



Nishith Desai Associates
LEGAL AND TAX COUNSELING WORLDWIDE

MUMBAI

SILICON VALLEY

BENGALURU

SINGAPORE

NEW DELHI

MUNICH / AMSTERDAM

NEW YORK

GIFT CITY

Research

Enforcement of Arbitral Awards and Decrees in India

Domestic and Foreign

February 2024

Research

Enforcement of Arbitral Awards and Decrees in India

Domestic and Foreign

February 2024

DMS Code: 1,437,226



Ranked as the 'Most Innovative Indian Law Firm' in the prestigious FT Innovative Lawyers Asia Pacific Awards for multiple years. Also ranked amongst the 'Most Innovative Asia Pacific Law Firm' in these elite Financial Times Innovation rankings.



Disclaimer

This report is a copyright of Nishith Desai Associates. No reader should act on the basis of any statement contained herein without seeking professional advice. The authors and the firm expressly disclaim all and any liability to any person who has read this report, or otherwise, in respect of anything, and of consequences of anything done, or omitted to be done by any such person in reliance upon the contents of this report.

Contact

For any help or assistance please email us on conciierge@nishithdesai.com or visit us at www.nishithdesai.com.

Acknowledgements

Vyapak Desai

vyapak.desai@nishithdesai.com

Shweta Sahu

shweta.sahu@nishithdesai.com

Contents

Introduction	1
I. Enforcement of Arbitral Awards	2
1. Enforcement of Domestic Awards	2
Process for Challenge and Enforcement	
2. Enforcement of Foreign Awards	3
Process for Challenge and Enforcement	
Requirements for Enforcement of Foreign Awards	
3. Conditions for Enforcement of Arbitral Awards — Domestic and Foreign	4
4. Stamping and Registration Requirements of Awards — Domestic and Foreign	5
5. Enforcement of Arbitral Awards: Appropriate Forum and Limitation	6
6. How Courts Examine Awards	7
7. Payments under a Foreign Award	8
II. Enforcement of Decrees in India	9
1. Enforcement of Decrees in India: Appropriate Forum and Limitation	9
2. Enforcement of Foreign Judgments in India	10
Procedure for Enforcement of Foreign Judgments	
Requirements for Enforcement of Foreign Judgment	
Grounds of Challenge to Enforcement of Foreign Judgments	
Judicial Approach	
3. Enforcement of Foreign Judgments from Non-Reciprocating Territories	12
Requirements for Enforcement of Foreign Judgments from Non-reciprocating Territories	
Procedure for Execution of Foreign Judgments from Non-reciprocating Territories	
Enforcement of Foreign Judgments in India: Limitation	
Modes of Execution	15
Our Expertise	16
Enforcement of Awards and Execution of Decrees	25

Introduction

The growth of international commerce has necessitated the creation of efficient methods of resolution of disputes. In some situations, securing an award or a final judgment from the courts may only be a battle half won; this is especially true in the Indian context.

We have come across situations where the opposite parties decide to not participate in the arbitral process or abandon it mid-way. The enforcement of these awards/judgments where the party is *in absentia* is sometimes more complicated than one where the opposite party has participated in the proceedings. In certain situations, objections have been raised even against costs awarded by the tribunal or the jurisdiction of the tribunal or court, as the case may be. Therefore, the stage of enforcement of an award or decree warrants a high degree of caution.

The procedure for enforcement and execution of decrees in India is governed by the Code of Civil Procedure, 1908 (“CPC”) while that of arbitral awards in India is primarily governed by the Arbitration & Conciliation Act, 1996 (“Act”) as well as the CPC.

Domestic and foreign awards are enforced in the same manner as a decree of the Indian court. This is true even for consent awards obtained pursuant to a settlement between parties. However, there is a distinction in the process for enforcement of an award based on the seat of arbitration. While the enforcement and execution of an India - seated arbitral award (“**domestic award**”) would be governed by the provisions of Part I of the Act, enforcement of foreign - seated awards (“**foreign award**”) would be governed by the provisions of Part II of the Act.¹

A few steps that are crucial for ensuring successful enforcement of arbitral awards and execution of decrees are:

- Making effective service on opposite party/ judgment debtor is crucial to prevent objections at later stage;
- Taking necessary steps by way of attachment/ notice/ arrest/ appointment of receiver or in another manner;
- Remember that principles of natural justice apply to even execution proceedings.

¹ Part II specifically deals with foreign awards which are in consonance with the provisions of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 or Convention on the Execution of Foreign Arbitral Awards, 1927.

