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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision : 12.05.2026

\+ O.M.P. (COMM) 67/2025, I.A. 2993/2025 (Stay), I.A. 2995/2025 (Lengthy synopsis and list of dates) & I.A. 6820/2025 (Seeking stay of the arbitration proceedings)

CINDA ENGINEERING AND CONSTRUCTION PRIVATE LIMITED .....Petitioner

Through: Ms. Shikha Tandon, Ms. Sejal Sethi and Mr. Abhinav Gupta, Advocates.

versus

CY ENGINEERING INDIA PRIVATE LIMITED .....Respondent

Through: Mr. Prateek Bhatia, Mr. Luv Virmani and Mr. Aakash R. Nair, Advocates.

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

% **JUDGEMENT (ORAL)**

1. The present Petition has been instituted under Section 34 of the **Arbitration and Conciliation Act, 1996**[1], challenging the **Order dated 13.01.2025**[2] passed by the learned Sole Arbitrator during the pendency of the arbitral proceedings between the parties.

2. By way of the Impugned Order, the learned Arbitral Tribunal dismissed:

[1] A&C Act
[2] Impugned Order

(i) ***I.A. No.1 of 2024*** - filed by the Petitioner seeking leave to place additional documents on record; and

(ii) ***I.A. No.2 of 2024*** seeking leave to amend the **Statement of Defence and Counter-Claim**[3].

3. The principal challenge laid by the Petitioner proceeds on the premise that the rejection of the aforesaid applications has the effect of conclusively foreclosing substantial portions of the Petitioner's counterclaims and, therefore, the Impugned Order would qualify as an "*interim award*" within the meaning of Sections 2(1)(c) and 31(6) of the A&C Act, rendering the same amenable to challenge under Section 34 thereof.

BRIEF FACTS:

4. Disputes arose between the parties in relation to the Contracts dated 15.07.2020 and 22.04.2021, pursuant to which arbitral proceedings came to be initiated before the learned Sole Arbitrator.

5. During the course of the arbitral proceedings, the parties filed their pleadings, including SOD-CC by the Petitioner herein/ Respondent therein.

6. The arbitral proceedings thereafter progressed in terms of the procedural schedule framed by the learned Arbitral Tribunal.

7. Pleadings stood completed and evidence on behalf of the Petitioner herein was led through RW-1, whose cross-examination concluded on 10.09.2024.

8. Subsequently, the Petitioner herein moved *I.A. No. 1 of 2024* dated 11.10.2024 seeking leave to place additional documents on record. The case set up in the said application was that certain

[3] SOD-CC

documents had assumed relevance in view of the nature of the cross-examination conducted by learned counsel for the Respondent herein and were necessary for proper adjudication of the disputes.

9. The said application was opposed by the Respondent herein, *inter alia*, on the ground that the documents were always within the possession and knowledge of the Petitioner herein and that no sufficient explanation had been furnished for their belated production.

10. During the pendency of the aforesaid application, the Petitioner herein also filed *I.A. No.2 of 2024* dated 13.12.2024 seeking leave to amend the SOD-CC filed on its behalf.

11. The learned Arbitral Tribunal, after hearing the parties, passed the Impugned Order whereby both the aforesaid applications came to be dismissed observing that the additional documents sought to be produced were always within the possession and control of the Petitioner herein; that sufficient opportunities had been available at earlier stages of the proceedings to place the same on record; and that no adequate justification had been furnished for the belated applications.

12. The learned Tribunal further held that the pleadings did not contain sufficient foundational averments concerning the alleged third-party engagements and that the proposed amendments could not be permitted at such stage of the proceedings.

13. Aggrieved by the Impugned Order, the present Petition under Section 34 of the A&C Act has been preferred before this Court.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

14. Learned counsel for the Petitioner submits that the Impugned Order qualifies as an "*interim award*" within the meaning of Sections

2(1)(c) and 31(6) of the A&C Act inasmuch as the rejection of the applications substantially impacts and conclusively affects the adjudication of the counterclaims raised by the Petitioner. Reliance in this regard has been placed on ***Cinevistaas Ltd. v. Prasar Bharti***[4], ***Aptec Advanced Protective Technologies AG v. Union of India***[5] and ***H.S. Nag v. Asian Hotel (North) Ltd.***[6] to contend that where an order attains finality in respect of substantive rights or claims, the same becomes amenable to challenge under Section 34 of the A&C Act.

15. Learned counsel for the Petitioner further submits that, insofar as *I.A. No.1 of 2024* is concerned, the additional documents sought to be placed on record were directly connected with the counterclaims already forming part of the SOD-CC, particularly the claims pertaining to back charges and third-party works reflected in Annexure-C thereto.

16. It is further submitted that the necessity for production of the said documents arose during the course of cross-examination of RW-1 and that the witness had specifically stated that the relevant records concerning third-party contracts and purchase orders were available with the Petitioner and could be produced.

17. According to the Petitioner, the learned Arbitral Tribunal failed to appreciate that the documents were intrinsically connected with the existing pleadings and that no prejudice would have been caused to the Respondent, particularly when RW-1 remained available for further cross-examination on the said documents.

18. *With respect to I.A. No.2 of 2024*, learned counsel for the Petitioner submits that the proposed amendments were merely

[4] 2019 SCC OnLine Del 7071
[5] 2025 SCC OnLine Del 92

clarificatory and intended to furnish greater particulars in support of the existing counterclaims without altering the fundamental nature of the dispute. It is submitted that the amendment only sought substitution of *Annexure-C* with a more detailed tabulation correlating the alleged back charges with third-party contracts/purchase orders already referred to in the pleadings.

19. Learned counsel for the Petitioner contends that the learned Arbitral Tribunal adopted an unduly restrictive approach despite the procedural flexibility contemplated under Sections 18, 19 and 23 of the A&C Act as well as Rule 18.1 of the DIAC Rules, 2023, particularly when the arbitral proceedings remained within the subsisting mandate of the learned Tribunal under Section 29A of the A&C Act.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

20. ***Per contra***, the learned counsel for the Respondent raises a preliminary objection to the maintainability of the present Petition on the ground that the Impugned Order does not qualify as an "*interim award*" within the meaning of Section 31(6) of the A&C Act.

