

Dispute Resolution Hotline

June 28, 2018

INDIA: APPLICABILITY OF AMENDMENTS IN INDIAN ARBITRATION LAW TO ARBITRAL AND RELATED COURT PROCEEDINGS

This article was originally published in the June 2018 edition of
International Arbitration Law Review

INTRODUCTION

With an arbitration-friendly ecosystem shaping up in India, the judiciary has consistently followed the footsteps of the legislature's pro-arbitration regime, introduced by the Arbitration and Conciliation (Amendment) Act 2015(Amendment Act).

The Amendment Act resolved the anomaly to effective enforcement of arbitral awards caused by applications filed by the judgment-debtors (i.e. parties against whom the award is passed) to set aside the awards. Prior to the Amendment Act, enforcement proceedings could begin only upon expiry of the time for making an application to set aside the arbitral award or upon refusal of such application having been made. Thus, an application to set aside an arbitral award would result in an automatic stay on the award, resulting in a party not being able to enjoy the fruits of litigation.

The Amendment Act sought to correct this anomaly. It introduced the requirement for a separate application requesting for a stay of the operation of the award. It would be at the court's discretion to allow such an application granting stay of the award, for which it may impose conditions as deemed appropriate under the given facts and circumstances. Thus, an application to set aside an arbitral award would not automatically result in a stay on operation of the award or stall the enforcement proceedings.

In light of the above, award-holders sought execution of the awards and several such execution petitions were filed in various courts notwithstanding the pendency of applications challenging the awards. Thus, the applicability of the Amendment Act to such execution proceedings where the set aside proceedings had been initiated prior to the Amendment Act drew immense attention.

India: applicability of amendments in Indian arbitration law to arbitral and related court proceedings

— Shweta Sahu & Ashish Kabra

You can direct your queries or comments to the authors

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

The Tour d'Horizon of Data Law Implications of Digital Twins

May 29, 2025

Global Capability Centers

May 27, 2025

Fintech

May 05, 2025

Research Articles

2025 Watchlist: Life Sciences Sector India

April 04, 2025

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Audio

CCI's Deal Value Test

February 22, 2025

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Vyapak Desai speaking on the danger of deepfakes | Legally Speaking with Tarun Nangia | NewsX

April 01, 2025

**SIAC 2025 Rules: Key changes &
Implications**

February 18, 2025