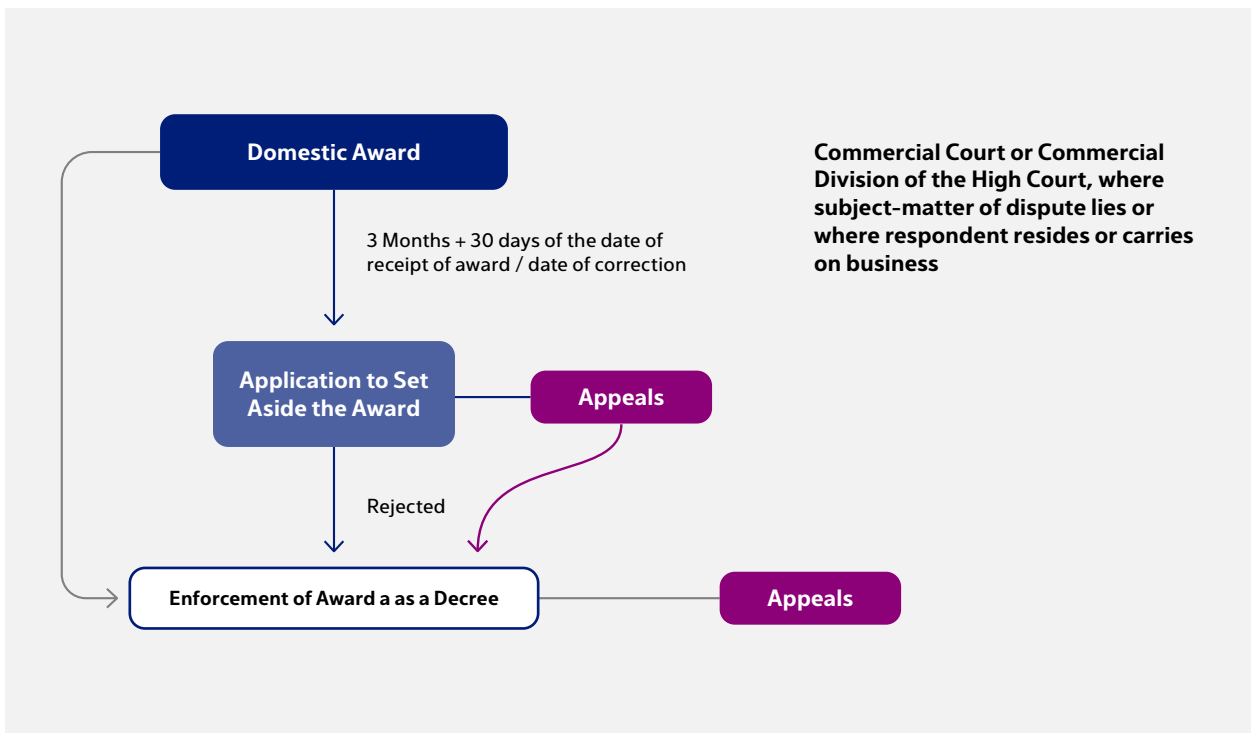
I. Enforcement of Arbitral Awards

1. Enforcement of Domestic Awards

An award holder would have to wait for a period of three months after the receipt of the award prior to applying for enforcement and execution.¹ During the intervening period,² the award may be challenged in accordance with Section 34 of the Act. After expiry of the aforesaid period, if a court finds the award to be enforceable, at the stage of execution, there can be no further challenge as to the validity of the arbitral award.

Prior to the recent Arbitration and Conciliation (Amendment) Act, 2015 (“**Amendment Act**”), an application for setting aside an award would tantamount to a stay on proceedings for execution of the award. However, by virtue of the Amendment Act, a party challenging an award would have to move a separate application in order to seek a stay on the execution of an award.

Process for Challenge and Enforcement



¹ See Arbitration and Conciliation Act 1996, s 34(3) proviso.

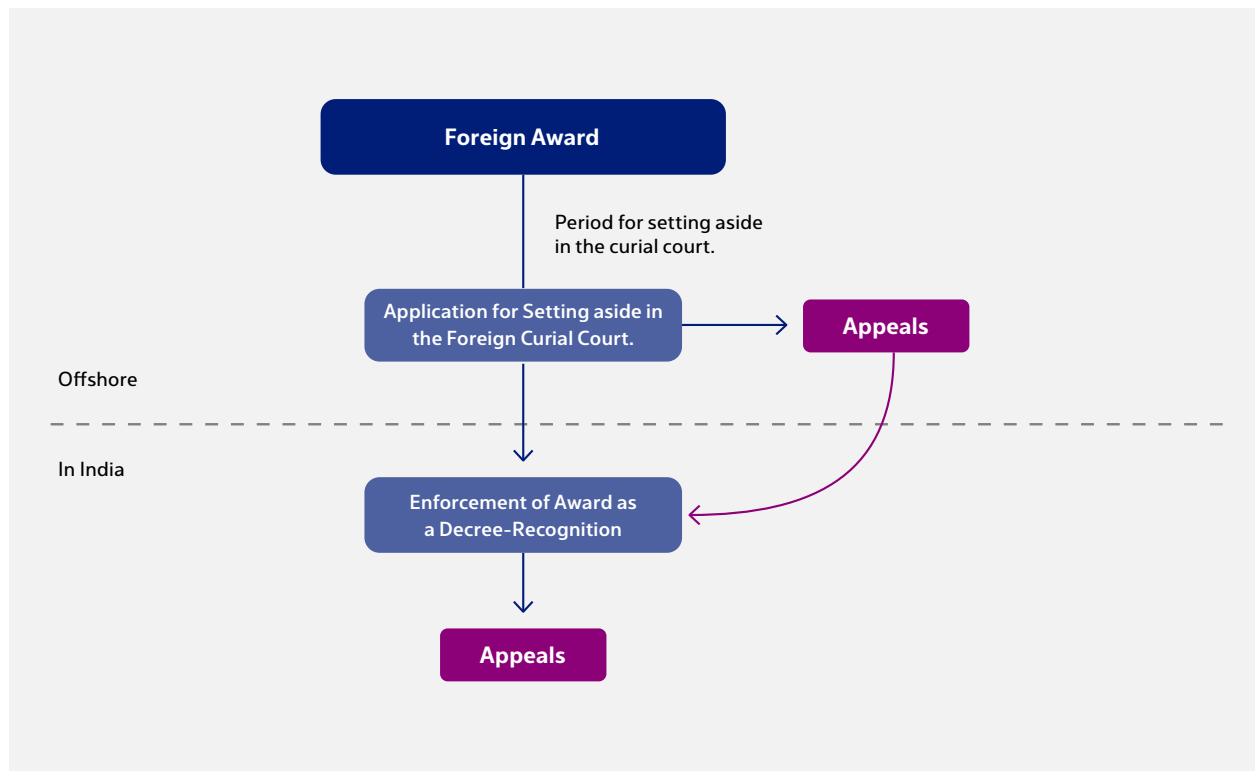
² A further period of 30 days may be granted by a court upon sufficient cause being shown for condonation of delay.

2. Enforcement of Foreign Awards

India is a signatory to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 (“**New York Convention**”) as well as the Geneva Convention on the Execution of Foreign Arbitral Awards, 1927 (“**Geneva Convention**”). If a party receives a binding award from a country which is a signatory to the New York Convention or the Geneva Convention and the award is made in a territory which has been notified as a convention country by India,³ the award would then be enforceable in India.

The enforcement of a foreign award in India is a two-stage process which is initiated by filing an execution petition. Initially, a court would determine whether the award adhered to the requirements of the Act. Once an award is found to be enforceable it may be enforced like a decree of that court. However, at this stage parties would have to be mindful of the various challenges that may arise such as objections taken by the opposite party, and requirements such as filing original/ authenticated copy of the award and the underlying agreement before the court.

