

Supreme Court: “excepted matters” objections are for the Arbitral Tribunal, not the writ court

M/s. GVV Constructions Private Limited v. Union of India & Ors. | Supreme Court of India | Civil Appeal arising out of SLP (C) No. 7338 of 2026

Decided on 08.09.2026

IN BRIEF

01

The Supreme Court held that the High Court’s direction to decide all claims strictly as per the contract does not take away the Arbitral Tribunal’s power to decide the dispute over termination of the contract.

02

Whether a claim is an “excepted matter” under the contract is for the Arbitral Tribunal itself to decide under Section 16 of the Arbitration and Conciliation Act, 1996. Neither the court appointing the arbitrator nor a writ court can decide that question for it.

03

A court order may say the arbitrator is “at liberty” to decide claims in a certain way. Even wording like that can end up restricting what the arbitrator can examine. So even the party that won in the High Court may need to get such an order clarified by a higher court.

Background

By tender notice dated 21.02.2017, South Central Railway invited bids for doubling of the track on the Guntur-Guntakal section. The appellant’s bid was accepted and a Contract Agreement was executed on 30.11.2017, the due date of completion being 23.10.2018. On 10.06.2022 the contract was terminated under Clause 62 of the Indian Railways Standard General Conditions of Contract, the performance guarantee and security furnished by the appellant were forfeited, and the appellant was held disentitled to compensation for any loss.

The appellant assailed the termination in a writ petition as being contrary to the procedure prescribed under the GCC. By order dated 18.10.2022 the learned Single Judge dismissed the petition, holding that serious and complicated questions of fact were not amenable to adjudication under Article 226, and recorded a finding that there existed no irregularity in the termination.

In the writ appeal, the Division Bench held that the finding of valid termination had been recorded without reasons, and that if it were upheld no scope would remain for the Arbitral Tribunal or any other forum to decide the dispute in the appellant’s favour. It set aside that finding, granted the appellant liberty to raise all its claims before the Tribunal and



granted the Tribunal liberty to decide those claims “strictly in accordance with the terms of the contract agreed upon between the parties”, while clarifying that the Tribunal was to proceed uninfluenced by the observations of either court.

Issue

Whether the observation of the Division Bench that the Arbitrator is at liberty to decide the claim of the appellant strictly in accordance with the terms of the contract travels beyond the jurisdiction of a court exercising the power of judicial review under Article 226, and impinges upon the jurisdiction of the Arbitral Tribunal under Section 16 of the Arbitration and Conciliation Act, 1996.

Analysis of the Court

A. Construction of Clauses 63 and 64 of the GCC

On a conjoint reading of Clause 63 and the relevant part of Clause 64, the Court held that Clause 63 excludes the enumerated “excepted matters” from the purview of the arbitration clause alone. It does not exclude the jurisdiction of a court of law to examine the validity of the decision taken by the railway authority in respect of such matters.

B. The statutory scheme under Sections 5 and 16

Section 5 opens with a non obstante clause and mandates that no judicial authority shall intervene except where so provided. Section 16(1) empowers the Arbitral Tribunal to rule on its own jurisdiction, including on objections with respect to the existence or validity of the arbitration agreement.

C. Progressive narrowing of scrutiny at the referral stage

The Court traced the evolution of the referral court’s role. Section 11(6A) confined the court’s examination at the stage of appointment to the existence of the arbitration agreement. In *SBI General Insurance Company Ltd. v. Krish Spinning*, (2024) 12 SCC 1, the use of “examination” in Section 11(6A), as against “rule” in Section 16, was held to confine the referral court to a prima facie scrutiny binding neither the Tribunal nor the court enforcing the award, as reiterated in *Office for Alternative Architecture v. Ircon Infrastructure and Services Ltd.*, 2025 SCC OnLine SC 1098.

D. Excepted matters fall within the competence of the Tribunal

From this survey the Court concluded that whether a particular claim is covered by, or falls outside, an “excepted matters” clause of a works contract lies squarely within the competence of the Tribunal under Section 16. It is not a question for a court exercising even the wider appointment-stage jurisdiction under Section 11, much less for a court exercising judicial review under Article 226.

**E. The position of the writ appellate court a fortiori**

The court held that the impugned direction has the inevitable effect of circumscribing the width of the Arbitrator's enquiry, including his authority under Section 16 to rule upon the scope of his own jurisdiction. Whether the termination dispute is, in whole or in part, an excepted matter, and what remedy then survives to the appellant, are questions Section 16 commits to the Arbitrator in the first instance. The Court added that the Division Bench ought not to have made such an observation for the further reason that the arbitrability of the termination was not an issue before it.

Conclusion

The Court clarified that the direction issued by the Division Bench to decide all claims strictly in accordance with the terms of the contract shall not be construed to impinge upon the jurisdiction of the Arbitral Tribunal to adjudicate the dispute with regard to termination of the contract.

Key Takeaways

1. An objection that a claim falls within an "excepted matters" clause is a jurisdictional objection for the Tribunal under Section 16, not a ground on which the referral court, still less the writ court, may decide the fate of the claim.
2. A direction to a Tribunal as to the manner in which it is to decide, though cast as liberty or clarification, may operate to narrow the enquiry, and a party that has otherwise succeeded before the High Court may still be well advised to have it clarified.

This update has been prepared for general informational purposes only and does not constitute legal advice. We would be pleased to discuss the implications of this judgment as they may pertain to any specific manner.