Farmers (supra)***.

The Section 34 petition was dismissed on merits. Construction Industry Development Council then filed an appeal under Section 37 before the Delhi High Court. The Delhi High Court allowed the appeal on merits without first examining whether the Section 34 petition or the Section 37 appeal was maintainable.

MCM Worldwide challenged the judgment of the Delhi High Court before the Supreme Court.

Arguments from Both Sides

MCM Worldwide contended that the Arbitration Act contains a specific statutory scheme for orders passed under Section 16. If an arbitral tribunal accepts a plea of lack of jurisdiction, the proceedings come to an end and the order is appealable under Section 37. However, if the arbitral tribunal rejects such a plea, the tribunal must continue with the proceedings and make an award.

It was therefore submitted that a party aggrieved by rejection of a Section 16 plea cannot immediately invoke Section 34. The party must wait until the final award is passed and may then raise the objection in a challenge to the final award.

Construction Industry Development Council relied on ***Indian Farmers (supra)*** to contend that since the issue of limitation had been decided against it, the order could be treated as an interim award. On this basis, it was argued that the order rejecting the limitation objection was amenable to challenge under Section 34.

The central question before the Supreme Court was therefore whether rejection of a limitation-based jurisdictional plea under Section 16 can be treated as an interim award, or whether such challenge must await the final award.

Findings of the Supreme Court

The Supreme Court allowed the appeal and set aside the judgment of the Delhi High Court.

The Supreme Court examined the statutory scheme of Section 16 of the Arbitration Act. Section 16 recognises the competence of an arbitral tribunal to rule on its own jurisdiction, including objections relating to the existence or validity of the arbitration agreement. Section 16(2) permits a party to raise a plea that the arbitral tribunal lacks jurisdiction. Section 16(3) deals with a plea that the tribunal is exceeding the scope of its authority.

The Supreme Court emphasised the effect of Sections 16(5) and 16(6). Section 16(5) provides that where the arbitral tribunal rejects a plea under Section 16(2) or Section 16(3), it shall continue with the arbitral proceedings and make an arbitral award. Section 16(6) then permits the aggrieved party to challenge the award under Section 34.

The Supreme Court also considered Section 37 of the Arbitration Act. Section 37 permits an appeal where the arbitral tribunal accepts a plea that it lacks jurisdiction. Such an

order brings the arbitral proceedings to an end. However, no appeal is provided where the arbitral tribunal rejects the jurisdictional objection.

On this statutory scheme, the Supreme Court held that Construction Industry Development Council was not entitled to file a Section 34 petition against the order rejecting its Section 16 application. The Supreme Court held that the challenge to such order could be raised only after the final award is passed.

The Supreme Court then clarified the scope of ***Indian Farmers (supra)***. In that case, the arbitrator had decided limitation as a preliminary issue and held that the claims were not time-barred. Since that issue stood finally determined and would not be considered again in the final award, the Supreme Court had treated the decision as an interim award capable of challenge under Section 34.

However, the Supreme Court held that a different result follows where limitation is raised as a jurisdictional objection under Section 16. If such an objection is rejected, Sections 16(5) and 16(6) apply. In that situation, the party aggrieved by the rejection must wait until the final award and then raise the issue under Section 34.

The Supreme Court further held that treating every rejection of a Section 16 plea as an interim award would distort the scheme of the Arbitration Act. It would also render Section 37(2) redundant, since Section 37 specifically allows a direct appeal only where the arbitral tribunal accepts a plea of lack of jurisdiction.

The Supreme Court therefore held that the Section 34 petition filed against the order rejecting the Section 16 plea was not maintainable. Consequently, the Section 37 appeal arising from the decision in that Section 34 proceeding was also not maintainable.

The Supreme Court clarified that Construction Industry Development Council would be entitled to test the validity of the order rejecting its Section 16 plea only after the final award is passed, and only if the situation so warrants, by way of a Section 34 challenge.

Comment

The judgment in ***MCM Worldwide (supra)*** is an important clarification on the procedural consequences of a Section 16 order.

The Supreme Court has drawn a clear distinction between two situations. Where limitation is decided as a standalone preliminary issue and finally determined, the decision may operate as an interim award. However, where limitation is raised as a jurisdictional objection under Section 16 and the objection is rejected, the statutory consequence under Sections 16(5) and 16(6) must follow.

The decision reinforces the principle that arbitral proceedings should not be interrupted by piecemeal court challenges. If every rejection of a jurisdictional objection were immediately challengeable under Section 34, the arbitral process could be repeatedly stalled before the final award.

The judgment also clarifies that the label given to an application is not decisive. What matters is the statutory source and consequence of the order. If the order is one

rejecting a plea under Section 16, the party must await the final award before approaching the court under Section 34.

This decision will be particularly relevant where parties raise limitation, arbitrability or jurisdictional objections before the arbitral tribunal. The judgment confirms that once such a plea is rejected under Section 16, the arbitral tribunal must continue with the proceedings and the aggrieved party's remedy is deferred until the post-award stage.

The judgment therefore reinforces procedural discipline in arbitration and preserves the legislative policy against premature court interference.

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