Process for Challenge and Enforcement



³ Australia; Austria; Belgium; Botswana; Bulgaria; Canada, Central African Republic; Chile; China (including Hong Kong and Macau) Cuba; Czechoslovak Socialist Republic; Denmark; Ecuador; Federal Republic of Germany; Finland; France; German Democratic Republic; Ghana; Greece; Hungary; Italy; Japan; Kuwait; Mauritius; Malagasy Republic; Malaysia; Mexico; Morocco; Nigeria; Norway; Philippines; Poland; Republic of Korea; Romania; Russia; San Marino; Singapore; Spain; Sweden; Switzerland; Syrian Arab Republic; Thailand; The Arab Republic of Egypt; The Netherlands; Trinidad and Tobago; Tunisia; United Kingdom; United Republic of Tanzania and United States of America. India has entered into an agreement with the United Arab Emirates for juridical and judicial co-operation.

Requirements for Enforcement of Foreign Awards

- Original award or a duly authenticated copy in the manner required by the country where it is made;
- Original agreement or duly certified copy;
- Evidence necessary to prove the award is a foreign award, wherever applicable.

Section 47 of the Act provides that the above “*shall*” be produced before the court, at the time of the application for enforcement of the foreign award. However, in a recent judgment, the Supreme Court of India interpreted that the word “*shall*” appearing in Section 47 of the Act relating to the production of the evidence as specified in the provision at the time of application has to be read as “*may*”.⁴ It further observed that such an interpretation would mean that a party applying for enforcement of the award need not necessarily produce before the court a document mentioned therein “*at the time of the application*”. Nonetheless, it further clarified that such interpretation of the word “*shall*” as “*may*” is restricted “*only to the initial stage of the filing of the application and not thereafter.*”

For enforcement of a foreign award, there is no need to initiate separate proceedings — for recognition and subsequent execution.⁵

3. Conditions for Enforcement of Arbitral Awards — Domestic and Foreign

Enforcement of a foreign award may be refused⁶ and a domestic award may be set aside⁷ if the award debtor furnishes to the court proof (in case of foreign award) or establishes on the basis of the record of the arbitral tribunal (in case of domestic award) that:

- The parties to the agreement were under some incapacity;
- The agreement in question is not in accordance with the law to which the parties have subjected it, or under the law of the country where the award was made (especially in case of foreign awards);
- There is a failure to give proper notice of appointment of arbitrator or arbitral proceedings or the party against whom the award was rendered was otherwise unable to present his case;
- Award is *ultra vires* the agreement or submission to arbitration;
- Award contains decisions on matters beyond the scope of submission to arbitration;
- Composition of the arbitral authority or the arbitral procedure is *ultra vires* agreement;
- Composition of the arbitral authority or the arbitral procedure is not in accordance with the law of the country where the arbitration took place;
- The award (specifically a foreign award) has not yet become binding on the parties or has been set aside or suspended by a competent authority of the country in which, or under the law of which that award was made.

⁴ *PEC Limited v. Austbulk Shipping SDN BHD* (Civil Appeal No. 4834 of 2007), decided on 14 November 2018.

⁵ *Fuerst Day Lawson Ltd. v. Jindal Export Ltd.* (2001) 6 SCC 356).

⁶ Arbitration and Conciliation Act 1996, s 48.

⁷ Arbitration and Conciliation Act 1996, s 34.

Introduction

Enforcement of foreign award may also be refused and a domestic award may be set aside if the court finds that:

- Subject matter of the dispute is not capable of settlement by arbitration under Indian law;
- Enforcement of the award would be contrary to the public policy of India.⁸

A foreign award is in conflict with the public policy of India, only if, —

- a. the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81 of the Arbitration Act; or
- b. it is in contravention with the fundamental policy of Indian law; or
- c. it is in conflict with the most basic notions of morality or justice.

The test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.

A domestic award arising out of arbitrations other than international commercial arbitrations, may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award. However, a domestic award shall not be set aside merely on the ground of an erroneous application of the law or by reappraisal of evidence.

4. Stamping and Registration Requirements of Awards — Domestic and Foreign

Domestic Awards

- The Indian Stamp Act 1899 provides for stamping of arbitral awards with specific stamp duties and Section 35 provides that an award which is unstamped or is insufficiently stamped is inadmissible for any purpose, which may be validated on payment of the deficiency and penalty (provided it was original). Issues relating to the stamping and registration of an award or documentation thereof, may be raised at the stage of enforcement under the Act. (*M. Anasuya Devi and Anr v. M. Manik Reddy and Ors*⁹). The Supreme Court had also observed that the requirement of stamping an award and registration is within the ambit of Section 47 of the CPC and not covered by Section 34 of the Act.
- The quantum of stamp duty to be paid would vary from state to state depending on where the award is made. Currently, as per the Maharashtra Stamp Act, the stamp duty for arbitral awards stands at five hundred rupees in Maharashtra; and in case of Delhi, as per Schedule 1A to the Stamp (Delhi Amendment) Act 2001, the stamp duty is calculated at roughly 0.1% of the value of the property to which the award relates.
- Under Section 17 of the Registration Act, 1908 an award has to be compulsorily registered if it affects immovable property,¹⁰ failing which, it shall be rendered invalid.

⁸ *Vijay Karia v. Prysmian Cavi E Sistemi SRL*, (2020) 11 SCC 1; *Ssanyong Engineering and Construction Company Ltd. v. NHAI*, 2019 (15) SCC 131; *Associate Builders v. DDA*, (2015) 3 SCC 49; *Aapico Hitech Public Company Limited and Others v. Sakthi Auto Component Ltd.* 2023 SCC OnLine Mad 514.

⁹ (2003) 8 SCC 565.

¹⁰ The Registration Act, 1908, s 17(1)(e).