21. According to the Respondent, the Impugned Order neither conclusively adjudicates any substantive dispute between the parties nor finally extinguishes the counterclaims raised by the Petitioner.

22. It is submitted that the learned Arbitral Tribunal has merely declined the belated production of additional documents and the proposed amendment/enhancement of the counterclaims, while expressly clarifying that the merits of the disputes remain open for adjudication. Reliance in this regard has been placed on ***ONGC Petro***

[6] 2026 SCC OnLine Del 692

Additions Ltd. v. Tecnimont S.P.A.[7] to contend that orders rejecting production of documents or amendment applications are procedural in nature and do not constitute interim awards amenable to challenge under Section 34 of the A&C Act.

23. Insofar as *I.A. No.1 of 2024* is concerned, learned counsel for the Respondent submits that the arbitral proceedings had progressed substantially in terms of the procedural schedule framed by the learned Tribunal; pleadings stood completed, issues had already been framed, evidence of RW-1 had concluded and the Petitioner had itself closed its evidence before the applications came to be instituted.

24. It is further submitted that the documents sought to be introduced were always within the possession, knowledge and control of the Petitioner and no satisfactory explanation was furnished for the belated attempt to place the same on record.

25. Learned counsel for the Respondent also contends that the pleadings in the SOD-CC did not contain foundational particulars concerning third-party contracts or linkage between the alleged back charges and the works executed under the subject contracts and, therefore, the learned Tribunal rightly declined to permit production of documents at the stage of final arguments.

26. In relation to *I.A. No. 2 of 2024*, learned counsel for the Respondent submits that the proposed amendment was not merely clarificatory in nature but sought substantive enhancement and restructuring of the counterclaims at a highly belated stage of the proceedings.

27. According to the Respondent, permitting such amendments after closure of evidence would have resulted in reopening of the

[7] 2021 SCC OnLine SC 3376

arbitral proceedings and caused serious prejudice to the Respondent, which had proceeded on the basis of the pleadings already on record.

28. Learned counsel for the Respondent further submits that the learned Tribunal exercised its procedural discretion upon due consideration of the conduct of the proceedings, the stage at which the applications were moved and the absence of due diligence on the part of the Petitioner.

ANALYSIS:

29. This Court has heard the learned counsel appearing for the parties at length and, with their able assistance, has carefully perused the Impugned Arbitral Award and the other material placed on record.

30. Before proceeding to examine the Impugned Order on the touchstone of Section 34 of the A&C Act, the principal issue that arises for consideration before this Court is whether the rejection of *I.A. No. 1 of 2024*, seeking production of additional documents, and *I.A. No. 2 of 2024*, seeking leave to amend the pleadings/counterclaims, at a stage subsequent to the closure of evidence, can be construed as "*interim awards*" amenable to challenge under Section 34 of the A&C Act, or whether such directions merely fall within the category of procedural orders passed by the learned Arbitral Tribunal in exercise of its case-management and procedural discretion.

31. In the event it is found that the impugned order does not partake the character of an interim award, but is merely a procedural determination regulating the conduct of arbitral proceedings, the jurisdiction of this Court under Section 34 of the A&C Act would not be attracted, as the scope of challenge under the said provision is

confined to arbitral awards, including interim awards, and does not extend to interlocutory or procedural orders passed during the pendency of arbitral proceedings.

32. In order to examine the aforesaid issue, this Court finds it apposite to advert to the recent decision of this Court in ***H.S. Nag and Ors. v. Asian Hotel (North) Ltd***.[8], wherein the scope and attributes of an "*interim award*" under the A&C Act came to be comprehensively examined after considering the line of precedents on this aspect. The said decision, upon consideration of the statutory framework and the judgment of the Hon'ble Supreme Court in ***IFFCO Ltd. v. Bhadra Products***[9], delineates the distinction between a substantive adjudicatory determination and a procedural order passed in exercise of arbitral case-management jurisdiction. The relevant observations of ***H.S. Nag and Ors.*** *(supra)* are extracted herein below:

> **"54.** The Respondent asserts that the Impugned Orders are in the nature of procedural directions, which do not attract the interference of this Court under Section 34 of the Act. The Petitioners, on the other hand, contend that though coloured as procedural, the Impugned Orders operate with finality, affecting their substantial rights, thereby assuming the character of interim awards.
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> **55.** In this backdrop, before embarking upon an examination of the merits, this Court deems it apposite to first address the preliminary objection as to the maintainability, since the adjudication upon the merits of the present Petitions necessarily hinges upon whether the Impugned Orders are amenable to challenge under Section 34 of the Act.
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> **56.** In view of the apparent divergence in approach, discernible from various precedents and the consequent uncertainty surrounding the question as to what constitutes an "interim award", this Court deems it apposite to examine the statutory scheme, the governing jurisprudence as established by various judicial precedents, with some degree of clarity.
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> **57.** Accordingly, the discussion that follows is organised along three distinct yet interrelated facets, viz., first, the scope and limits

[8] 2026:DHC:1396
[9] (2018) 2 SCC 534

of judicial interference permissible under Section 34 of the Act vis-à-vis an Order passed in the course of arbitral proceedings; second, the legal contours and attributes of what constitutes an "Interim Award"; and third, whether the Impugned Orders, when examined on the touchstone of the settled principles, satisfy the parameters so as to fall within the ambit of an "Interim Award" amenable to challenge under Section 34 of the Act.

Interference under Section 34 of the Act extends to an Arbitral Award, including an 'Interim Award'

58. It is well settled that the jurisdiction under Section 34 of the Act is neither appellate nor supervisory in the conventional sense. The Court does not sit in appeal over the findings of the Arbitral Tribunal, nor does it re-appreciate evidence or correct errors of fact or law, save where such errors fall within the narrowly tailored grounds statutorily prescribed. The provision thus reflects a conscious legislative departure from expansive judicial review and is rooted in the principle of party autonomy and finality of arbitral adjudication.

