



Litigation & Dispute Resolution

Practice Statement

Nishith Desai Associates (NDA) is a research based international law firm with offices in Mumbai, Bangalore, Silicon Valley and Singapore. We specialize in strategic legal, regulatory and tax advice coupled with industry expertise in an integrated manner.

Core practice areas include Cross-border transactions, Fund Structuring and Investments, Mergers & Acquisitions, International Tax, Dispute Resolution, Corporate & Securities Law, Competition Law, Employment Law and Intellectual Property Law. Our specialized industry niches include financial services, IT and telecom, education, pharma and life sciences, media and entertainment, real estate and infrastructure.

We are differentiated by the quality of our team that comprises lawyers and professionals, with multiple qualifications in business management, chartered accountancy, medical surgery, engineering and company secretaryship. We also have the distinction of being the first Indian law firm to be licensed to practice Indian law by the State Bar of California and the Attorney General of Singapore.

Nishith Desai Associates has been ranked #1 in Tax, Investment Funds and TMT practice by Legal 500 (Asia-Pacific) in 2009-2010. It has also been named by the Pacific Business Press as Asian – Counsel Firm of the Year 2009 for the practice areas of Private Equity and Taxation in India. In the Financial Times – RSG Consulting ranking of Indian law firms in early 2009, we were ranked the highest for ‘Quality’. We are also part of the Asian Legal Business Watchlist as one of the ‘Top 10 firms to watch in 2009’ in Asia – Pacific. The Tax Directors Handbook, 2009 lauded us for our constant and innovative out-of-the-box ideas.

Other past recognitions include being named the Indian Law Firm of the Year 2000 and Asian Law Firm of the Year (Pro Bono) 2001 by the International Financial Law Review, a Euromoney publication. In an Asia survey by International Tax Review (September 2003), we were voted as a top-ranking law firm and recognized for our cross-border structuring work.

Our research oriented approach has also led to the team members being recognized and felicitated for thought leadership. Consecutively for the fourth year in 2009, NDAites have won the global competition for dissertations at the International Bar Association. Nishith Desai, Founder of Nishith Desai Associates, has been named one of the ‘Most In Demand Practitioners’ by Chambers Asia 2009. He has also been ranked No. 28 in a global Top 50 "Gold List" by Tax Business, a UK-based journal for the international tax community.

Our trust-based, non-hierarchical, democratically managed organization that leverages research and knowledge to deliver premium services, high value, and a unique employer proposition has now been developed into a case study and published by John Wiley & Sons, USA in a feature titled ‘Management by Trust in a Democratic Enterprise: A Law Firm Shapes Organizational Behavior to Create Competitive Advantage’ in the latest edition of Global Business and Organizational Excellence (GBOE).

ABOUT THE PRACTICE

Dispute Resolution is an integral part of judicial systems all over the world. Globalization and the growth of international commerce has created an unprecedented need to efficiently resolve cross-border disputes. With the evolution of effective and efficient arbitration systems and fora, arbitration continues to gain predominance as a mode of dispute resolution. Issues relating to enforcement of foreign arbitration awards and judgments are constantly being deliberated upon and require an in depth analysis of the various legal issues arising therein. Mediation is also gaining popularity.

Nishith Desai Associates (“**NDA**”) has developed expertise and carved its niche in the area of litigation and dispute resolution with a strong focus on complex cross border disputes. Being a research based organization, NDA has published a

unique research paper entitled Dispute Resolution in India, various articles and indepth analyses (hotlines) on emerging subjects of interest in the area. NDA strives to provide its clients with creative and pragmatic solutions and effective dispute resolution strategies.

NDA is actively involved in various matters related to Corporate Laws, Intellectual Property Laws, Employments Laws and Commercial Laws. NDA has been advising on several litigation matters and pre-litigation strategies to clients involved in fields such as media, entertainment, infrastructure, franchising, machinery & equipment manufacturing, outsourcing and financial services with respect to their disputes before various fora such as the Supreme Court, various High Courts, various lower courts, the Company Law Board, the Copyright Board, Securities and Exchange Board of India, IPR Tribunals, etc.

EXPERTISE

- Advice on pre-litigation strategies
- Advising on effective strategies for dispute resolution
- Advising and representing clients in negotiations, litigation, arbitration, conciliation and mediation
- Assisting our clients in the enforcement of intellectual property rights, including patents, trademarks, copyrights, designs & trade secrets
- Advising clients in HR related disputes
- Advising clients in disputes related to mergers and acquisitions
- Advising clients on issues relating to international commercial arbitration
- Advising on the enforcement of foreign judgments and awards in Indian courts
- Advising clients on choice of law and jurisdiction issues with a focus on the principles of Private International Law and reconciling the conflicts between various laws
- Advising clients at the time of transactional documentation on the various choices of dispute resolution rules and venues and providing them an analysis of the benefits and limitations of each

SELECT MATTERS

Our firm has acted as legal counsel for many complex and intricate matters. We have enumerated below some select matters in the various areas of our practice:

Pre-Litigation Strategy:

- Represented a client in an International mediation under the American Arbitration Association (AAA) and negotiated a successful settlement
- Advised a leading Indian BPO company with respect to cross-border litigation and assisted in drawing up the settlement
- Advised a leading international event management company with respect to infringement of their intellectual property rights and passing off
- Advised a leading infrastructure provider in relation to their dispute with an international conglomerate arising out of an infrastructure contract
- Advised a prominent French bank in relation to its challenge of the scheme of amalgamation of a large Indian conglomerate
- Advised a well known IT company against one of the world's largest software companies with respect to a dealership contract

International Commercial Arbitration:

- Represented clients in commercial arbitrations

- Assisted clients in negotiations and in drawing up settlements
- Represented a client in arbitration proceedings with respect to a dispute arising out of an investment agreement which included questions relating to confidentiality and non-compete issues
- Advised an engineering company on the enforceability of an ICC arbitration award passed in London against a US company
- Represented an international publishing group in arbitration with respect to a dispute arising out of a Master Franchise Agreement
- Successfully represented a multinational media fund against a large international media conglomerate with relation to a satellite broadcasting contract

Intellectual Property and Media Laws:

- Represented clients in a number of intellectual property litigations including patent, trade mark, design and copyright
- Successfully represented a client in a cross-border copyright action for rights relating to Tintin books in the Bombay High Court
- Represented a number of clients in their domain name disputes before bodies such as World Intellectual Property Organization (WIPO)
- Advised a satellite radio company in relation to notices received from the regulatory authorities

- Advised an international satellite company in relation to disputes with Indian regulatory bodies
- Advised a leading film distribution company with respect to disputes relating to films Ghajini, Golmaal and Singh is King
- Advised a leading theater and film director in India with respect to intellectual property disputes
- Advised a client in the software space with respect to a dispute with its employees relating to ownership of intellectual property in certain patents
- Successfully represented a film production company in its dispute with suppliers before the Bombay High Court
- Represented an emerging Indian IT company against an established competitor with respect to copyright infringement

Corporate and Securities Litigation:

- Successfully represented a client in an election related corporate litigation
- Advised a foreign institutional investor with respect to proceedings before the Enforcement Directorate
- Successfully representing clients before various regulatory bodies and forums such as the Company Law Board, SEBI, SAT for matters

regarding various corporate & securities regulations such as the SEBI Takeover Code and the SEBI Insider Trading Regulations etc.

- Represented a UK company with respect to a winding-up petition against an Indian listed company

Human Resource Laws:

- Successfully represented a radio jockey in a litigation seeking to restrain him from working for competitors of his former employer

General Commercial Laws:

- Advised a leading international financial services company in a property dispute in India
- Advised clients in respect of disputes arising out of endorsement contracts
- Advised several venture capital investors, private equity investors and Indian Companies in respect of dispute related to restructuring of the investments and possible exits arising out of the Share Subscription/Purchase Agreements and Shareholders Agreements
- Advised a French fund manager regarding a white collar crime/ economic offence in relation to an Indian investment

SELECT CLIENTS

Adventity BPO	Measat
Amazon	Mellon India
Bluestar	Music Choice
Bristol Mayers	Natixis
Codexis	New Star Management
Collabnet	Nicholas Applegate Capital Management
Credit Commercial Bank	Nvidia
DBS Bank	Orbit Corporation
Digital Radio (Red FM)	Quantum (Soros) Fund
Digital Partners	Reva Electric
Eurokids International	Sanjay Leela Bhansali Films
Epicenter Technologies	Schlumberger Asia Services
Flextronics	Shanghai Ba Shi
Four Interactive (asklaila.com)	Silicon Valley Bank
Franklin Templeton	Softcell
Fursa Funds Hayman	Transocean Offshore
Halcyon	The George P. Johnson Company
Indian Newspaper Society	Teamasia Sahara
Indiana Gratings	Semiconductors (India)
India Properties	Toonz Animation India
India Deep Value Fund	Ultra Motors
Indian Film Company (Studio 18)	US Pizza
Idream Productions	Voltas India
i-Flex Solutions	Warner
Johnson & Johnson	Worldspace.
Lokhandwala Builders	

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RECOGNITION

- Ranked #1 by Legal 500 (Asia-Pacific) 2009-2010 in Tax, Investment Funds and TMT practice
- Named by Pacific Business Press as the Asian-Counsel Firm of the Year 2009 for the practice areas of Private Equity and Taxation
- Ranked highest on 'Quality' in a recent Financial Times-RSG Consulting survey of Indian law firms
- Listed in Practical Law Company's (PLC) Which Lawyer? Yearbook 2009 as the leading firm in Taxation, and IT & e-Commerce
- Among PLC's recommended firms for Capital Markets, Corporate Real Estate, M&A, IP, Outsourcing, Private Equity, Venture Capital and Telecom
- Listed in the Asian Legal Business Watchlist of 'Top 10 Firms to Watch in 2009'
- Nishith Desai, Founder, ranked No. 28 in a global Top 50 "Gold List" by Tax Business, a UK-based international tax journal
- Recognized by Chambers and Partners as the 'Most In-Demand Practitioners'
- Ranked No. 1 by Asia Pacific Legal 500 in International Tax, Fund Investments, Technology Law, Media Law and Telecom Law
- Nominated for 'Indian Law Firm of the Year' in Asialaw's India Awards, 2009
- Within a decade of setting up, NDA was honored with the 'Indian Law Firm of the Year' and in the next year, with 'Asian Law Firm of the Year (*Pro Bono*)' awards by the International Financial Law Review, a Euromoney publication

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