Introduction

Foreign Awards

- As far as foreign awards are concerned, the Supreme Court of India has categorically held that a foreign award is not liable to be stamped.¹¹
- Previously, the Delhi High Court in *Naval Gent Maritime Ltd v Shivnath Rai Harnarain (I) Ltd.*¹² had observed that a foreign award would not require registration and can be enforced as a decree, and the issue of stamp duty cannot stand in the way of deciding whether the award is enforceable or not. A similar approach had been adopted by the Bombay High Court in the case of *Vitol S.A v. Bhatia International Limited*¹³ and the High Court of Madhya Pradesh in *Narayan Trading Co. v. Abcom Trading Pvt. Ltd.*¹⁴

5. Enforcement of Arbitral Awards: Appropriate Forum and Limitation

If, as often happens in international commerce, assets are located in different parts of the world, the party seeking enforcement of the award has a choice of country in which to proceed—a chance to go ‘forum shopping’, as it is sometimes expressed.¹⁵ The Supreme Court in its recent ruling in, *Sundaram Finance Ltd. v. Abdul Samad and Anr.*¹⁶ clarified that an award holder can initiate execution proceedings before any court in India where assets are located. In case the subject-matter of the arbitration is of a specified value.¹⁷ Commercial courts established under the Commercial Courts Act 2015 (“**Commercial Courts Act**”) would have jurisdiction, as given below:

Award Arising out of an India Seated Arbitration — Being an International Commercial Arbitration

By virtue of the Commercial Courts Act and the Amendment Act, the Commercial Division of a High Court where assets of the opposite party lie shall have jurisdiction for applications relating to enforcement of such awards if the subject matter is money. In case of any other subject matter, Commercial Division of a High Court which would have jurisdiction as if the subject matter of the award was a subject matter of a suit shall have jurisdiction, i.e., where the opposite party resides or carries on business or personally works for gain.

Award Arising out of an India Seated Arbitration — not Being an International Commercial Arbitration)

As per the Commercial Courts Act and the Amendment Act, for such cases, the appropriate court would be the Commercial Court exercising such jurisdiction which would ordinarily lie before any principal Civil Court of original jurisdiction in a district, as well as the Commercial Division of a High Court in exercise of its ordinary original civil jurisdiction.

11 *M/S. Shri Ram EPC Limited v Rioglass Solar SA* (2018) SCC Online 147.

12 174 (2009) DLT 391.

13 2014 SCC OnLine Bom 1058.

14 2012 SCC OnLine MP 8645.

15 Nigel Blackaby, Constantine Partasides, et al., ‘Recognition and Enforcement of Arbitral Awards’, in *Redfern and Hunter on International Arbitration* (6th edn., Kluwer Law International; Oxford University Press 2015) (para 11.29); *Taqa India Power Ventures v. NCC Infrastructure Holdings*, OMP(EFA) (COMM) 1 of 2018 (Delhi High Court, judgment dated 09 November 2023).

16 (2018) 3 SCC 622.

17 Commercial Courts Act, s 2(1)(i): “Specified Value”, in relation to a commercial dispute, shall mean the value of the subject-matter in respect of a suit as determined in accordance with section 12 which shall not be less than three lakh rupees or such higher value, as may be notified by the Central Government”.

Introduction

Foreign Awards

Where the subject matter is money, the Commercial Division of any High Court in India where assets of the opposite party lie shall have jurisdiction. In case of any other subject matter, Commercial Division of a High Court which would have jurisdiction as if the subject matter of the award was a subject matter of a suit shall have jurisdiction.

Limitation Period for Enforcement of Awards

Foreign Awards

Under Indian law, a foreign award is already stamped as the decree, and once the court decides that the foreign award is enforceable, it can proceed to take further effective steps for execution of the same (*M/s. Fuerst Day Lawson Ltd v. Jindal Exports Ltd.* (2001) 6 SCC 356).

ACA 1996 does not specify the time period within which the application for enforcement should be made before Indian courts.

Enforcement of a foreign award under Part II of the Arbitration Act would be covered by Article 137 of the Limitation Act which provides a period of three years, from when the right to apply accrues.¹⁸

6. How Courts Examine Awards

- The grounds of challenge enlisted are exhaustive and courts cannot expand the grounds for refusal of enforcement.
- In limited circumstances, the court may refuse to enforce the foreign award even if one of the grounds under Section 48 of the Arbitration Act for refusing enforcement of the award has been proved.
- Executing court cannot re-examine the award apart from satisfying itself on a superficial basis about the award.
- Executing court cannot examine the merits of the case.¹⁹
- The exercise is not an “appeal” on merits against order of tribunal, but merely review.
- Accordingly, the court has to first make enquiry as to enforceability of award and secondly hold that it is enforceable and thereafter enforce it.
- Once an award is found to be enforceable by a court, it would be enforced like a decree of that court (in accordance with relevant provisions of the CPC — as explained below).

¹⁸ *Government of India v. Vedanta Ltd. and Ors.*, Civil Appeal No. 3185 of 2020, judgment dated 16 September 2020.

¹⁹ *Shri Lal Mahal v. Progetto Grano Spa* (2014) 2 SCC 433.

7. Payments under a Foreign Award

Payments that are being made by a person in India to a person outside India may require the permission of the Reserve Bank of India in the usual course. However, such permission may not be required if the arbitral tribunal has characterised the payment to be made under the award as 'damages'.²⁰ Further, several courts have been of the view that payment under the judgment of a court or an arbitral award should not be subject to any withholding tax in India.²¹ Thus, payments made pursuant to the orders of the Indian court would not be subject to withholding tax and the full amount would be remitted.²² However, this position is yet to be confirmed by the Supreme Court of India.

In case of foreign awards which have to be enforced in India in INR, the rate of conversion expressly provided for in the award²³ or the underlying contract²⁴ would be considered for the purposes of the forex rate. In these scenarios, the executing court would be bound to follow such date as provided for in the award or contract, as the case may be. In the absence of such express provision on the forex rate, the effective date for considering the exchange rate is the date of rejection of objections to the enforcement of the foreign award, or when all the remedies (including appeals, revision petitions, etc.) against enforcement of the foreign award were exhausted.²⁵

20 *NTT Docomo v Tata Sons* 2017 (4) ArbLR 127.

21 *M/s. Goldcrest Exports v. ITO*, ITA No.442/Mum/2009.

22 *Glencore International AG v. Dalmia Cement (Bharat) Limited* 2019 SCC OnLine Del 9634.

23 *Forasol v. Oil and Natural Gas Commission* (1984) Supp SCC 263.

24 *Meenakshi Saxena & Anr. v. ECGC Ltd. (Formerly known as Export Credit Guarantee Corporation of India Ltd.) and Anr.* Civil Appeal No.5681/2018 (arising out of SLP (C) No. 6286 of 2017).

25 *Fuerst Day Lawson Limited v. Jindal Exports Limited; Progetto Grano S.P.A. v. Shri Lal Mahal Limited; DLF Universal Limited & Ors. v. Koncar Generators and Motors Limited* (2018) 190 PLR 398.