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60. Further, Section 2(1)(c) of the Act defines the expression "Arbitral award", which expressly includes interim awards. Section 2 of the Act is reproduced herein under for the sake of clarity:

> "2. Definitions. — (1) In this Part, unless the context otherwise requires, —
> (c) "arbitral award" includes an interim award;"

61. A conjoint reading of Section 2(1)(c) and Section 34 of the Act makes it abundantly clear that the jurisdiction of the Court under Section 34 extends to the setting aside of an interim award as well, provided such interim award satisfies the statutory requirements and falls within the limited grounds expressly enumerated under Section 34 of the Act and their consistent interpretations by the Courts.

62. To complete the scheme of the Act, Section 31(6) of the Act is also material. It empowers an Arbitral Tribunal to render an interim award at any stage of the arbitral proceedings, prior to the pronouncement of the final award, in respect of any matter on which it may make a final determination. The same is reproduced herein under for the sake of completeness:

> "**31. Form and contents of arbitral award. —**
> *****
> (6) The arbitral tribunal may, at any time during the arbitral proceedings, make an interim arbitral award on any matter with respect to which it may make a final arbitral award."

63. A holistic reading of the aforesaid statutory provisions leads to two clear and inescapable conclusions. First, that an Arbitral Tribunal is vested with the authority to render an interim award

during the pendency of the arbitral proceedings, prior to the culmination of final adjudication. Second, that such interim awards, being statutorily subsumed within the definition of an arbitral award, are amenable to judicial scrutiny under Section 34 of the Act, subject to the same limited and well-settled grounds on which a final arbitral award may be interfered with.

64. At the same time, it must be underscored that though the statute includes an "interim award" within the ambit of an arbitral award, it does not follow that every interlocutory or procedural order passed during arbitral proceedings partakes such character.

65. However, this statutory inclusion does not efface the fundamental distinction between a determination that conclusively adjudicates an issue and, a direction that merely regulates the conduct of proceedings. It is this nuanced yet decisive distinction that now warrants closer judicial scrutiny.

Distinction between a Procedural Order and an Interim Award passed by an Arbitral Tribunal

66. Having thus established that the jurisdiction of this Court under Section 34 of the Act extends, in principle, to an interim arbitral award, the enquiry must now turn to the equally significant question, namely, what, in law, qualifies as an "interim award".

67. Further, since the Act does not expressly define what constitutes an "interim award", this Court deems it necessary to advert to the judicially evolved principles which illuminate its nature, attributes and legal contours. The classification of an order cannot depend upon nomenclature alone but must be determined by its substance and legal effect.

68. The Hon'ble Supreme Court in ***IFFCO*** (supra), while authoritatively interpreting the expression "interim award", held that an Arbitral Tribunal is empowered under Section 31(6) of the Act to render an interim award on any matter in respect of which it is competent to make a final award. The Court clarified that the expression "any matter" is of wide import and encompasses any point of dispute between the parties that calls for a definitive adjudication.

69. At the same time, the decision underscores that such a determination must possess the element of finality in respect of the issue decided, so as to qualify as an interim award within the statutory framework. The relevant observations of ***IFFCO*** (supra) are extracted herein under for ready reference:

> "**8.** The language of Section 31(6) is advisedly wide in nature. A reading of the said sub-section makes it clear that the jurisdiction to make an interim arbitral award is left to the good sense of the arbitral tribunal, and that it extends to "any matter" with respect to which it may make a final arbitral award. The expression "matter" is wide in nature, and subsumes issues at which the parties are in

dispute. It is clear, therefore, that any point of dispute between the parties which has to be answered by the arbitral tribunal can be the subject matter of an interim arbitral award. However, it is important to add a note of caution. In an appropriate case, the issue of more than one award may be necessitated on the facts of that case. However, by dealing with the matter in a piecemeal fashion, what must be borne in mind is that the resolution of the dispute as a whole will be delayed and parties will be put to additional expense. The arbitral tribunal should, therefore, consider whether there is any real advantage in delivering interim awards or in proceeding with the matter as a whole and delivering one final award, bearing in mind the avoidance of delay and additional expense. Ultimately, a fair means for resolution of all disputes should be uppermost in the mind of the arbitral tribunal.

9. To complete the scheme of the Act, Section 32(1) is also material. This section goes on to state that the arbitral proceedings would be terminated only by the final arbitral award, as opposed to an interim award, thus making it clear that there can be one or more interim awards, prior to a final award, which conclusively determine some of the issues between the parties, culminating in a final arbitral award which ultimately decides all remaining issues between the parties."

70. The Hon'ble Supreme Court, in the aforesaid judgment, underscored that although arbitral proceedings culminate only upon the pronouncement of the final award, the statutory scheme unmistakably contemplates rendering of one or more interim awards during their pendency. Such interim awards are not mere procedural directions, rather they are determinations that finally and conclusively adjudicate specific issues or claims between the parties. The interim orders decisively settle the discrete facets of the dispute, and thus, progressively narrow the field of controversy and pave the way toward the final award.

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75. The common thread running through the aforesaid decisions is that the twin pillars of 'finality' and 'substantive issue determination' form the bedrock of the test. An order that merely regulates procedure, even if it affects a valuable right, does not cross the statutory threshold unless it conclusively determines a substantive component of the arbitral reference.

76. In view of the foregoing discussion, it stands well settled that an interim award must bear the hallmark of finality in respect of the issue it addresses. The determinative consideration is whether the arbitral tribunal has conclusively adjudicated a substantive component of the dispute and rendered itself functus officio qua that issue. If nothing further remains to be decided on that aspect

within the arbitral proceedings, such a determination would fall within the ambit of an interim award and would be amenable to challenge under Section 34 of the Act, notwithstanding that the arbitration continues in respect of other matters.

77. Therefore, the question as to whether an order constitutes an "interim award" is no longer res integra. The determination does not hinge upon the nomenclature employed by the Arbitral Tribunal, but upon the substance, effect, and legal consequences of the order in question. The Court must examine whether the order conclusively adjudicates a substantive issue between the parties at an intermediate stage of the proceedings, thereby leaving nothing further to be decided on that issue.

Nature of the Impugned Orders: Procedural or Interim Award

78. Having delineated the statutory framework and crystallised the principles as to what constitutes an "interim award" within the meaning of Sections 2(1)(c) and 31(6) of the Act, this Court now proceeds to examine whether the Impugned Orders, in substance and effect, meet the settled parameters so as to attract the jurisdiction of this Court under Section 34 of the Act.

