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[“Emerging trends in International arbitration” by World Trade Centre Mumbai](#)



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.

Hot tubing – a concurrent evidence process, in which arbitrators ask questions to the experts on both sides together, narrows down the point of differences and can search truth soon. "Common ground comes naturally to the experts. E –discovery is all about technology and can be an effective tool," said Jayesh H.

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. Warkerkar-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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Consistency can make India a global arbitration hub

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."

"Emergency arbitration is one area we have refused to acknowledge although the courts have not completely disregarded it," he added.

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भकक्रम यंत्रणेसाठी कायद्यातील सुधारणांबाबत स्पष्टता हवी

व्यापार प्रतिनिधी, मुंबई

भारतीय लवाद कायद्यामध्ये अलिकडे करण्यात आलेल्या सुधारणा चांगल्या असल्या तरी सरकारने न्यायदानाच्या प्रक्रियेतील दिरंगाई आणि त्रुटी दूर कराव्यात, असे आवाहन राज्यातील कायदेतज्ज्ञांनी केले आहे.

'आंतरराष्ट्रीय लवाद यंत्रणेतील नवे कल' या संदर्भात जागतिक व्यापार केंद्रात नुकतेच एका विशेष चर्चासत्राचे आयोजन करण्यात आले होते.

'डसलॉ' संस्थेचे भागीदार लोमेश किरण निंदुमुरी म्हणाले की, कायदा आणि न्यायालयीन प्रक्रियेने जागतिक लवाद यंत्रणेची जुळवून घेणे आवश्यक आहे. वादविवादांचा निपटारा करण्याच्या प्रक्रियेत पारदर्शकता येणे आवश्यक आहे. त्यादृष्टीने आपल्याकडील न्यायाधीशांनी

आंतरराष्ट्रीय लवाद केंद्राबाबत जाणकारांचे मत



जागतिक व्यापार केंद्रातर्फे आयोजित चर्चासत्रातील सहभागी वक्ते.

संवेदनशीलता बाळगणे गरजेचे आहे.

लवादाची प्रक्रिया उपलब्ध नसल्यास खासगी न्यायालये अशिलांमधील तंटे सोडविण्यास जलदगती पद्धतीने मदत करेल, असे मत मुंबई उच्च न्यायालयाचे ज्येष्ठ वकील फिरोज बी. अंध्यरुजीना यांनी व्यक्त केले. ते म्हणाले, भारतीयांचा स्वदेशी हा नारा आहे. लवादासाठी मान्यता देणारी मंडळीच नंतर त्याविरोधात जातात. तसेच

न्यायालयाच्या परिघसीमेलाच आव्हान देतात. त्यामुळे अनेकदा लवादकाला या प्रक्रियेतून बाहेर पडावे लागते.

लवाद प्रक्रियेचा वेग वाढविण्याची वेळ आली आहे, असे मत 'संवाद पार्टनर्स'च्या पौर्णिमा हती यांनी व्यक्त केले. त्या म्हणाल्या, ऑनलाइन संवाद आणि दस्ताऐवजांचे सादरीकरण करण्याची पद्धत जागतिक पातळीवर मान्य झाली असल्यामुळे ती आपणही स्वीकारवी. 'एंड हॉक' प्रणालीबद्दल

संस्थात्मक चौकट निर्माण केल्यास भारत जागतिक लवाद केंद्र बनू शकेल, अशी आशा व्यापक देसाई यांनी व्यक्त केली. ते म्हणाले, युद्धपातळीवर लवादप्रक्रिया चालू राहू शकत असल्याची बाब आपण दुर्लक्षिली आहे. मात्र भारतामधील न्यायालयांनी या प्रक्रियेला अडेरलेले नाही.

