Consistency can make India a Global Arbitration Hub - ‘Make in India’ event by WTC Mumbai

Clarity on Legal amendments needed to make Indian arbitration system more robust, state Experts

by Shrutee K/DNS

Mumbai, July 15 2016: While lauding the recent amendments to the Indian Arbitration and Conciliation Act 1996, prominent legal experts called on the government to clear many ambiguities that is often leading to conflicting judgments and delays.

The experts were speaking at an interactive session on “Emerging trends in International arbitration” hosted by the World Trade Centre Mumbai today. This was the fifth in the series of ‘Make in India’ events hosted by WTC Mumbai.

Kicking off the debate, Lomesh Kiran Nidumuri, Partner, IndusLaw said that India can become a hub for international arbitration if our arbitration system is more robust. “Our laws and judiciary should be in tune with the global arbitration system, our judges need to be sensitised and there should be transparency in the way we resolve disputes,” stated Nidumuri.
He pointed out how lack of clarity on many amendments is creating confusion in many sections of the amended law. “For example, the fees of the arbitrator are capped, but many states have not formulated the rules. The debate on prospective vs retrospective rages as two benches of one court has given two contradictory verdicts. The Supreme Court must take a view on this as this is a big concern for the foreign investors,” added Nidumuri.

Commercial courts can tackle commercial matters between parties in the absence of arbitration clause and it is a fast track option, felt Firoze B Andhyarujina, senior advocate, Mumbai High Court. “Indians have an indigenous method of doing things. Parties agree for arbitration and then challenge it itself! People constantly question the jurisdiction and many a times the arbitrator himself can be thrown out,” he pointed out.

It is time India uses technology to speed up arbitration processes. “Online communication and exchange of documents must be done as it is adopted globally. Also, the writing of the clause of arbitration is very important as it is the fertile area of dispute,” opined Poornima Hatti, Partner, Samvad Partners. “Keep the draft simple – clarity on seat, sole or panel of arbitration is key. Mediation is widely used in Singapore, in which parties solve their disputes by consensus,” Hatti added.

India can become a global arbitration hub, if we maintain consistency and choose institutional framework over ad hoc mechanism, stated Vyapak Desai, Partner, Nishith Desai. “Emergency arbitration is one area we have refused to acknowledge though the Indian courts have not completely disregarded it,” he stated. Multiplicity of laws is biggest concern for India, he added.

“E-discovery is a game changer,” proclaimed Jayesh H, founder, Juris Corp. “Any data, which could be denied in discovery, can be retrieved using recovery software,” he told the audience. “But E-discovery is not a search and seizure process. If handled well, it can expedite dispute resolution,” he explained.

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India has to make some crucial decisions in the growing arbitration field to remain competitive and the presence of foreign lawyers in cases is now inevitable, felt Hiroo Advani, Senior Partner, Advani & Co. “The foreign lawyers will come here, maybe in phased manner or as part of some joint venture. Similarly, third party funding for arbitration will also come in India. These are agencies funding the entire process – lawyers, venue cost in return for 25 per cent of the actual recovery. Of course, this has to be balanced by rules," he explained.
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Photo Caption : L-R : Mr.Firoze Andhyarujina- Senior Advocate High Court Mumbai, Ms.Poornima Hatti-Partner, Samvad, Mr.Hiroo Advani-Senior Partner, Advani & Co., Mr.Y.R. Warerkar-Executive Director, World Trade Center Mumbai, Mr.Lomesh Kiran Nidumuri-Partner IndusLaw, Mr.Vyapak Desai-Partner, Nishith Desai Associates, Mr.Jayesh H. Founder, Juris Corp. Clarity on legal amendments needed to make Indian arbitration system more robust, state experts

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Written by FT Bureau, July 16, 2016, 0 Comments

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Companies Act to be relaxed for Gift IFSC ventures
Business Standard  |  July 20, 2016
Rajesh Bhayani | Mumbai

The government is amending Companies Act to relax provisions for Gujarat Gift City's international finance centre.

The amendments will relax compliance norms. The amendment bill is expected to be introduced in the ongoing Parliament session.

Companies operating in Gift IFSC set up by Indians will not be considered foreign companies but these will be provided several operational freedoms. These companies will have flexibility in formation of their boards and on independent directors.

Companies in Gift IFSC will be private limited companies or unlisted public limited companies and the new provisions will have a set of relaxations for them, according to a source.

