18-19 December 2021

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17.	<b>Chintels India Ltd. v. Bhayana Builders Pvt. Ltd., (2021) SCC OnLine SC 80</b> [Undoubtedly, a limited right of appeal is given under section 37 of the Arbitration Act, 1996. But it is not the province or duty of this Court to further limit such right by excluding appeals which are in fact provided for, given the language of the provision as interpreted]
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20.	<b>PASL Wind Solutions Private Limited v. GE Power Conversion, (2021) 3 SCC</b> <b>OnLine SC 331</b> [Parties to a contract who are Indian nationals or Companies incorporated in India can choose a forum for arbitration outside India. "Nothing stands in the way of party autonomy in designating a seat of arbitration outside India even when both parties happen to be Indian nationals]
21.	Jaipur Zila Dugdh Utpadak Sahkari Sangh Ltd. v. Ajay Sales & Suppliers, (2021) SCC OnLine SC 730 [Chairman is 'ineligible' to act as an arbitrator to resolve the dispute between the parties in view of Section 12(5) read with Seventh Schedule to the Act he loses mandate to continue as a sole arbitrator]
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25.	<b>Punjab State Civil Supplies Corporation Ltd. v. Ramesh Kumar and Company,</b> (2021) SCC OnLine SC 1056 [The jurisdiction in a first appeal arising out of a decree in a civil suit is distinct from the jurisdiction of the High Court under Section 37 of the 1996 Act arising from the disposal of a petition challenging an arbitral award under Section 34 of the 1996 Act]
26.	<b>Gujarat State Disaster Management Authority v. Aska Equipments</b> <b>Limited, (2021) SCC OnLine SC 917</b> [Considering the language used in Section 19 of the MSME Act, 2006 and the object and purpose of providing deposit of 75% of the awarded amount as a pre-deposit while preferring the application/appeal for setting aside the award, it has to be held that the requirement of deposit of 75% of the awarded amount as a predeposit is mandatory.]
27.	Gyan Prakash Arya v. M/s Titan Industries Limited, (2021) SCC OnLine SC 1100 ["Only in a case of arithmetical and/or clerical error, the award (an arbitral award) can be modified and such errors only can be corrected"]
28.	<b>Delhi Airport Metro Express (P) Ltd. v. DMRC, (2021) SCC OnLine SC 695</b> [There is a disturbing tendency of courts setting aside arbitral awards, after dissecting and reassessing factual aspects of the cases to come to a conclusion that the award needs intervention and thereafter, dubbing the award to be vitiated by either perversity or patent illegality, apart from the other grounds available for annulment of the award.]
29.	Arcelor Mittal Nippon Steel (India) Ltd. v. Essar Bulk Terminal Ltd., (2021) SCC OnLine SC 718 [On a combined reading of Section 9 with Section 17 of the Arbitration Act, once an Arbitral Tribunal is constituted, the court would not entertain and/or in other words take up for consideration and apply its mind to an application for interim measure, unless the remedy under Section 17 is inefficacious, even though the application may have been filed before the constitution of the Arbitral Tribunal. The bar of Section 9(3) would not operate, once an application has been entertained and taken up for

	consideration, as in the instant case, where hearing has been concluded and judgment has been reserved.]
30.	<ul> <li>Garg Builders v. Bharat Heavy Electricals Ltd., (2021) SCC OnLine SC 855 [It was held that when there is an express statutory permission for the parties to contract out of receiving interest and they have done so without any vitiation of free consent, it is not open for the Arbitrator to grant pendent lite interest.]</li> <li>&gt; Sayeed Ahmed and Company v. State of Uttar Pradesh, (2009) 12 SCC 26</li> <li>&gt; Sree Kamatchi Amman Constructions v. Divisional Railway Manager (Works), (2010) 8 SCC 767</li> <li>&gt; Sri Chittaranjan Maity v. Union of India, (2017) 9 SCC 611</li> </ul>
31.	<b>BSNL v. Nortel Networks India (P) Ltd., (2021) 5 SCC 738</b> [Article 137 of the First Schedule of the Limitation Act will govern the limitation period for filing an application under Section 11 of the Arbitration Act, 1996 and the limitation period will trigger from the date when there is failure to appoint the arbitrator]
32.	National Highways Authority of India v. M. Hakeem, (2021) SCC OnLine SC 473, [Section 34 Court can only set aside the arbitral award, but not vary or modify the findings of the Arbitral Tribunal.]