II. Enforcement of Decrees in India

On a decree being passed, execution proceedings can be initiated for enforcement of the decree. Section 36 to 74 and Order XXI of the CPC set out the provisions in respect of execution.

The person in whose favour a decree has been passed or an order capable of execution has been made is known as a “decree-holder” while the person against whom a decree has been passed or an order capable of execution has been made is known as a “judgment-debtor”.

1. Enforcement of Decrees in India: Appropriate Forum and Limitation

Domestic Decrees

Appropriate Forum

The proceedings to execute a decree must be initiated, in the first instance, before the court which passed it. Where appropriate, such court may transfer the decree to another court for execution for various reasons including the locus of the judgment debtor or the locus of the property against which the decree is sought to be executed.¹

Limitation Period

As per the Limitation Act 1963, the period of limitation for the execution of a decree (other than a decree granting a mandatory injunction, in which case, it is three years) is twelve years from the date of the decree. However, an application for execution of a decree granting a perpetual injunction shall not be subject to any period of limitation.

Foreign Judgments

Appropriate Forum

An application for execution of a foreign judgment may be filed in the jurisdiction where the assets of the judgment-debtor are, or where the judgment-debtor resides or carries on business.

Regarding the “court” before which an execution petition is to be filed, where there is a split jurisdiction between High Courts exercising original jurisdiction and District Courts based on pecuniary value, such High Courts would be competent to execute a foreign decree of the superior court of a reciprocating territory.²

1 The Code of Civil Procedure 1908, s 39.

2 Code of Civil Procedure 1908, s 44A; *Messer Griesheim GmbH (now Air Liquide Deutschland GmbH) v. Goyal MG Gases Pvt. Ltd.* 2022 SCC OnLine SC 97.

II. Enforcement of Decrees in India

Limitation Period

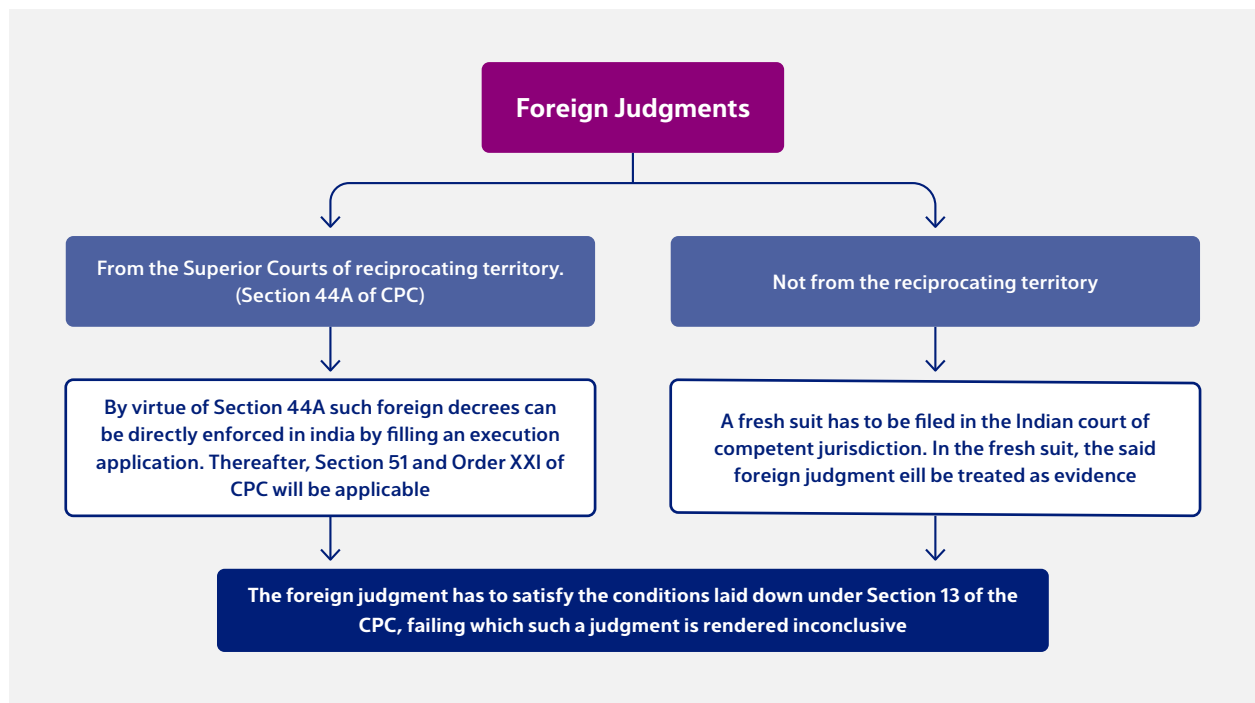
If a decree holder does not take any steps to execute the foreign judgment in the foreign country, where it was rendered, he may file an execution petition in India as per the law of limitation of that foreign country.³ However, if the decree holder takes steps-in-aid to execute a foreign decree in the country where it was rendered and the decree was not fully satisfied, he may file an execution petition in India within 3 years from the finalization of the execution proceedings in such foreign country.⁴

2. Enforcement of Foreign Judgments in India

Section 2(6) of the CPC defines “foreign judgment” as “*the judgment of a foreign Court,*” which refers to a Court situated outside India and not established or continued by the authority of the Central Government.

At the time of enforcement of foreign judgments in India, two situations may arise depending on whether the foreign judgment is passed by a court in: (i). A reciprocating country;⁵ (ii). A non-reciprocating country. A party seeking enforcement of a decree of a court in a reciprocating country is required to file execution proceedings in India while in case of a decree from a non-reciprocating country, a fresh suit has to be filed before the relevant court in India. The time limit for filing a suit for enforcement for such foreign judgments is three years from such judgment being delivered.

Procedure for Enforcement of Foreign Judgments



³ *Bank of Baroda v. Kotak Mahindra Bank Ltd.*, 2020 SCC OnLine SC 324.

⁴ *ibid.*

⁵ “Reciprocating territory” means any country or territory outside India which the Central Government may, by notification in the Official Gazette, declare to be a reciprocating territory for the purposes of Section 44A of the Civil Procedure Code. Countries which have been officially recognized as “reciprocating countries” by the Central Government of India include:- Aden; Bangladesh; Federation of Malaya (now Malaysia); Fiji Colony; Hong Kong; New Zealand, Cook Islands and Western Samoa; Papua New Guinea; Republic of Singapore; Trinidad and Tobago; United Kingdom of Great Britain and Northern Ireland, UAE.