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104. The judicial precedents cited and analysed hereinabove yield a clear and consistent position in law, i.e., an order disposing of an application for amendment of pleadings does not, by that circumstance alone, acquire the status of an interim award. The determinative consideration is not the nature of the application, but the legal effect of its rejection.

105. The position may thus be summarised as first, not every order passed by an Arbitral Tribunal qualifies as an interim award; second, there exists no straight-jacket rule that an order rejecting an amendment application necessarily constitutes an interim award; and third, it is the element of finality in respect of a substantive issue, resulting in crystallisation of a right, that determines whether an order crosses the threshold into the domain of an interim award.

Governing Test for determining what constitutes an "Interim Award"

106. In light of the foregoing discussion and the judicial precedents noticed hereinabove, the governing test for determining whether an order qualifies as an "interim award" may now be articulated.

(a) Whether the Order finally adjudicates a substantive dispute or claims between the parties;

(b) Whether such adjudication attains finality and has a binding effect insofar as that issue is concerned; and

(c) Whether, upon such determination, the Arbitral Tribunal becomes *functus officio* qua that issue and retains no further adjudicatory discretion thereon.

> **107.** Therefore, if an order answers to all the aforesaid three elements in affirmative, the order transcends the realm of a mere procedural order and assumes the character of an Interim Award within the meaning of Sections 2(1)(c) and 31(6) of the Act, and consequently becomes susceptible to scrutiny under Section 34, subject to its limited and circumscribed scope.
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> **108.** Tested on this anvil, this Court is of the considered view that the Impugned Orders do not satisfy the essential indicia of an interim award. It would be observed as under:
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> (a). *First*, the rejection of the amendment applications does not decide any substantive dispute or independent claim between the parties, it merely preserves the pleadings in the form in which they already stood.
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> (b). *Second*, the determination lacks finality in respect of any issue forming part of the arbitral reference, inasmuch as the Points of Determination framed by the learned Arbitral Tribunal expressly leave open the questions of entitlement, quantum, rate and period of compensation to be adjudicated on the basis of evidence.
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> (c). *Third*, the Arbitral Tribunal has not rendered itself functus officio in respect of any such issue, nor has it exhausted its adjudicatory discretion thereon."

33. It is evident from the aforesaid that an "*interim award*" within the meaning of Sections 2(1)(c) and 31(6) of the A&C Act cannot be understood to encompass every order or procedural determination rendered by an Arbitral Tribunal during the pendency of arbitral proceedings.

34. The legislative architecture underlying the expression "*award*", whether final or interim, necessarily postulates an adjudicatory determination possessing the attributes of conclusiveness, finality and enforceability in respect of a substantive component of the *lis* between the parties. Mere procedural consequences, however significant in their practical effect, do not by themselves elevate an interlocutory order to the status of an interim award.

35. The true test, therefore, is not whether the order incidentally affects the manner in which a party prosecutes its case, but whether the order conclusively adjudicates a substantive claim or issue in such

a manner that the said issue stands finally removed from the domain of arbitral consideration. An order assumes the character of an interim award only when the Arbitral Tribunal finally determines a distinct and severable part of the dispute and renders itself *functus officio qua* such determination. The essential attribute of an interim award is thus the attainment of adjudicatory finality in respect of substantive rights.

36. Viewed thus, there exists a fundamental distinction between adjudicatory determinations on one hand and procedural or case-management directions on the other. Orders pertaining to amendment of pleadings, production of documents, admissibility of evidence, timelines or conduct of proceedings are inherently procedural in nature and arise from the Tribunal's authority to regulate arbitral procedure. Such orders may undoubtedly have bearing upon the evidentiary strength or procedural convenience of a party; however, they do not, for that reason alone, partake the character of a final decision upon the substantive disputes *inter se* the parties.

37. To construe every procedural rejection or interlocutory determination as an "*interim award*" would fundamentally distort the statutory framework governing arbitral proceedings under the A&C Act. Such an interpretation would open the floodgates for continuous judicial intervention against routine procedural orders passed during the course of arbitration, thereby undermining the autonomy of the arbitral process, frustrating the objective of expeditious dispute resolution, and eroding the procedural flexibility that forms the foundational architecture of the Act.

38. Any such approach would run directly contrary to the legislative intent underlying the A&C Act, particularly the mandate embodied in Section 5 of the A&C Act, which expressly limits

judicial intervention except where so provided under the statute. The scheme of the A&C Act is designed to ensure minimal court interference during the pendency of arbitral proceedings, leaving procedural and evidentiary matters primarily within the exclusive domain of the Arbitral Tribunal.

39. Section 34 of the A&C Act was never intended to serve as a mechanism for appellate scrutiny of every procedural direction or interlocutory order rendered by an Arbitral Tribunal during the conduct of proceedings. The scope of challenge under Section 34 of the A&C Act is confined to arbitral awards, including those interim decisions that conclusively determine substantive rights or liabilities of the parties, and cannot be expanded to encompass procedural orders that merely regulate the manner in which the arbitral proceedings are to be conducted.

40. In the facts of the present case, the Impugned Order does not disclose any final adjudication of the substantive counterclaims raised by the Petitioner. The learned Arbitral Tribunal has merely declined permission for the production of additional documents and refused amendment of the SOD-CC at a stage subsequent to the closure of evidence. The underlying disputes between the parties, including the counterclaims as originally instituted, continue to remain pending adjudication before the learned Tribunal. The learned Tribunal has neither conclusively rejected the counterclaims *in toto* nor rendered any determination extinguishing the substantive rights asserted by the Petitioner.

41. Significantly, the learned Tribunal has itself clarified that the observations rendered in the Impugned Order shall not influence the final adjudication of the disputes on merits. The learned Tribunal,

therefore, has not rendered itself *functus officio* with respect to the counterclaims or the issues arising therefrom. The arbitral discourse between the parties remains unfinished; only the procedural contours within which such adjudication shall proceed have been delineated.