लवाद क्षेत्रामध्ये बदल करणारी गोष्ट म्हणून 'इ-डिस्कव्हरी' कडे पाहिले जात असल्याचे मत 'ज्युरीस कॉर्प'चे संस्थापक जयेश एच. यांनी व्यक्त केले. संशोधनातून आग्रही मानलेला डेटा रिकव्हरी सॉफ्टवेअरमधून पुन्हा मिळवता येऊ शकतो, असे ते म्हणाले. 'लवाद क्षेत्राचा विस्तार होत आहे. त्यामध्ये विदेशी वकील भाग घेत असून स्पर्धेत टिकून राहण्यासाठी आपणही बदल करायला हवेत', असे 'अडवाणी अँड कंपनी'चे वरिष्ठ भागीदार हिरू अडवाणी यांनी व्यक्त केली.

लोकसत्ता

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..तर भारत जागतिक लवाद केंद्र बनू शकेल

कायदेतज्ञ : सुधारणांबाबत स्पष्टता हवी

'मुंबई : 'इंडियन आरबिट्रेशन अँड कौन्सिलेशन अँक्ट १९९६' या कायद्यामध्ये अलीकडेच करण्यात आलेल्या सुधारणा चांगल्या असल्या तरी शासनाने न्यायदानाच्या प्रक्रियेतील दिरंगाई आणि त्रुटी दूर कराव्यात. असे झाल्यास भारत जागतिक लवाद केंद्र बनू शकेल, असे मत कायदेतज्ञांनी व्यक्त केले.

'आंतरराष्ट्रीय लवाद यंत्रणेतील नवे कल' या विषयासंदर्भात मुंबईतील वर्ल्ड ट्रेड सेंटर येथे नुकतेच एका विशेष चर्चासत्राचे आयोजन करण्यात आले होते. चर्चासत्राचा प्रारंभ करताना 'इंडसलॉ' या संस्थेचे भागीदार लोकमेश किरण निंदुमुरी म्हणाले, की भारताची लवाद यंत्रणा भक्कम बनली तरच आपला देश आंतरराष्ट्रीय लवाद केंद्र बनू शकेल. आपल्या कायदा आणि न्यायालयीन प्रक्रियेने जागतिक लवाद यंत्रणेशी जुळवून घेणे आवश्यक आहे. वादविवादांचा

निपटारा करण्याच्या प्रक्रियेत पारदर्शकता येणे आवश्यक आहे. त्यादृष्टीने आपल्याकडील न्यायाधीशांनी संवेदनशीलता बाळगणे गरजेचे आहे. इंडियन आरबिट्रेशन अँड कौन्सिलेशन अँक्टमध्ये सुधारणा झाल्या असल्या तरी त्याबाबत फारसे स्पष्टीकरण नसल्याने गोंधळ आहे, असे त्यांनी सांगितले. लवादाची प्रक्रिया उपलब्ध नसल्यास खासगी न्यायालये अशिलांमधील तंटे सोडविण्यास 'फास्ट ट्रॅक' पद्धतीने मदत करील, असे मत मुंबई उच्च न्यायालयाचे ज्येष्ठ वकील फिरोज बी. अंध्यरुजीना यांनी व्यक्त केले.

संवाद पार्टनर्सच्या पौर्णिमा हती म्हणाल्या की, लवाद प्रक्रियेचा वेग आता वाढविण्याची वेळ आली आहे. ऑनलाइन संवाद आणि दस्तऐवज सादर करण्याची पद्धत जागतिक पातळीवर मान्य झाली असल्यामुळे ती आपण स्वीकारायला हवी. (प्रतिनिधी)

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Companies Act to be relaxed for Gift IFSC ventures

Amendment Bill expected in
current session of Parliament

RAJESH BHAYANI
Mumbai, 19 July

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 start-

ed 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."

"Emergency arbitration is one area we have refused to acknowledge although the courts have not completely disregarded it," he added.

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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 Domestic Reports

While lauding the recent amendments to the Indian Arbitration and Conciliation Act 1996, prominent legal experts have 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 last Friday. This was the fifth in the series of "Make in India" events hosted by WTC Mumbai.

