

Refusal by the tribunal to entertain an amendment application: Whether a ground for challenge under Section 34

In *Kavis Fashions Private Limited v. Dimple Enterprises and others*, the Hon'ble Bombay High Court (“**Court**”), while hearing an application for setting aside an award of the arbitral tribunal under S. 34 of the Arbitration and Conciliation Act, 1996 (“**Act**”), *inter-alia* observed as under:

- The order rejecting an amendment application may not be an interim award capable of being challenged by an independent petition under Section 34 of the Act. However, *once the arbitral proceedings are disposed of, and the final award is under challenge*; grounds for challenging such rejection can certainly be raised in the petition filed under Section 34 of the Act.
- A party may oppose an amendment application on various grounds available to a party, in addition to the ground of delay, as *Section 23(3) uses the words ‘having regard to the delay in making it’ in contrast to the words ‘having regard only to’*.

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Communications: Contact@stratage.in