

AN ORDER OF THE TRIBUNAL PASSED PURSUANT TO THE MATTER BEING REMITTED BACK TO IT BY THE COURT IS NOT A FRESH AWARD: (UEM INDIA PVT LTD v ONGC LTD)^[1]

3 August 2022

By Arjun Masters and Zashank Mehta



The Delhi High Court has held that an order passed by an arbitral tribunal pursuant to the matter being remitted back to it cannot be treated as a fresh arbitral award.

Facts

On 14 December 2017, an arbitral award was passed in favour of the Respondent. Aggrieved, the Petitioner filed an application before the Tribunal under §33 of the Arbitration and Conciliation Act 1996 seeking the rectification of the award, which was dismissed.

The Petitioner subsequently challenged the award under §34(4) of the Act and the challenge was allowed. Accordingly, the matter was remitted back to the Tribunal and the Tribunal passed an award, essentially unaltered, with the noting that the award should now be read considering the High Court's order allowing the challenge. The Petitioner then sought to add additional grounds to challenge the award.

Decision

The Court allowed the Petitioner's application and held:

1. An order passed by a tribunal pursuant to the matter being remitted back to it, is not a fresh award that can be separately challenged.
2. A party cannot be precluded from raising additional grounds to challenge an award *after* the matter has been remitted back to the tribunal under §34(4) of the Act.

¹ Decision dated 9 June 2022 passed by the Telangana High Court in Civil Revision Petition No 507 of 2021

Conclusion

An order passed by an arbitral tribunal pursuant to the matter being remitted back to it, is not a fresh arbitral award that can be challenged separately.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

For further information on this topic please contact Tuli & Co

T +91 22 6725 5421, F +91 22 6725 5422 or email lawyers@tuli.co.in

www.tuli.co.in

Author(s)



Arjun Masters
Managing Associate



Zashank Mehta
Associate