33.	<b>Dakshin Haryana Bijli Vitran Nigam Ltd. v. Navigant Technologies (P) Ltd.,</b> (2021) SCC OnLine SC 157 ["Under Section 34 of the Arbitration Act, the Court may either dismiss the objections filed, and uphold the award, or set aside the award if the grounds contained in sub-sections (2) and (2-A) of (Section 34)are made out. There is no power to modify the award".]
34.	Uttarakhand Purv Sainik Kalyan Nigam Ltd. v. Northern Coal Field Ltd., (2020) 2 SCC 455 [The issue of limitation is one of jurisdiction and falls within the ambit of the doctrine of kompetenz-kompetenz under Section 16]
35.	Geo Miller & Co. (P) Ltd. v. Rajasthan Vidyut Utpadan Nigam Ltd., (2020) 14 SCC 643 [Time spent in pre-arbitration negotiations, held in good faith, may be excluded while computing the period of limitation]
36.	Mankastu Impex (P) Ltd. v. Airvisual Ltd., (2020) 5 SCC 399 [Observed that mere expression of place of arbitration will not entail that the parties intended it to be the seat. The intention of the parties to the seat has to be determined from other clauses of the Agreement and the conduct of the parties]
39.	<b>NAFED v. Alimenta S.A., (2020) SCC OnLine SC 381</b> [ <i>The court refused to enforce a foreign award on the ground of it being opposed to public policy under Section 7 (1) (b) (ii) of the Foreign Awards (Recognition and Enforcement) Act, 1961]</i>
40.	Avitel Post Studioz Ltd. v. HSBC PI Holdings (Mauritius) Ltd, (2020) SCC OnLine SC 656 [The court in Avitel also clarified that the criteria of arbitrability as laid down in Booz Alllen and Afkons cases cannot be read in bereft of the twin test laid down in Ayyasamy case while considering the arbitrability issue of fraud]
41.	<b>BSG SGS SOMA JV v. NHPC Limited., (2020) 4 SCC 234</b> [Court reiterated that the selection of a seat by the parties is akin to an exclusive jurisdiction clause conferring jurisdiction on the courts at such seat over all matters connected with the arbitration.]
42.	<b>DLF Home Developers Limited v. Rajapura Homes Private Limited &amp; Anr,</b> [Arbitration Petition No. 17 of 2020] [Even when arbitration agreement exists, it would not prevent Court to decline prayer for reference if dispute in question doesn't correlate to said agreement]
43.	Anglo American Metallurgical Coal Pty Ltd v. MMTC Ltd., (2020) SCC OnLine SC 1030 ["Once this becomes clear, it is obvious that the Majority Award, after

	reading the entire correspondence between the parties and examining the oral evidence, has come to a possible view, both on the Respondent being in breach, and on the quantum of damages."]
44.	Vijay Karia and others v. Prysmian Cavi E Sistemi SRL and Others, (2020) 11 SCC 1 [Section 48(1)(b) is to be narrowly construed]
45.	<b>Noy Vallesina Engineering SPA v. Jindal Drugs Limited, (2020) SCC OnLine</b> <b>SC 957</b> [The Court held that challenge to a pre-BALCO foreign award is not maintainable under Section 34 of the Act and even if contract and award is pre-BALCO, the law governing the challenge to the award will be law of seat of arbitration.]