42. In this regard, reference may also be drawn to the judgment of the Co-ordinate Bench in ***Punit A. Bhardwaj v. Rashmi Juneja***[10], wherein, while dealing with a challenge under Section 34 of the A&C Act to an order rejecting an amendment application to Statement of Claims, the Court held that the impugned determination therein did not constitute an "*interim award*", particularly since the learned Arbitral Tribunal had clarified that its observations would not amount to an expression on merits and the arbitral proceedings had already substantially progressed to the stage of evidence and final arguments.

43. The said decision reiterates that procedural determinations rendered during the course of arbitral proceedings do not attain the character of an interim award absent a conclusive adjudication of substantive rights. The relevant portion of ***Punit A. Bhardwaj*** *(supra)* reads as under:

> **"18.** The three judgments of this Court cited by learned counsel for the parties must be read in the context of this provision. The statute clearly vests discretion in the arbitral tribunal to disallow a party to amend or supplement its pleadings on the ground that the application is belated. In ***Container Corporation***[25], the amendment was rejected by the arbitral tribunal on this ground and the challenge under Section 34 of the Act was held not to be maintainable. In ***Cinevistaas***[26] and ***Lt. Col. H.S. Bedi Retd***[27] on the other hand, the Court came to the conclusion that the rejection of the amendments were in the nature of final adjudication of the claims and defences proposed to be raised. It is this factor which clothed the orders of the tribunal with the characteristic of finality and rendered them susceptible to challenge as interim awards. This distinction, in my view, is the key to determining the maintainability of the present petition.

[10] 2022 SCC OnLine Del 2691

> **19.** In the facts of the present case, the learned arbitrator has proceeded only on the ground that the amendment was sought belatedly. Paragraphs 12 and 13 of the impugned order make this position clear, and in fact, in paragraph 13, the learned arbitrator has stated that *"expression of any view herein before will not be treated as expression on the merit of the case".*
> **20.** Further, it is evident that the suit was filed before this Court as far back in 2014 and referred to arbitration in the year 2016. The application for amendment was filed by the petitioner only on 21.07.2017. Even thereafter, it is recorded by the learned arbitrator that the matter proceeded without the petitioner seeking an adjudication of the said application until 04.11.2019, when the impugned order was passed. In the meanwhile, proceedings continued before the learned arbitrator, and issues appear to have been framed in these proceedings on 17.05.2018.28 During the pendency of the present petition before this Court also, I am informed that the parties have proceeded to lead evidence before the learned arbitrator and the proceedings are now at the stage of final arguments.
> **21.** In view of the aforesaid position, I am of the view that the impugned order in the present case does not constitute an interim award, susceptible to challenge under Section 34 of the Act. The petition is, therefore, dismissed as not maintainable, leaving it open to the parties to take such remedies as may be available to them in accordance with law."

44. At this juncture, this Court finds it apposite to advert to the judgment rendered by a Co-ordinate Bench of this Court in ***Rhiti Sports Management Pvt Ltd v. Power Play Sports and Events Ltd***[11], wherein a petition under Section 34 of the A&C Act, assailing an order passed by the learned Arbitral Tribunal on procedural applications filed under Order VIII Rule 1A(3) of the Code of Civil Procedure, 1908, seeking to take on record the e-mail dated 06.09.2013 and the Services Agreements dated 23.07.2010 and 24.09.2012, came to be dismissed.

45. The learned Co-ordinate Bench, upon examining the nature of the impugned order therein, held that such determination, being confined to procedural matters concerning the taking on record of

additional documents, did not partake the character of an "*interim award*" and, therefore, was not amenable to judicial scrutiny under Section 34 of the A&C Act. The said decision reinforces the settled principle that orders regulating procedure, evidence, or conduct of proceedings, without conclusively determining substantive rights or liabilities of the parties, remain outside the scope of challenge contemplated under Section 34 of the A&C Act.

46. The said decision, upon an extensive consideration of the statutory framework and a catena of judicial precedents, reiterates the settled distinction between a substantive adjudicatory determination and procedural directions passed in exercise of arbitral case-management jurisdiction. The relevant portions of the said Judgment read as under:

> "**10.** Arbitration has also been described as 'private justice'. It is an alternate dispute resolution mechanism that is founded on the fundamental principles of party autonomy and minimal judicial intervention. Thus, unless specifically provided, no judicial intervention would be permissible in arbitral proceedings. One of the stated primary object of the Act is "to minimize the supervisory role of courts in the arbitral process". The above principle finds statutory expression in Section 5 of the Act, which expressly provides that "Notwithstanding anything contained in any other law for the time being in force, in matters governed by this Part, no judicial authority shall intervene except where so provided in this Part"
>
> **11.** Undisputedly, in view of the express provisions of Section 5 of the Act, recourse to courts is not available except in cases where specific provisions have been made in this regard. It is in this context, the petitioner has founded the present petition on the assertion that the impugned order is an arbitral award. The respondent disputes this assertion. Thus, the principal controversy to be addressed is whether the impugned order is an arbitral award that is amenable to judicial review under Section 34 of the Act.
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> **12.** Section 2(1)(c) of the Act provides for an inclusive definition of the term "arbitral award". In terms of the aforesaid clause, arbitral award is defined to include an interim award.

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[11] 2018 SCC Online Del 8678

13. Section 31 of the Act provides for the form and content of the arbitral award. Sub-section (6) of Section 31 of the Act reads as under:-

> "(6) The arbitral tribunal may, at any time during the arbitral proceedings, make an interim arbitral award on any matter with respect to which it may make a final arbitral award."

14. It would also be relevant to refer to Section 32 of the Act, which is set out below:-

> "32. Termination of proceedings.-
> (1) The arbitral proceedings shall be terminated by the final arbitral award or by an order of the arbitral tribunal under sub-section (2).
> (2) The arbitral tribunal shall issue an order for the termination of the arbitral proceedings where-
> (a) the claimant withdraws his claim, unless the respondent objects to the order and the arbitral tribunal recognises a legitimate interest on his part in obtaining a final settlement of the dispute,
> (b) the parties agree on the termination of the proceedings, or
> (c) the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.
> (3) Subject to section 33 and sub-section (4) of section 34, the mandate of the arbitral tribunal shall terminate with the termination of the arbitral proceedings."

