



ARBITRATION AND CONCILIATION

Eureka Forbes Ltd. v. Indian Railway Catering and Tourism Corporation: Reaffirming Fairness in Arbitral Proceedings

<p>Citation: Eureka Forbes Ltd. v. Indian Railway Catering and Tourism Corporation, O.M.P. (COMM) 502/2024, Delhi High Court Date of Decision: 12 May 2026 Arbitration has long been regarded as an efficient and party-centric mechanism for dispute resolution. However, the flexibility granted to arbitral tribunals is not without limits. The Delhi High Court's decision in Eureka [...]</p>

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Arbitration has long been regarded as an efficient and party-centric mechanism for dispute resolution. However, the flexibility granted to arbitral tribunals is not without limits. The Delhi High Court's decision in *Eureka Forbes Ltd. v. Indian Railway Catering and Tourism Corporation* is an important reminder that procedural discretion in arbitration must always be exercised in conformity with the principles of natural justice and fairness. The judgment addresses a significant issue concerning the treatment of counterclaims when a party is proceeded against ex parte and clarifies the distinction between a procedural order and an interim arbitral award.

The dispute originated from a Licence Agreement executed between Eureka Forbes Limited and the Indian Railway Catering and Tourism Corporation (IRCTC) concerning the operation and maintenance of Water Vending Machines at railway stations. Differences arose regarding the payment of licence fees under the agreement, prompting IRCTC to invoke arbitration. Following the appointment of a Sole Arbitrator, IRCTC filed its Statement of Claim, to which Eureka Forbes submitted its Statement of Defence. Subsequently, Eureka Forbes also filed a counterclaim seeking recovery of approximately ₹2.53 crore.

During the arbitral proceedings, Eureka Forbes failed to appear on two consecutive hearing dates. On 21 August 2024, the Arbitrator proceeded ex parte against the company and simultaneously rejected its counterclaim. Thereafter, Eureka Forbes moved an application seeking recall of the ex parte order and restoration of its counterclaim. While the Arbitrator permitted Eureka Forbes to continue participating in relation to IRCTC's claims, he refused to restore the counterclaim, taking the view that the rejection amounted to a final determination which he lacked jurisdiction to revisit.

Aggrieved by these orders, Eureka Forbes approached the Delhi High Court under Section 34 of the Arbitration and Conciliation Act, 1996. One of the principal questions before the Court was whether the Arbitrator's rejection of the counterclaim constituted an interim award capable of challenge under Section 34.

The Court undertook an extensive examination of the concept of an interim award under the Arbitration and Conciliation Act. Referring to the statutory framework and judicial precedents, particularly the Supreme Court's decision in *IFFCO Ltd. v. Bhadra Products*, the Court reiterated that not every order passed during arbitral proceedings qualifies as an interim award. The determining factor is whether the order conclusively decides a substantive issue between the parties and leaves nothing further to be adjudicated in relation to that issue.

To ascertain whether an order possesses the character of an interim award, the Court applied a threefold test. First, the order must finally adjudicate a substantive claim or dispute. Second, the adjudication must attain finality and have binding consequences. Third, the arbitral tribunal must become functus officio with respect to that issue, thereby losing authority to reconsider it.

Applying these principles, the Court drew a distinction between the two consequences flowing from the Arbitrator's order. The direction proceeding ex parte against Eureka Forbes was held to be merely procedural. Such an order regulates the conduct of proceedings and does not determine the rights and liabilities of the parties. Therefore, it could not be treated as an interim award and was not independently challengeable under Section 34.

The rejection of the counterclaim, however, stood on an entirely different footing. The Court observed that the counterclaim had already been validly filed pursuant to the Arbitrator's directions. Its rejection effectively brought the claim to an end without any adjudication on merits. Furthermore, the Arbitrator himself had treated the rejection as a final determination by holding that he lacked the jurisdiction to recall it. Consequently, the rejection possessed all the characteristics of an interim award and was amenable to challenge under Section 34.

The Court was particularly critical of the manner in which the counterclaim had been rejected. It noted that on the previous hearing date, the matter had been adjourned largely because IRCTC sought additional time to file its response to the counterclaim. Therefore, the delay in the proceedings could not be attributed solely to Eureka Forbes. More importantly, the proceedings relating to the counterclaim were still at the stage of completion of pleadings. There was no finding that Eureka Forbes had acted deliberately to obstruct or delay the proceedings.

The judgment emphasises that the mere absence of a party does not automatically justify the dismissal or rejection of a counterclaim that has already been placed on record. Once filed, a counterclaim forms an integral part of the arbitral reference and cannot be extinguished solely because the claimant in the counterclaim fails to appear on a particular date. The proper

course would be to continue with the proceedings and adjudicate the claim on the basis of the available material.

The Court also analysed Sections 18 and 25 of the Arbitration and Conciliation Act. Section 18 mandates equal treatment of parties and guarantees a full opportunity to present one's case. Section 25, which deals with defaults by parties, empowers the tribunal to continue proceedings where a party fails to appear. However, the provision does not authorise rejection of an already-filed claim or counterclaim merely because of non-appearance. According to the Court, the Arbitrator's approach was inconsistent with the statutory framework and violated the fundamental principles of natural justice.

In setting aside the interim award rejecting the counterclaim, the Delhi High Court reinforced a vital principle governing arbitral proceedings: procedural defaults should not result in the forfeiture of substantive rights unless expressly authorised by law and justified by the circumstances of the case. Arbitration is intended to enable the adjudication of disputes rather than defeat legitimate claims on technical grounds.

The decision is significant because it provides much-needed clarity on the distinction between procedural orders and interim awards. It is also a reminder that while arbitral tribunals enjoy considerable procedural autonomy, such autonomy must be exercised in a manner that preserves fairness and ensures meaningful access to justice. By restoring the counterclaim for adjudication on merits, the Court reaffirmed that arbitration must remain faithful to the principles of equality, fairness, and due process that underpin the Arbitration and Conciliation Act, 1996.

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