46.	<b>Centrotrade Minerals and Metals Inc. v. Hindustan Copper Ltd., (2020) SCC</b> <b>OnLine SC 479</b> [While allowing the enforcement of an award passed under the rules of the International Chamber of Commerce interpreted Section 48(1)(b) of the Act, 1996. The court held that the word "otherwise" cannot be read and interpreted "ejusdem generis" and held that a narrower meaning and interpretation should be afforded keeping in mind the primary object of Section 48(1)(b) i.e. enforcement of a foreign award]
47.	<b>Govt. of India v. Vedanta Ltd., (2020) SCC OnLine SC 765</b> [ <i>The</i> court discarded the regressive stance taken in <i>Alimenta case</i> and held that minimal interference shall be exercised by the courts in enforcing foreign arbitral awards]
48.	<b>Indus Biotech Private Limited v. Kotak India Venture (Offshore) Fund),</b> <b>Arbitration Petition (civil) no. 48/2019</b> [Observed that in any proceeding which is pending before the Adjudicating Authority under Section 7 of Insolvency and Bankruptcy Code, if such petition is admitted upon the Adjudicating Authority recording the satisfaction with regard to the default and the debt being due from the corporate debtor, any application seeking reference to arbitration under Section 8 of the Arbitration and Conciliation Act made thereafter will not be maintainable.]
49.	<b>SsangYong Engg. &amp; Construction Co. Ltd. v. NHAI, (2019) 15 SCC 131</b> [Mere contravention of substantive law as elucidated in Associate Builders v. DDA, (2015) is no longer a ground available to set aside an arbitral award.]
50.	<b>MMTC Ltd. v. Vedanta Ltd.</b> , (2019) 4 SCC 163 [It was decided that Section 34 proceeding does not contain any challenge on the merits of the award.]
51.	<b>Bharat Broadband Network Ltd.v. Telecoms Limited</b> , (2019) 5 SCC 755 [It was observed that Section 12(5) read with Seventh Schedule made it clear that if the arbitrator falls in any one of the categories specified in the Seventh Schedule, he becomes 'ineligible' to act as an arbitrator. Once he becomes ineligible he then becomes dejure unable to perform his functions.]
52.	<b>Perkins Eastman Architects DPC v. HSCC (India) Ltd., (2019) SCC OnLine SC</b> <b>1517</b> [ <i>Court interpreted the provisions of Section 12(5) of the A&amp;C Act, and a person who</i> <i>is ineligible to act as an arbitrator, would also not be eligible to appoint anyone else as an</i> <i>arbitrator.</i> ]
53.	Hindustan Zinc Ltd. v. Ajmer Vidyut Vitran Nigam Ltd., (2019) 17 SCC 82, [Court reiterated that a plea of inherent lack of jurisdiction can be made at any stage and can also be made in collateral proceedings. The Supreme Court held that the order of a court without valid subject matter jurisdiction is a nullity, which therefore cannot be relied on or enforced]
54.	Brahmani River Pellets Limited v. Kamachi Industries Limited, (2019) SCC OnLine SC 929 [Held that where the contract satisfies the jurisdiction of the Court at a particular place then only such Courts will have the jurisdiction to deal with the matter and an inference be drawn that parties intended to exclude the other Courts.]