II. Enforcement of Decrees in India

The first major step towards enforcement of foreign judgments in India is, to file execution proceedings, which is done by following the procedure, as envisaged under Section 44A and Order XXI of the CPC (illustrated above).

Requirements for Enforcement of Foreign Judgment

Under Section 44A of the CPC, where a ‘certified copy of decree’ of any of the superior courts of any reciprocating territory has been filed in a district court, the decree may be executed in India as if it had been passed by the district court. For proceeding with the execution, the certified copy of the decree shall be filed along with a ‘certificate’ from such superior court stating the extent, if any, to which the decree has been satisfied or adjusted. Such certificate shall be deemed as the conclusive proof of the extent of such satisfaction or adjustment.

Grounds of Challenge to Enforcement of Foreign Judgments

Section 13 of the CPC provides that a foreign judgment may operate as *res judicata* by being conclusive with respect to any matter adjudicated upon thereby (which does not include the reasons laid down in the foreign judgment). However, this shall not be applicable where:

- a) It has not been pronounced by a Court of competent jurisdiction. While ascertaining competence of a foreign court, it has to be established that the concerned court is vested with jurisdiction in terms of its pecuniary and territorial limits, as well as rules of private international law.
- b) It has not been given on the merits of the case;
- c) It appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognise the law of India in cases in which such law is applicable;
- d) The proceedings in which the judgment was obtained are opposed to natural justice;
- e) It has been obtained by fraud;
- f) It sustains a claim founded on a breach of any law in force in India.

Judicial Approach

Courts have been consistent of the view that a party would not be bound by the jurisdiction of a foreign court if it has not submitted to such jurisdiction of the foreign court.⁶ Whether a party has voluntarily submitted to the jurisdiction of the foreign court, would depend on the facts and circumstances of the concerned case, for example, if a defendant appears in the court where the suit is instituted and questions both the jurisdiction and challenges the action on merits, he is said to have submitted to the jurisdiction voluntarily.⁷ Generally, as noted by the Madras High Court, the following denote instances of submission to the jurisdiction of the foreign court:

⁶ *Raj Rajendra Sardar Maloji v. Sri Shankar Saran* AIR 1962 SC 1737; *R.M.V. Vellachi Achi v. R.M.A. Ramanathan Chettiar* AIR 1973 Mad. 141.

⁷ *Chormal Balchand Firm v. Kasturi Chand* AIR 1938 Cal 511.

II. Enforcement of Decrees in India

- Where the person is a subject of the foreign country in which the judgment has been obtained against him on prior occasions;
- Where he is a resident in foreign country when the action is commenced;
- Where a person selects the foreign court as the forum for taking action in the capacity of a plaintiff, in which forum he is sued later;
- Where the party on summons voluntarily appears;
- Where by an agreement a person has contracted to submit himself to the forum in which the judgment is obtained.⁸

As had been held in *International Woollen Mills v. Standard Wool (U.K.) Ltd.*,⁹ a judgment would be considered to be given on merits if some evidence (oral and/or documentary) is adduced on behalf of the plaintiffs. The Orissa High Court in *Trilochan Choudhury v. Dayanidhi Patra*,¹⁰ observed that a judgment, however, brief, would be enforceable if it is based on a consideration of evidence. Similarly, the Bombay High Court, in *Marine Geotechnics LLC, v. Coastal Marine Construction & Engineering Ltd*¹¹ held that *ex parte* decrees would also be valid. Judgments which follow summary procedure or otherwise shall not be considered as judgments given on merits of the case if there has been no examination of the evidence. Further, judgments based on consent or terms of settlement are also considered valid as being given on merits of the case.¹² However, cases where the decree results from the sheer absence of the defendant either by way of penalty or in a formal manner, the judgment may not be one based on the merits of the case.

Similarly, the Supreme Court in *R. Vishwanathan v. Rukn — Ul- Mulk Syed Abdul Wajid*,¹³ observed that enforcement of a foreign judgment would be vitiated on non-observance of the judicial process, i.e. if the court rendering the judgment fails to observe the minimum requirements of natural justice. Thus, it is required that parties are given reasonable notice and adequate opportunity of presenting their respective cases. Additionally, a foreign judgment would be rendered unenforceable if the foreign court was imposed upon or tricked into giving the judgment.¹⁴

3. Enforcement of Foreign Judgments from Non-Reciprocating Territories

In case of a foreign judgment from a non-reciprocating country, it can be enforced only by filing a suit upon the judgment. The party is left with the option to sue on the basis of the foreign judgment or on the original cause of action in the domestic court or both. The resultant decree would thereafter be executed in India.

Where a suit on a foreign judgment is dismissed on merits, no further application shall lie for the execution of such foreign judgment as it had merged in the decree which dismissed such suit for execution. In an event a decree is passed in favour of the party filing such a suit for enforcing the foreign judgment, it may proceed to execute it.

⁸ *Ramanathan Chettiar v. Kalimuthu Pillai* AIR 1914 Mad. 556.

⁹ (2001) 5 SCC 265.

¹⁰ AIR 1961 Ori 136.

¹¹ (2014) 3 AIR Bom R 193.

¹² *HSBC Bank USA v. Silverline Technologies Ltd.* AIR 2006 Bom 134.

¹³ AIR 1963 SC 1.

¹⁴ *Sankaran Govindan v. Lakshmi Bharathi & Others* AIR 1974 SC 1764; *Satya v. Teja Singh* AIR 1975 SC 105.

II. Enforcement of Decrees in India

Requirements for Enforcement of Foreign Judgments from Non-reciprocating Territories

A certified copy of the foreign judgment would have to be filed along with the plaint. This judgment would have evidentiary value, and be certified in manner, as required under Section 86 of the Evidence Act 1872 (“**Evidence Act**”). Further, an additional certificate by a representative of the Central Government of India in the foreign country is required under Section 86 of the Evidence Act. The procedure stipulated under Section 86 of the Evidence Act does not exclude other modes of proof, e.g. deposition of an official as to what took place in his presence in the court of the foreign jurisdiction (subject to the requirements of the Evidence Act).