15. In terms of Section 32(1) of the Act, the arbitral proceedings would stand terminated by the final arbitral award or by an order of the Arbitral Tribunal as referred to in Section 32(2) of the Act. Since the arbitral proceedings terminate on passing of the final award, it is obvious that the final award would embody a decision on all or the remaining disputes (disputes that have not been decided earlier) between the concerned parties. Section 32(2) of the Act provides an exception to the rule that arbitral proceedings would be terminated other than by passing a final award. A plain reading of Section 32(2) of the Act indicates that it, essentially, contemplates situations where it is not necessary to enter an award for settlement of the disputes or where the same becomes impossible. In terms of Clause (a) of Section 32(2) of the Act, an arbitral proceeding would come to an end with a claimant withdrawing his claim unless it is necessary to enter a final award at the instance of the respondent. Clause (b) of Section 32(2) of the Act contemplates circumstances where parties by consent seek termination of the arbitral proceedings. This may arise where the parties have resolved their difference or no longer seek to obtain an arbitral award. Clause (c) of Section 32(2) of the Act contemplates

the situation where continuing the arbitral proceedings has become unnecessary or has been rendered impossible.

16. A plain reading of Section 32 of the Act indicates the fact that the final award would embody the terms of the final settlement of disputes (either by adjudication process or otherwise) and would be a final culmination of the disputes referred to arbitration. Section 31(6) of the Act expressly provides that an Arbitral Tribunal may make an interim arbitral award in any matter in respect of which it may make a final award. Thus, plainly, before an order or a decision can be termed as 'interim award', it is necessary that it qualifies the condition as specified under Section 31(6) of the Act: that is, it is in respect of which the arbitral tribunal may make an arbitral award.

17. As indicated above, a final award would necessarily entail of (i) all disputes in case no other award has been rendered earlier in respect of any of the disputes referred to the arbitral tribunal, or (ii) all the remaining disputes in case a partial or interim award(s) have been entered prior to entering the final award. In either event, the final award would necessarily (either through adjudication or otherwise) entail the settlement of the dispute at which the parties are at issue. It, thus, necessarily follows that for an order to qualify as an arbitral award either as final or interim, it must settle a matter at which the parties are at issue. Further, it would require to be in the form as specified under Section 31 of the Act.

18. To put it in the negative, any procedural order or an order that does not finally settle a matter at which the parties are at issue, would not qualify to be termed as "arbitral award".

19. In an arbitral proceeding, there may be several procedural orders that may be passed by an arbitral tribunal. Such orders may include a decision on whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the arbitral proceedings are to be conducted on the basis of documents and other materials as required to be decided - unless otherwise agreed between the parties - in terms of Section 24(1) of the Act. There are also other matters that the arbitral tribunal may require to determine such as time period for filing statement of claims, statement of defence, counter claims, appointment of an expert witness etc. The arbitral tribunal may also be required to address any of the procedural objections that may be raised by any party from time to time. However, none of those orders would qualify to be termed as an arbitral award since the same do not decide any matter at which the parties are at issue in respect of the disputes referred to the arbitral tribunal.

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23. The question whether in the given circumstances, a determination by an arbitral tribunal is an award has come up before courts in several matters. In ***Shyam Telecom Ltd. v. Icomm Ltd 2010 (116) DRJ 456***, this Court considered the challenge laid

to an order of the arbitral tribunal dismissing an amendment application filed by the petitioner. In this context, the Court observed as under:-

> "Clearly an interim Award has to be on a matter with respect to which a final Award can be made i.e. the interim Award is also the subject matter of a final Award. Putting it differently therefore an interim Award has to take the colour of a final Award. An interim Award is a final Award at the interim stage viz a stage earlier than at the stage of final arguments. It is a part final Award because there would remain pending other points and reliefs for adjudication. It is therefore, that I feel that an interim Award has to be in the nature of a part judgment and decree as envisaged under Section 2 (2) of CPC and the same must be such that it conclusively determines the rights of the parties on a matter in controversy in the suit as done in a final judgment. An interim order thus cannot be said to be an interim Award when the order is not in the nature of a part decree. In my opinion the impugned order in view of what I have said hereinabove, is not an interim Award as it is not in the nature of a part decree being only an interim order."

24. In ***Sahyadri Earthmovers v. L&T Finance Limited & Anr: MANU/MH/1550/2011 : 2011 (6) BomCR 393***, the Bombay High Court considered an application filed whereby the petitioner had, inter alia, prayed for directions to be issued to the arbitral tribunal to "formulate and prescribe the appropriate legal procedure for adjudicating the arbitration proceedings and convening the arbitration meetings and more particularly to record the evidence as per the Indian Evidence Act". The said application was moved under Section 9 read with Section 19 of the Act, but was occasioned by an order passed by the arbitral tribunal on an application filed by the petitioner for determining the arbitral procedure. In the aforesaid context, the Court observed as under:

> "3. The first and foremost thing is that section 9 or section 19 or any other section under the Arbitration Act, nowhere permit a party to challenge such order passed by the Arbitrator pending the arbitration proceedings. It is neither final award and/or interim award. Therefore, there is no question of invoking even Section 34 of the Arbitration Act. The Arbitration Act permits or provides the power of Court to entertain or interfere with the order passed by the Arbitrator, only if it is prescribed and not otherwise. Section 5 of the Arbitration Act is very clear which is reproduced as under."

25. In the present case, the impugned order relates to rejection of the petitioner's application to file additional documents. Clearly, this is a procedural matter and does not decide any issue for

adjudicating the dispute between the parties. Thus, the contention that the same would qualify as an interim award is wholly unmerited.

26. In ***Sanshin Chemicals Industry v. Oriental Carbons and Chemicals Ltd. and Ors.: MANU/SC/0109/2001 : (2001) 3 SCC 341***, the Supreme Court considered the question whether a decision of the arbitral tribunal regarding the venue of the arbitral proceedings could be assailed in an appeal under Section 34 of the Act. It is relevant to note that in that case, the petitioner had contended that the decision on the venue of the arbitration proceedings was vital as the rules for resolving the disputes would also be dependent on the said decision and if the court did not entertain the petition, the petitioner would be rendered remediless.