55.	M/s.Canara Nidhi Limited v. M. Shashikala & Ors. (2019) SCC OnLine SC
56.	<ul> <li>1244 [Held that proceedings under Section 34 of the Act is summary in nature]</li> <li>Municipal Corporation of Greater Mumbai &amp; Anr. v. Pratibha Industries Limited &amp; Ors., (2019) 3 SCC 203 [Held that High Court has inherent powers under Article 215 of the Constitution of India to recall its own order being a superior Court of record. Section 5 of the Arbitration Act is inapplicable in absence of arbitration agreement itself.</li> </ul>
57.	<b>Reckitt Benckiser (India) Private Limited v. Reynders Label Printing India</b> <b>Private Limited &amp; Anr., (2019) 7 SCC 62</b> [Held that the party who is not a signatory to the arbitration agreement cannot be subjected to the arbitral proceedings. The burden is on the applicant to establish that such third party had an intention to consent to the arbitration agreement and be party thereto]
58.	<b>Vidya Drolia and Others v. Durga Trading Corporation, (2019) SCC OnLine</b> <b>SC 358</b> [Held that there is nothing in the Transfer of Property Act to show that a dispute <i>as to determination of a lease arising under Section 111 of Transfer of Property Act cannot</i> <i>be decided by arbitration</i> ]
59.	<b>Post Graduate Institute of Medical Education and Research, Chandigarh v.</b> <b>Kalsi Construction Company, (2019) 8 SCC 726</b> [Held that in absence of agreement to contrary between the parties, Section 31(7)(a) confers jurisdiction upon arbitral Tribunal to award interest unless otherwise agreed by parties, at such rate as Arbitral Tribunal considers reasonable, on whole or any part of money, for whole or any part of period between date of cause of action and date of award]
60.	Jaiprakash Associates Ltd. v. Tehri Hydro Development Corporation India Ltd., (2019) SCC OnLine SC 143 [Held that Arbitral Tribunal cannot award interest if such claim is prohibited under the terms of the contract entered into between the parties]
61.	<b>Parsa Kente Collieries Limited v. Rajasthan Rajya Vidyut Utpadan Nigam</b> <b>Limited, (2019) 7 SCC 236</b> [Held that an arbitral Tribunal must decide in accordance with the terms of the contract. If an arbitrator construes a term of the contract in a reasonable manner and if such interpretation is possible or plausible interpretation, award cannot be set aside. The construction of the terms of a contract is primarily for an arbitrator. The Court does not act as a court of appeal when a court is applying the "public policy" test to an arbitration award. It is held that if the arbitral award is contrary to the evidence on record, it can be set aside by the Court under Section 34]
62.	Bharat Petroleum Corporation Limited v. Go Airlines (India) Limited, (2019) 10 SCC 250 [Held that plea of jurisdiction in respect of counter claim being not arbitrable and falling beyond the scope of reference to the arbitration and such other related questions are to be determined only during enquiry by the arbitral Tribunal and counter claim cannot be rejected at the threshold on the ground that the arbitral Tribunal has no jurisdiction]
63.	<b>PEC Ltd. v. Austbulk Shipping Sdn. Bhd., (2019) 11 SCC 620</b> [Held that the word "shall" under Section 47 read as "may" must be restricted only to the initial stage of filing of the application]
64.	Hindustan Construction Company Ltd. v. Union of India, (2019) SCC OnLine SC 1520 ["The deletion of Section 26 of the 2015 Amendment Act, together with the insertion of Section 87 into the Arbitration Act, 1996 by the 2019 Amendment Act, is struck down as being manifestly arbitrary under Article 14 of the Constitution of India."]
65.	Shriram EPC Ltd.v. Rioglass Solar SA, (2018) 18 SCC 313 [Held that, stamping in not a mandatory condition and there is no such requirement of registration as the award can be enforced as a court decree]

66.	Emkay Global Financial Services Ltd. v. Girdhar Sondhi, (2018) 9 SCC 49 [Held that an application for setting aside an arbitral award
	will not ordinarily require anything beyond the record that was before the Arbitrator]
67.	Lion Engg. Consultants v. State of M.P, (2018) 16 SCC 758, [A party that had failed to raise a jurisdictional challenge before the arbitral tribunal under Section 16 of the Arbitration and Conciliation Act, 1996 ("Act"), would yet be permitted to raise such a challenge during setting-aside proceedings under Section 34 of the Act.]
68.	Indian Farmers Fertilizer Coop. Ltd. v. Bhadra Products, (2018) 2 SCC 534
	[The award passed by the arbitrator was an interim award, which being an arbitral award could be challenged by preferring an application under Section 34 and not Section 37. The Court held that the issue of limitation does not fall within the ambit of the Arbitral Tribunal's jurisdiction under Section 16 and therefore the drill of Sections 16(5) and (6) need not be followed]
	<ul> <li>Satwant Singh Sodhi v. State of Punjab, (1999) 3 SCC 487</li> <li>Ittyavira Mathai v. Varkey Varkey, (1964) 1 SCR 495</li> </ul>
69.	Board of Control for Cricket in India v. Kochi Cricket (P) Ltd., (2018) 6 SCC 287
	• [Subject to party autonomy, the amendments would not apply to "arbitral proceedings" that had commenced before the commencement of the Amendment Act.