In any event, as a preliminary requirement, such foreign judgments sought to be executed in India have to satisfy the tests prescribed under Section 13 of the CPC (as stated above).

Procedure for Execution of Foreign Judgments from Non-reciprocating Territories

Filing a Fresh Suit in the Relevant Court of Jurisdiction in India

A suit is instituted by filing a ‘plaint’ in a manner prescribed under Orders VI and VII of the CPC in a court of competent jurisdiction, along with the payment of appropriate court fees. Under Order V of the CPC, notice is issued to the defendant summoning his appearance and directing him to file his reply within a specified date.

After the plaintiff has instituted the suit and notified the defendant, the defendant is required to file its written statement, along with a set-off or counter claim, if any, in the court within 90 days of service of the summons. This is governed by Order VIII of the CPC.

After the parties complete the pleadings in the suit, the court frames the issues under Order XIV of the CPC, which is followed by the production, admission and denial of evidence. Thereafter, the examination and recording of evidence (documentary and/or oral) is completed.

After the hearing of a matter is completed, the judgment is pronounced in open court. Within fifteen days of the pronouncement of a judgment, the concerned court draws up the decree.¹⁵ If a defendant does not appear when the suit is called for hearing, irrespective of summons being duly served on him, the court may make an order that the suit be heard *ex parte*.¹⁶

Fresh Suit Filed under Commercial Courts Act

In case the dispute is commercial in nature and of a specified value (as discussed earlier), a suit under the Commercial Courts Act would be initiated.

¹⁵ Code of Civil Procedure 1908, Order XX, Rule 1.

¹⁶ Code of Civil Procedure 1908, Order IX, Rule 6(b).

II. Enforcement of Decrees in India

In all such commercial disputes of specified value, a party may make an application¹⁷ (with a notice being issued to the opposite party) for summary judgment requesting the court to decide on the claim underlying the commercial dispute without recording oral evidence.

Prior to issues being framed the court may pass a summary judgment on consideration of the following:

- the plaintiff has no real prospect of succeeding on the claim or the defendant has no real prospect of successfully defending the claim, as the case may be; and
- there is no other compelling reason why the claim should not be disposed of before recording the oral evidence.

When it appears to a court that a judgment creditor may succeed but it is improbable that it will do so, it can pass a conditional order against the judgment debtor including, but not limited to, a condition requiring the judgment debtor to deposit a sum of money as security for the judgment.¹⁸

Execution Proceedings

The resultant decree would be enforced like a decree of that court which rendered the same. The modes of execution are elaborated below.

A detailed procedure for execution of foreign judgments from non-reciprocating territories is explained in the Guide signed between Dubai International Financial Centre (“DIFC”) Courts and Nishith Desai Associates on 14 September 2018.¹⁹ Notwithstanding the focus of the Guide on recognition and enforcement of civil and commercial judgments in DIFC Courts and the courts of India, this Guide may also be referred to, in the context of execution of judgments from non-reciprocating territories.

Note: UAE was notified as a reciprocating territory by India, vide notification dated 17 January 2020

Enforcement of Foreign Judgments in India: Limitation

If the decree holder does not take any steps to execute the foreign decree in the country where the decree was rendered, he may file an execution petition in India as per the law of limitation of that foreign country.²⁰ If the decree holder takes steps-in-aid to execute a foreign decree in the country where the decree was rendered, and the decree is not fully satisfied, he may file an execution petition in India within 3 years from the ‘finalization’ of the execution proceedings in the country where the decree was rendered.²¹

¹⁷ In accordance with Order XIII-A, Rule 4 of the CPC, as amended by the Commercial Courts Act 2015.

¹⁸ In accordance with Order XIII-A, Rule 7 of the CPC, as amended by the Commercial Courts Act 2015.

¹⁹ <https://www.difccourts.ae/wp-content/uploads/2018/09/Guide-between-DIFC-Courts-and-Nishith-Desai-Associates-on-Mutual-Recognition-and-Enforcement-of-Civil-and-Commercial-Judgments-in-DIFC-Courts-and-Courts-in-India.pdf>.

²⁰ *Bank of Baroda v. Kotak Mahindra Bank Ltd.* (2020) 17 SCC 798.

²¹ *ibid.*

Modes of Execution

Since foreign awards, domestic awards and foreign judgments (from reciprocating countries) are to be executed in India as a decree passed by an Indian court, the modes of execution for foreign awards and judgments and domestic awards and judgments are also common.

On an application made by the decree-holder for execution of the decree/ award (whether foreign or domestic), the court may order the execution of the decree / award by one or more of the following modes:

- by delivery of any property specifically decreed;
- by attachment and sale or by sale without attachment of any property;
- by arrest and detention in prison;
- by appointing a receiver;
- by any other manner as the nature of the relief granted may require.

In case of decrees involving payment of money, execution by arrest and detention in civil prison would be ordered only after the judgment debtor is given an opportunity of showing cause as to why he should not be imprisoned.¹ While issuing such notice, the executing court has to record in writing and be satisfied that the judgment debtor would obstruct or delay the execution of the decree.² Such notice may not be necessary if the court is satisfied, by affidavit or otherwise, that, with the object or effect of delaying the execution of the decree, the judgment debtor is likely to abscond or leave the local limits of the jurisdiction of the Court.³ A warrant for the arrest of the judgment debtor may also be made where appearance is not made in obedience to the notice, if the decree holder so requires.⁴

An executing court cannot go behind the decree, that is, it does not have the power to modify the terms of the decree and must take it as it stands. In case there are multiple decree-holders, the assets, after deducting the costs of realization, shall be distributed among all such persons.