27. The Supreme Court did not accept the contention that such decisions could be challenged under Section 34 of the Act. The Court also repelled the contention that the petitioner would be rendered remediless in the following words:-

> "But the further contention that an aggrieved party has no right to assail the same, once the said decision is not assailed at this stage, does not appear to be correct. The ultimate arbitral award could be assailed on the grounds indicated in sub-section (2) of Section 34 and an erroneous decision on the question of venue, which ultimately affected the procedure that has been followed in the arbitral proceeding could come within the sweep of Section 34 (2) and as such it cannot be said that an aggrieved party has no remedy at all."

28. In ***Harinarayan G. Bajaj v. Sharedeal Financial Consultants Pvt. Ltd. and Anr.: MANU/MH/0864/2002 : AIR 2003 Bom 296***, the Bombay High Court, inter alia, considered the issue as to whether an application under Section 34 of the Act would be maintainable against the decision of the arbitral tribunal rejecting an application filed by the petitioner under Section 27 of the Act, inter alia, praying that the arbitral tribunal apply to the Court for assistance in taking evidence on certain documents. The arbitral tribunal (in that case) rejected the said application on the ground that the petitioner had not brought out any evidence to establish that the said documents were necessary for adjudication of the subject disputes. In this context, the Court held as under:-

> "It is, therefore, clear that every order or decision is not an Award. An order or decision in the course of proceedings which are continuing and in respect of which no remedy is provided under the Act could normally be challenged while challenging the Award under section 34, provided the challenge was available under section 34(2) of the Act. In the instant case the order rejecting the application under section 27 is a decision and/or order. It is not definitely an interim award. It would, therefore, be open to the

petitioner if finally aggrieved by an award to challenge the Award in which the order has merged, under section 34(2) if in law a challenge would be available under section 34(2) of the Act."

29. In ***Ranjiv Kumar and Ors. v. Sanjiv Kumar and Ors.: A.P. 679 of 2017***, decided on 13.02.2018, the Calcutta High Court rejected the contention that an order passed by an arbitrator in respect of admissibility of the documents could be considered as an interim award. In this context, the Court observed as under:-

"it can safely be concluded that a decision of an arbitral tribunal can be held to be an 'interim award', within the meaning of Section 2(1)(c) of the Act of 1996, when the decision finally decides an issue, at an intermediate stage of the arbitral proceeding, relating to the claim or counter-claim of the respective parties to the arbitral proceeding. Therefore, any decision of an arbitral tribunal in exercise of power under sub-Section (4) of Section 17 of the Act of 1996 with regard to the procedural aspects of the arbitral proceeding, including any decision with regard to admissibility of a document in evidence cannot be held to be an "interim award" within the meaning of Section 2(1)(c) of the same Act."

30. There are several types of orders against which a remedy is specifically provided under the Act. In case of a challenge to the jurisdiction of an arbitral tribunal, the decision rejecting such challenge is not immediately amenable to judicial review and the party raising such challenge has to necessarily await the final award to pursue the said challenge, albeit against the arbitral award. However, an order accepting the said challenge is appealable under Section 37(2) of the Act. Similarly, a decision of the arbitral tribunal rejecting the challenge under Section 12(1) of the Act cannot be immediately assailed and the party challenging the arbitrator(s) has to necessarily follow the discipline of Section 13 of the Act. If such challenge is rejected, the arbitral tribunal is required to continue with the proceedings and make an arbitral award. The party raising the challenge to the appointment of an arbitrator would, subject to provision of Section 34(2) of the Act, be at liberty to challenge the arbitral award.

31. Mr. Alag had relied upon the observations made by the Division Bench of this Court in ***National Highways Authority of India v. Baharampore-Farakka Highways Ltd.: FAO(OS)(COMM) 47/2017***, decided on 02.03.2017. In that case, a Division Bench had observed that any adjudication of the contentions of parties other than orders that are referred to in Section 31(2) constitutes an award. In that case, the Court observed as under:-

"27. ....Any adjudication of the contentions of the parties constitutes an award, orders are those issued under Section

31(2)[sic Section 37(2)] and/or ministerial orders in the nature of directions which do not adjudicate any rights or contentions...."

32. The said decision is per incuriam as it ignores the earlier decision of the Division Bench of this Court in ***Progressive Career Academy Pvt. Ltd. v. FIITJEE Ltd.: MANU/DE/2194/2011 : 180 (2011) DLT 714***. It appears that the said decision was not been brought to the notice of the Court. In that case, the Division Bench of this Court had held as under:-

"16. On a reading of Section 13(5), the legislative intent becomes amply clear that Parliament did not want to clothe the Courts with the power to annul an Arbitral Tribunal on the ground of bias at an intermediate stage. The Act enjoins the immediate articulation of a challenge to the authority of an arbitrator on the ground of bias before the Tribunal itself, and thereafter ordains that the adjudication of this challenge must be raised as an objection under Section 34 of the Act. Courts have to give full expression and efficacy to the words of the Parliament especially where they are unambiguous and unequivocal. The golden rule of interpretation requires Courts to impart a literal interpretation and not to deviate therefrom unless such exercise would result in absurdity.

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20. A comparison of the provisions dealing with the challenge to the arbitrator's authority in the A&C Act and the UNCITRAL Model Law discloses that there are unnecessary and cosmetic differences in these provisions, except for one significant and far-reaching difference. The UNCITRAL Model Law, in Article 13(3), explicitly enables the party challenging the decision of the Arbitral Tribunal to approach the Court on the subject of bias or impartiality of the Arbitral Tribunal. However, after making provisions for a challenge to the verdict of Arbitral Tribunal on the aspect of bias, the UNCITRAL Model Law prohibits any further Appeal. It seems to us, therefore, that there is no room for debate that the Indian Parliament did not want curial interference at an interlocutory stage of the arbitral proceedings on perceived grounds of alleged bias. In fact, Section 13(5) of the A&C Act indicates that if a challenge has been made within fifteen days of the concerned party becoming aware of the constitution of the Arbitral Tribunal or within fifteen days from such party becoming aware of any circumstances pointing towards impartiality or independence of the Arbitral Tribunal, a challenge on this score is possible in the form of Objections to the Final Award under Section 34 of the A&C Act. Indeed, this is a

> significant and sufficient indicator of Parliament's resolve not to brook any interference by the Court till after the publication of the Award. Indian Law is palpably different also to the English, Australia and Canadian Arbitration Law. This difference makes the words of Lord Halsbury in Eastman Photographic Materials Co. all the more pithy and poignant.
>
> 21. .....Relief against possible mischief has been provided by making clarification in Section 13(5) that apart from the challenges enumerated in Section 13(4), an assault on the independence or impartiality of the Arbitral Tribunal is permissible by way of filing Objections on this aspect after the publishing of the Award.....”