Kicking off the debate, Lomesh Kiran Nidumuri, Partner, Inks&Law said that India can become a hub for international arbitration if our arbitration systems 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 formalised the rules. The debate on prospective retrospective saves as two benches of one court has given non-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 Vinod H. Anandharam, senior advocate, Mumbai High Court. "Indians have an indigenous method of doing things. Parties agree for arbitration and then chal-



<<(L-R) Vinod Anandharam, Senior Advocate High Court Mumbai, Poornima Hatti, Partner, Sarwad, Hiroo Advani-Senior Partner, Advani & Co., Y.R. Wankar-Executive Director, World Trade Center Mumbai, Lomesh Kiran Nidumuri-Partner Inks&Law, Vyspak Desai, Partner, Nishith Desai Associates, Jayesh H. Founder, Jura Corp.

lenge 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, Sarwad 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 Vyspak 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, Jura Corp. "Any data, which could be deemed 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.

Hot tubbing - a concurrent evidence process, in which arbitrators

ask questions to the experts on both sides together, narrows down the points of differences and can search truth soon. "Common ground comes naturally to the experts. E-discovery is all about technology and can be an effective tool," said Jayesh H.

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, versus 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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Experts for clarity on recent amendments to Arbitration and Conciliation Act

By Tilak Tripathi, Mumbai. Prominent legal experts called on the government to clear many ambiguities in the recent amendments to the Indian Arbitration and Conciliation Act 1996, which is often leading to conflicting judgments and delays.

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, adding that emergency arbitration is one area we have refused to acknowledge though the Indian courts have not completely disregarded it. Multiplicity of laws is biggest concern for India, he said.

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 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, 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 Andhyarujina, senior advocate, Mumbai High Court. Indians have an indignant 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, she said.

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 said. "But E-discovery is not a search and seizure process. If handled well, it can expedite dispute resolution," he explained.

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, he said.

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लवाद प्रक्रियेचा वेग वाढविण्याची गरज

मुंबई, ता. १८ : इंडियन आरविट्रेशन अँड काऊन्सिलेशन अँक्टमधील सुधारणा चांगल्या असल्या तरी न्यायदानाच्या प्रक्रियेतील दिरंगाई आणि त्रुटी दूर कराव्यात, असे आवाहन राज्यातील कायदेतज्ज्ञांनी व्यक्त केले. 'आंतरराष्ट्रीय लवाद यंत्रणेतील नवे कल' या विषयासंदर्भात वर्ल्ड ट्रेड सेंटरच्या चर्चासत्रात कायदेतज्ज्ञांनी मते मांडली. भारताची लवाद यंत्रणा भक्कम वनली, तरच भारत आंतरराष्ट्रीय लवाद केंद्र वनू शकेल, असे मत इंडस लॉचे भागीदार लोकमेश किरण निंदुमुरी यांनी व्यक्त केले. लवाद यंत्रणेचे शुल्क डोईजड ठरणारे असले, तरी अनेक

राज्यांनी त्याबद्दलची नियमावली निश्चित केलेली नाही. एकाच न्यायालयाच्या दोन खंडपठांना दोन भिन्न निकाल दिल्याने भूतकाळ आणि भविष्याबद्दलची चर्चा गरजेचे आहे. विदेशी गुंतवणूकदारांच्या दृष्टीने हा खूप कळीचा मुद्दा असल्यामुळे सर्वोच्च न्यायालयाने त्याबद्दल आपली भूमिका स्पष्ट करणे गरजेचे असल्याचे त्यांनी सांगितले. लवादाची प्रक्रिया उपलब्ध नसल्यास खासगी न्यायालये अशिलांमधील तंटे सोडविण्यास फास्टट्रॅक पद्धतीने मदत करील, असे मत मुंबई उच्च न्यायालयाचे ज्येष्ठ वकील फिरोज बी. अंध्यरुजीना यांनी व्यक्त केले.