A law expert said companies in Dubai's international finance centre operated under a separate law to help them make globally competitive. "India is still conservative, the tax holiday is shorter and there are hardly any waivers proposed," he added.

Banks have already started operating from Gift IFSC and brokers are setting up shop. Stock and commodity exchanges are in the company-formation stage and are waiting for clarifications about changes in the law.

So far, two important aspects have been cleared by the government, income tax and the agreement with the Singapore International Arbitration Centre (SIAC).

“SIAC may open a representative office in Gift IFSC and could become the preferred centre for resolution of disputes there. Administration of cases will take place from Singapore,” said Vyapak Desai, partner, Nishith Desai and Associates.

Addressing an interactive session on emerging trends in international arbitration hosted by the All-India Association of Industries (AIAI) and the World Trade Centre, Mumbai, on Friday, Desai said, “India can become a global arbitration hub if we maintain consistency and choose an institutional framework over an ad hoc mechanism.”

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भक्कम यंत्रणेसाठी कायदातील सुधारणांवावेळ स्पष्टता हवी

व्यापार प्रतिनिधी, मुंबई

भारतीय लवाद सार्वजनिक अस्साधारण व्यवस्था क्षेत्रातील असल्यास पर्यंत नामात्मक प्रक्रियेची दिनगाई अत्यंत ठोस काळजीत, असे आहे. आतासाठी सर्वांगेने केलेल्या विकल्पात आणि त्यासाठी संपत्ती मागण्यात आलेल्या ठोस काळजीत, त्याच्या रचनात्मकता व आनुभवसाठी सांगीतिक अत्यंत ठोस काळजीत आहे.

'शक्तिसारख्या विकल्पांच्या काळजीत असा होता, सर्वांगी विकल्पांच्या काळजीत असा होता' याची व्यापार प्रतिनिधीला सच्च्या आवश्यकतेच्या काळजीत्त असा होता.

लेखकांनी बतातात 'सर्वांगी विकल्पांच्या काळजीत असा होता, सर्वांगी विकल्पांच्या काळजीत असा होता' याचा नोंद नक्की दिला जाणारी आहे.

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'मुंबई : 'इंडियन आर्टिक्शन ऑंड कोडिनेशन ऑप्टए १९९६' या कायदानुसार अनोखे करणात आहेत. संवाद योग्य बांधकामकारी प्रक्रिये विनंती आणि इंटरनेट कराव्यात. असे दाखवत भारत जागतिक लवाद केंद्र बनू शेकेल, तसे पत अपकेंद्रज्ञानी व्यक्त केले.

'अंतर्वित्तीय लवाद यंगोतील नवे कल' या विषयासाठी चुकुलेत मुंबईतील वर्दू केरा विभाग येथे नूतन नुकसान म्हणजे विचलित चावलाचे आयोजन करण्यासाठी आहे. चावलाचा प्रारंभ करणाला 'इंडियालै' या संगठने भारोतीय आलोचकांनी किंवा निर्देशकांनी धारण केले, को भारतीय लवाद यंगोतील तसेच अनेक देश अंतर्वित्तीय लवाद केंद्र बनू शेकेल, अपण्या आकारात अर्थव्यवस्थेत प्रक्रियेने जागतिक लवाद यंगोतील जुळून घेणे आवश्यक आहे. वातावरणाचा नपटाया करण्यासाठी व्यक्तिक्यांनी दिलीट आणि कारणपत्राचा प्रकार दीपक मंत्रालयाची आपल्याकडेपासून नेता मास्टर राफेल जेसियळ मिलेही जोशी विभागाची प्रमुख. अंतर्वित्तीय कार्यस्थलात येणाऱ्या आणि भारतीय व्यवस्थेत येणाऱ्या दोन देशांच्या सहयोगाने व्यवस्थेत प्रमुख प्रक्रिया चावलाचा नवे कल केले.
Companies Act to be relaxed for Gift IFSC ventures

Amendment Bill expected in current session of Parliament

RAJESH BHAYANI
Mumbai, 19 July

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CAN INDIA BECOME A GLOBAL ARBITRATION HUB?

Yes, but India has to make some crucial decisions in the growing arbitration field to remain competitive and the presence of foreign lawyers in cases is now inevitable.