	• The amendments would apply to court proceedings which have commenced, "in relation to arbitration proceedings", on or after the commencement of the Amendment Act]
70.	Sri Chittaranjan Maity v. Union of India, (2017) 9 SCC 611 [If a contract prohibits award of interest for pre-award period, the arbitrator cannot award interest for the said period.]
71.	<b>Chittaranjan Maity Vs. Union of India (2017) 9 SCC 611</b> [Section 31(7)(a) that interest cannot be awarded by the arbitrator if the agreement prohibits the award of interest for the pre-award]
73.	<b>TRF Ltd. v. Energo Engg. Projects Ltd., (2017) 8 SCC 377</b> [ <i>Expounded that the essence of the 2015 Amendment is that a person who is statutorily ineligible to act as an arbitrator by virtue of Section 12(5) read with Seventh Schedule to the Act must also be de jure ineligible to unilaterally and exclusively appoint anyone else as an arbitrator</i> ]
73.	Voestalpine Schienen GMBH v. Delhi Metro Rail Corporation Ltd., (2017) 4
	SCC 665 [Rule against bias is one of the fundamental principles of natural justice which
	apply to all judicial proceedings and quasijudicial proceedings and it is for this reason that despite the contractually agreed upon, the persons mentioned in Subsection (5) of Section
	12 read with Seventh Schedule to the Act would render himself ineligible to conduct the arbitration.]
74.	Ananthesh Bhakta & Ors. vs. Nayana S. Bhakta, (2017) 5 SCC 185 [The court
	has construed section $8(2)$ providing that the Judicial authorities shall not entertain the application or referring the disputes to arbitration unless the said application is accompanied by the original arbitration agreement or duly certified copy thereof and held that section $8(2)$ has to be interpreted to mean that the court shall not consider any application filed by the party under section $8(1)$ unless it is accompanied by the original arbitration agreement or $8(1)$ unless it is accompanied by the original arbitration agreement or $8(1)$ unless it is accompanied by the original arbitration agreement or $8(1)$ unless it is accompanied by the original arbitration agreement or duly certified copy thereof]
75.	<b>A. Ayyasamy v. A. Paramasivam</b> , (2016) 10 SCC 386 [Statutory scheme does not make any specific provision excluding any category of disputes terming them as non-arbitral – hence mere allegation of fraud is not sufficient]

76.	<b>Sundaram Finance Ltd. v. T. Thankam, (2015) 14 SCC 444</b> [There can be no quarrel with the proposition that while considering an application for the parties to a dispute to be referred to arbitration on the ground that it is subject to an arbitration agreement in terms of Section 8(1), the judicial authority exercises the jurisdiction conferred upon it by the Arbitration and Conciliation Act, 1996 and not the jurisdiction it exercises under the law whereunder it has been established]
77.	<b>Bharat Aluminium Company v. Kaiser Aluminium Technical Services Inc</b> (2012) 9 SCC 552 [Part I of the Act (which vests courts with the powers of awarding interim relief in support of arbitration, and setting aside arbitral awards) only applies to arbitrations seated within India; and Awards rendered in foreign seated arbitrations are only subject to the jurisdiction of Indian courts when they are sought to be enforced in India under Part II of the Act]
78.	<b>SMS Tea Estates (P) Ltd. v. Chandmari Tea Co. (P) Ltd., (2011) 14 SCC 66.</b> [Where inter alia the Court held that an unstamped agreement cannot be acted upon to enforce an arbitration agreement contained in it.]