33. It is also relevant to refer to the decision in the case of ***S.B.P. and Co. v. Patel Engineering Ltd. and Another: MANU/SC/1787/2005 : (2005) 8 SCC 618***. In that case, the Supreme Court had observed as under:-

> "45. ... Under Section 34, the aggrieved party has an avenue for ventilating its grievances against the award including any in-between orders that might have been passed by the Arbitral Tribunal acting under Section 16 of the Act. The party aggrieved by any order of the Arbitral Tribunal, unless has a right of appeal under Section 37 of the Act, has to wait until the award is passed by the Tribunal. This appears to be the scheme of the Act.
>
> xxxx xxxx xxxx
>
> 46. The object of minimizing judicial intervention while the matter is in the process of being arbitrated upon, will certainly be defeated if the High Court could be approached under Article 227 of the Constitution of India or under Article 226 of the Constitution of India against every order made by the Arbitral Tribunal. Therefore, it is necessary to indicate that once the arbitration has commenced in the Arbitral Tribunal, parties have to wait until the award is pronounced unless, of course, a right of appeal is available to them under Section 37 of the Act even at an earlier stage."

34. It is also apparent that the several rulings, which pertain to the distinction between an order and an award, were not brought to the notice of the Division Bench in ***National Highway Authority of India v. Baharampore-Farakka Highways Ltd.*** (supra).

35. The reliance placed by Mr. Alag in the case of M/s. Indian Farmers Fertilizer Co-operative v. M/s. Bhadra Products (supra) is also misplaced. In that case, the Court held that the decision of the arbitral tribunal on the issue of limitation could be considered as an arbitral award. Indisputably, whether the claims are barred by limitation is a decision on a matter at which the parties are at issue. The decision on the issue of limitation is indisputably a decision on

> the disputes and is a matter on which a final award can be entered. A plain reading of the decision of the Supreme Court also indicates that the Court had observed that the award had finally determined one of the issues between the parties, which could not be re-adjudicated all over again. The Court, after referring to various decisions and principles, observed as under:-
>
> > "15. Tested in the light of the statutory provisions and the case law cited above, it is clear that as the learned Arbitrator has disposed of one matter between the parties i.e. the issue of limitation finally, the award dated 23 rd July, 2015 is an "interim award" within the meaning of Section 2(1)(c) of the Act and being subsumed within the expression "arbitral award" could, therefore, have been challenged under Section 34 of the Act."
>
> **36.** The aforesaid decision is not an authority for the proposition that any order adjudicating any contention would be an arbitral award within the meaning of Section 2(1)(c) of the Act.
>
> ***(emphasis added)***

47. Insofar as the reliance placed by the Petitioner on ***Cinevistaas Ltd.*** (*supra*) is concerned, this Court finds the said judgment to be clearly distinguishable on facts. In that case, the learned Arbitral Tribunal had rejected certain substantive claims on the ground that they had been raised beyond the prescribed period of limitation, thereby rendering a determination which attained finality *qua* those claims and effectively adjudicated upon the rights of the parties in respect thereof.

48. In the present case, however, the learned Arbitral Tribunal has merely rejected the applications seeking production of additional documents and leave to amend the SOD-CC on the grounds of delay and absence of due diligence. Such rejection does not amount to an adjudication of the substantive claims or counterclaims on the merits, nor does it determine any rights or liabilities of the parties in a final or conclusive manner. As such, the Impugned Order remains procedural in nature and cannot be equated with a determination that possesses the attributes of an interim award.

49. The disputes between the parties continue to remain pending adjudication before the learned Tribunal, and, therefore, the ratio of ***Cinevistaas Ltd.*** (*supra*) would have no applicability to the present controversy.

50. It is pertinent to note that, in the Impugned Order herein, the learned Arbitral Tribunal, particularly in paragraph nos. 72 and 84, has expressly clarified that it has not expressed any opinion on the merits of the disputes between the parties. The learned Tribunal has, therefore, consciously refrained from adjudicating upon any of the claims or counterclaims which form the substantive subject matter of the arbitral proceedings.

51. In view of the aforesaid distinction, and having regard to the settled principles governing the scope and characteristics of an "*interim award*" under the A&C Act, this Court is of the considered opinion that the Impugned Order squarely falls within the ambit of procedural and case-management jurisdiction exercised by the learned Arbitral Tribunal. The said order neither conclusively determines the substantive claims or counterclaims of the parties, nor does it render the learned Tribunal f*unctus officio qua* the disputes sought to be canvassed in the present petition.

52. The arbitral proceedings, along with the underlying claims and counterclaims, continue to remain pending adjudication before the learned Tribunal. Consequently, the Impugned Order does not acquire the character of an "*interim award*" so as to render it susceptible to challenge under Section 34 of the A&C Act.

CONCLUSION:

53. In view of the aforesaid discussion and for the reasons recorded hereinabove, this Court is of the considered opinion that the present petition preferred under Section 34 of the A&C Act is not maintainable, as the Impugned Order does not partake the character of either an arbitral award or an interim award within the meaning of the Act.

54. Consequently, *O.M.P. (COMM) 67/2025*, instituted to assail the Impugned Order dated 13.01.2025 passed by the learned Arbitral Tribunal, is accordingly dismissed.

55. It is clarified that this Court has not expressed any opinion on the merits of the disputes *inter se* the parties and all rights and contentions of the parties before the learned Arbitral Tribunal are left open to be adjudicated in accordance with law.

56. Present Petition, along with all pending applications, if any, stands dismissed.

57. There shall be no order as to costs.

HARISH VAIDYANATHAN SHANKAR, J.

MAY 12, 2026/nd/kr