By Dominic Babu

While this is a classic Indian view on the current state of the arbitration and conciliation system, there is a renewed interest in India as a potential global arbitration hub. The government is eager to make India an attractive destination for international arbitration by improving the legal framework and judicial system.

Recent amendments to the Indian Arbitration and Conciliation Act 1996 have made a significant impact, providing a more robust and efficient legal framework. The Judicial system has also been strengthened with the appointment of experienced judges and the establishment of dedicated arbitration centers.

However, challenges remain, such as lack of awareness among businesses, the high cost of arbitration, and the need for improved enforcement of arbitral awards. To become a leading arbitration hub, India must address these issues and continue to improve its legal and administrative processes.
Experts for clarity on recent amendments to Arbitration and Conciliation Act

By Tilak Tripathi

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Endorsing the strong possibility for India becoming a hub for international arbitration, Lomesh Kiran Nidumuri, partner, IndusLaw felt a serious need for our arbitration system to be more robust. Our laws and judiciary should be in tune with the global arbitration system, our judges need to be sensitised and there should be transparency in the way we resolve disputes, he said.

Pointing out the lack of clarity on many amendments creating confusion in many sections of the amended law he cited as example that the fees of the arbitrator are capped, but many states have not formulated the rules. The debate on prospective vs retrospective regimes as two beaches of one court has given two contradictory verdicts. The Supreme Court must take a view on this as this is a big concern for the foreign investors, Nidumuri said at Emerging trends in International arbitration’ the fifth in the series of ‘Make in India’ events hosted by WTC Mumbai. Commercial courts can tackle commercial matters between parties in the absence of arbitration clause and it is a fast track option, felt Firoze B Andhyrajbhai, senior advocate, Mumbai High Court. Indians have a indigenous method of doing things. Parties agree for arbitration and then challenge it itself? People constantly question the jurisdiction and many a times the arbitrator himself can be thrown out, he pointed out.

It is time India uses technology to speed up arbitration processes. Online communication and exchange of documents must be done as it is adopted globally. Also, the writing of the clause of arbitration is very important as it is the fertile area of dispute, opined Pravinma Hatti, partner, Sanvad Partners. Keep the draft simple - clarity on seat, sole or panel of arbitration is key. Mediation is widely used in Singapore, in which parties solve their disputes by consensus, she said.

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लवाद प्रक्रियेचा वेग
वाढविण्याची गरज

मुंबई, ता. १८ : इंडियन आर्किटेक्चर अॅंड कॉंस्ट्रक्शन ऑक्स्ट्रेक्टर मुळा संगणणचा अंतः ह्या तरी न्यायालेखनाच्या प्रक्रियेच्या दिरंगांतून आणि तुती दूर कराव्यात, असे आवश्यक राज्यातील कायदेतंत्रांची व्यक्ती केले.
‘आंतरराष्ट्रीय लवाद यंत्रणेची’ अने कल्याणी विविध संदर्भांत वर्तोड ट्रेड सेंटरमध्ये चर्चा साधलेली कायदेतंत्रांची मते मांडली. भारताच्या लवाद यंत्रणा भक्कम्या बनवली, तर भारत आंतरराष्ट्रीय लवाद केंद्र वनू शकेल, असे मत इंडस्ट्री सोपान भागीदारी लोकसंघ किरू निम्नुरी यांची व्यक्त रूपले. लवाद यंत्रणेचे शुल्क डोईजड ठरणारे असले, तरी अनेक राज्यांनी त्यावदलची निम्नुरी निखरत रूपांतरीत नाहीं. एकाच न्यायालेखनाच्या दोन खंडपटांनी दोन पिन्यंत्रित हिंसेन्याने भूतकाळ आणि भविष्यवाद्याच्या चर्चा गरजेचे आहे. विदेशी गुंतवणूकदारांच्या वृत्तीने हा खुप गठणारा मुद्दा असल्यासुके सर्वोच्च न्यायालेखनातील लवादल अपलेली भूमिका स्पष्ट करणे गरजेचे असल्याचे त्यांची सांगलेले. लवादाच्या प्रक्रियेचा उपलब्धि नसल्यास खासगी न्यायालेखने अशिष्टमध्ये तंत्र एडवार्ड्स फास्टरांक पद्धतीने मदत करतात, असे मत मुंबई उच्च न्यायालेखने ज्येष्ठ वकील फिरोज तो. अंध्युरुवीना यांची व्यक्त केले.