79.	<b>McDermott International Inc. v. Burn Standard Co. Ltd., (2006) 11 SCC 181</b> [ <i>The court (exercising jurisdiction under Section 34 of the Arbitration and Conciliation Act, 1996) cannot correct errors of arbitrators. It can only quash the award leaving the parties free to begin the arbitration again if so desired</i> ]
80.	<b>ONGC v Saw Pipes (2003) 5 SCC 705</b> [Considered the scope of the term 'public policy of India' in the context of challenging an arbitral award. The Supreme Court held that an arbitral award which is 'patently illegal' violates the public policy of India. This empowered the courts to re-open the merits of the case while considering a challenge to the award]
81.	Hero Electric Vehicles (P) Ltd. v. Lectro E-Mobility (P) Ltd., (2021) SCC OnLine Del 1058 [Where a valid arbitration agreement exists, the decision also underscores the position that, ordinarily, the disputes between the parties ought to be referred to arbitration, and it is only where a clear "chalk and cheese" case of non- arbitrability is found to exist, that the court would refrain from permitting invocation of the arbitration clause.]
82.	<b>Sirpur Paper Mills Ltd. v. IK Merchants (P) Ltd, (2021) SCC OnLine Cal 1601</b> [ <i>The court followed the path of fresh slate theory and held that the award claim which was not filed during the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP) is extinguished as the resolution plan is approved</i> ]
83.	Union of India v. Gee Kay Engineering Industries, (2021) SCC OnLine J&K 678 ["While passing an order under Section 17 (1)(ii)(e) of the Act of 1996, an arbitral Tribunal would be justified in considering the prima facie case, the balance of convenience and similar other factors at the time of passing such an order, while making an interim award under Section 31 (6) of the Act, the arbitral Tribunal has to be satisfied that there is an admission or acknowledgment of liability on the part of the party against which the award is proposed to be made."]
84.	S.P. Singla Constructions (P) Ltd. v. Construction and Design Services, Uttar Pradesh Jal Nigam, (2021) SCC OnLine Del 4454 [ICADR Rules shall come into play with regard to the procedure to be followed, only after the arbitration commences before the appropriate jurisdiction of law]
85.	Mohd Yusuf v. Ashish Aggarwal, (2021) SCC OnLine Utt 1274 [A person not a party to an arbitration agreement cannot invoke jurisdiction of the Court for interim relief under Section 9 of the Act, 1996]

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86.	<b>Oriental Insurance Co. Ltd. v. Diamond Product Ltd., (2021) SCC OnLine Del</b> <b>4319</b> ["Mere erroneous application of the law, or appreciation of evidence, does not call for interference of the award on the ground of patent illegality. The Court cannot set aside the award by reappreciating the evidence, which is taken into consideration, by an Arbitral Tribunal"]
87.	<b>Padma Mahadev v. Sierra Constructions, COMAP 2 of (2021)</b> [Section 34 Court cannot vary or modify the findings of the Arbitral Tribunal, but only set aside the arbitral award]
88.	Taru Meghani v. Shree Tirupati Greenfield, 2020 SCC OnLine Bom 110[Salutary object of Arbitration & Conciliation Act cannot be defeated by adding a claimover and above the claim squarely covered by arbitration agreement]
89.	<b>JMC Projects (India) Ltd. v. Indure (P) Ltd, (2020) SCC OnLine Del 1950</b> [ <i>High Court further expounded that any waiver in writing of the applicability of Section 12(5) must necessarily reflect the parties' awareness of the applicability of the provision and the resultant invalidation of the arbitrator's eligibility to arbitrate the dispute as well as a conscious intention to waive the applicability of the provision</i> ]
90.	<b>Reom Infrastructure and Construction Ltd. v. Air Force Naval Housing Board,</b> (2021) SCC OnLine Del 2857 [ <i>The statutory requirements for waiver of the applicability of Section 12(5) of the Act are strict</i> ]
91.	Dirk India (P) Ltd. v. Maharashtra State Electricity Generation Co.Ltd., (2013) SCC OnLine Bom 481 [Court does not have the power to vary or modify the arbitral award or decree the claims dismissed by the Arbitral Tribunal. Therefore, a Section 34 Court can either uphold the arbitral award or set aside the arbitral award]

**Note:** The emphasis on certain paragraphs or sentences in the judgments has been made to highlight issues for discussion. Please read the full judgment for conclusive opinion.