



**LEGAL *'KISSE'*  
OF LAST WEEK**

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**17<sup>TH</sup> EDITION**

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## ARBITRATION AND CONCILATION ACT, 1996

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✚ **Parties may provide additional evidence under Section 34(2)(a) proceedings relating to cases prior to the 2019 amendment but only in exceptional cases: Supreme Court.**

◆ **Citation:** *M/s Alpine Housing Development Corporation Private Limited Vs. Ashok S. Dhariwal & Ors.* || Civil Appeal No. 73 of 2023 || Para 6 and 7.

◆ **Link to Citation:**

[https://main.sci.gov.in/supremecourt/2022/2236/2236\\_2022\\_4\\_1503\\_41103\\_Judgment\\_19-Jan-2023.pdf](https://main.sci.gov.in/supremecourt/2022/2236/2236_2022_4_1503_41103_Judgment_19-Jan-2023.pdf)

✚ **Section 11 is premature, if the procedure prescribed under Agreement before invocation of Arbitration clause is not followed: Delhi High Court.**

◆ **Citation:** *M/s Chabbras Associates Vs. HSCC India Limited & Anr.* || ARB.P. 782 of 2022 || Neutral Citation: 2023/DHC/000388 || Delhi High Court || Para 7.

◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/NAC/judgement/19-01-2023/NAC18012023AA7822022\\_190743.pdf](http://164.100.69.66/jupload/dhc/NAC/judgement/19-01-2023/NAC18012023AA7822022_190743.pdf)

✚ **Even when a partnership dissolves the arbitration clause survives: Delhi High Court.**

◆ **Citation:** *M/s Shyamjee Prepaid Services Vs. M/s Top Steels and Mrs. Renu Devi & Anr.* || ARB.P. 137/2019 || Neutral Citation: 2023/DHC/000376 || Para 27.

◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/CDS/judgement/18-01-2023/CDS18012023REVIEWPET5292019\\_182312.pdf](http://164.100.69.66/jupload/dhc/CDS/judgement/18-01-2023/CDS18012023REVIEWPET5292019_182312.pdf)

✚ **In enforcement proceedings under Section 36, objections stipulated under Section 34 cannot be taken into account: Delhi High Court.**

◆ **Citation:** *Hindustan Zinc Limited Vs. National Research Development Corporation* || OMP (ENF.) (COMM.) 135/2022 || Neutral Citation: 2023/DHC/000475 || Delhi High Court || Para 22.

◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/YVA/judgement/24-01-2023/YVA24012023OMPENFCOMM1352022\\_143521.pdf](http://164.100.69.66/jupload/dhc/YVA/judgement/24-01-2023/YVA24012023OMPENFCOMM1352022_143521.pdf)



## Legal 'Kisse' of Last Week

- ✚ **Expert witness reports cannot be challenged under Section 34 unless recourse under Section 26(2) is not adopted : Bombay High Court.**
  - ◆ **Citation:** *Zenobia Poonawala Vs. Rustom Ginwalla & Ors. || Commercial Arbitration Petition no. 81 of 2020 || Bombay High Court || Para 16 & 25.*
  
- ✚ **According to "Doctrine of Alter Ego", a non-signatory may be referred to arbitration: Madras High Court.**
  - ◆ **Citation:** *Mrs. Vatsala Jagannathan & Ors. Vs. M/s Tristar Accommodations Limited & Anr. || ARB.O.P. (Comm. Div.) No. 163 of 2022 || 25.01.2023|| Madras High Court || Para 22.*
  - ◆ **Link to Citation:**  
<https://www.mhc.tn.gov.in/judis/index.php/casestatus/viewpdf/1014775>
  
- ✚ **Arbitration agreement between the parties would be superseded by reference under Section 18(1) of the MSMED Act: Bombay High Court.**
  - ◆ **Citation:** *Bajaj Electricals Limited Vs. Chanda S. Khetawat & Anr. || Arbitration Application No. 02 of 2022 || 16.01.2023 || Bombay High Court || Para 13 and 15.*

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## INSOLVENCY BANKRUPTCY CODE, 2016

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- ✚ **Matters relating to the rehabilitation scheme under SICA cannot be considered by Adjudicating Authority under IBC: NCLAT New Delhi.**
  - ◆ **Citation:** *Surendra Singh Hada & Ors. Vs Arfat Petrochemicals Pvt. Ltd. ||Company Appeal (AT) (Ins) No.578 OF 2021|| 25.1.2023 || NCLAT New Delhi|| Para 10 & 18.*
  
- ✚ **Recovery of property by the owner during moratorium under Section 14 is illegal: NCLAT New Delhi.**
  - ◆ **Citation:** *Supriyo Kumar Chaudhari & Anr. Vs Jhunjhunwala Oil Mills Ltd. & Anr. || Company Appeal (AT) (Ins.) No. 794 of 2021|| 23.01.2023 || NCLAT New Delhi|| Para 19.*



## Legal 'Kisse' of Last Week

- ✚ **Adjudication of an avoidance application is independent of the resolution of the corporate debtor and can survive CIRP: Delhi High Court.**
  - ◆ **Citation:** *Tata Steel BSL Ltd. v. Venus Recruiter (P) Ltd* || LPA 37/2021 || Neutral Citation Number: 2023/DHC/000257|| Delhi High Court|| Para 89.
  - ◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/SMP/judgement/15-01-2023/SMP13012023LPA372021\\_161842.pdf](http://164.100.69.66/jupload/dhc/SMP/judgement/15-01-2023/SMP13012023LPA372021_161842.pdf)