1 Code of Civil Procedure Code 1908, Order XXI, Rule 37 (1).

2 *ibid.*

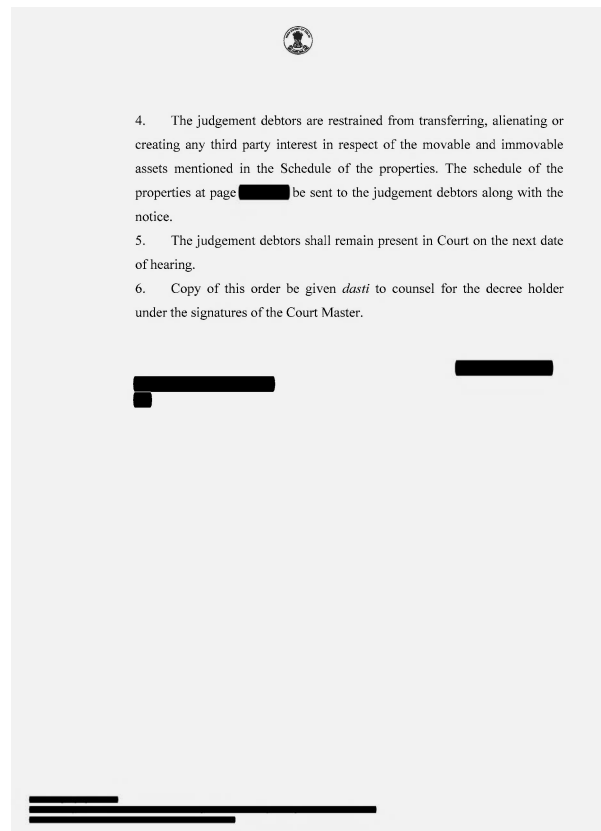
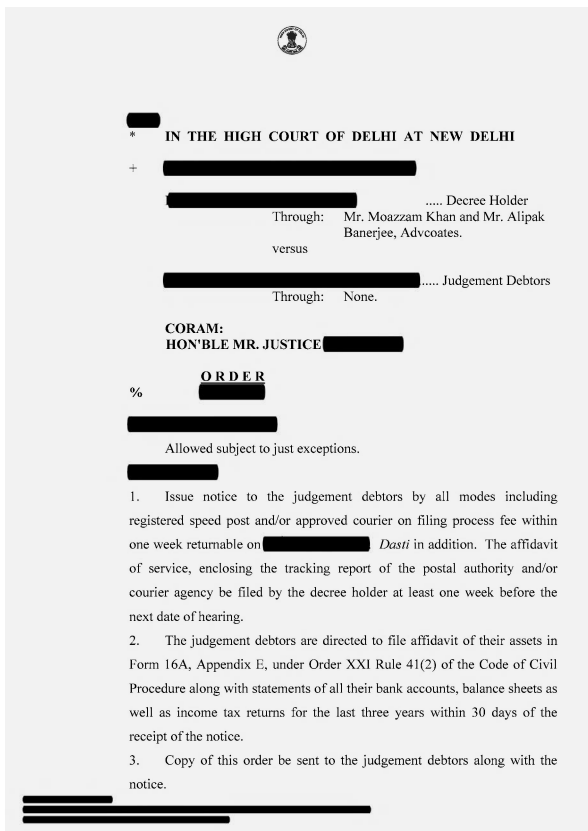
3 *ibid.*

4 Code of Civil Procedure Code 1908, Order XXI, Rule 37 (2).

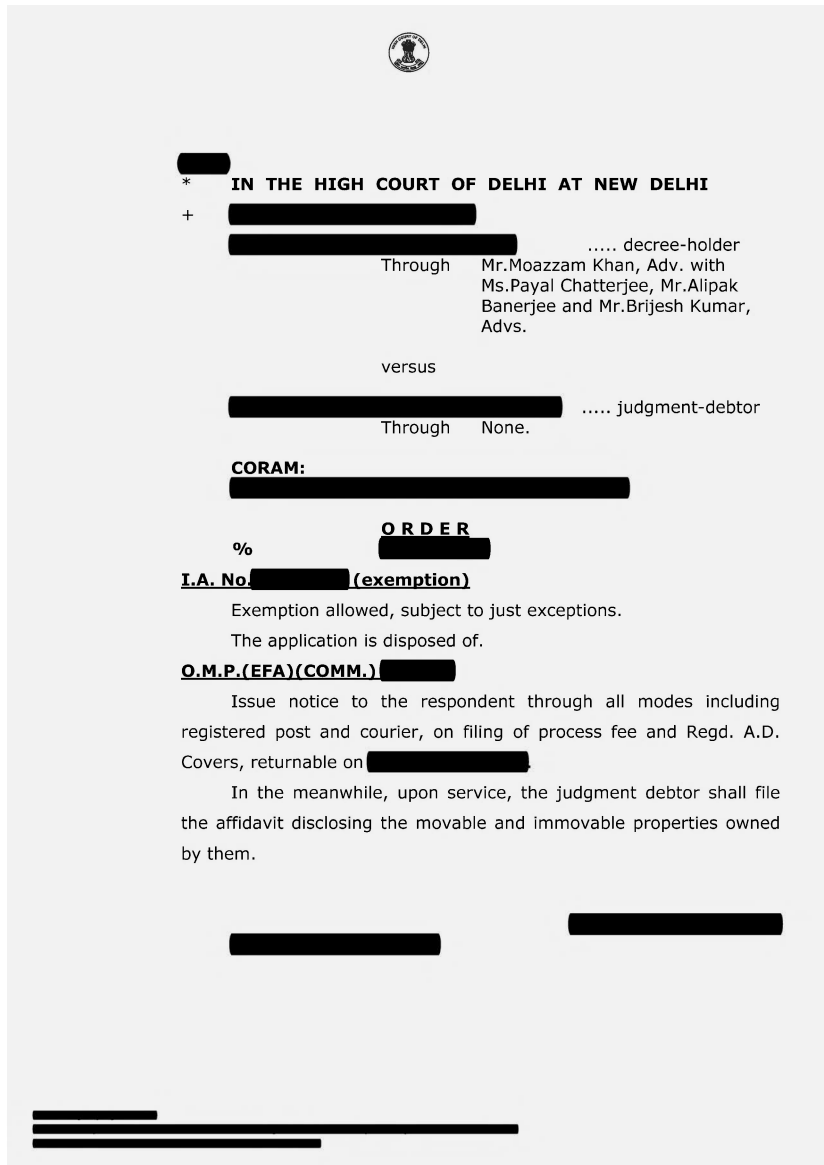
Our Expertise

By way of strategy we seek measures of protection during the first hearing itself, in order to mitigate the risks caused by time dilatory tactics and frivolous challenges adopted by the opposite parties. These mostly include a stay order on alienation of the assets of the opposite parties. Where assets are not known, we routinely engage experts to trace and identify the assets since obtaining a restraint order against alienation of assets is possible only in a situation where such assets are identified. Obtaining the disclosure of assets and financial status of the opposite parties at the initial stages is another facet of our strategy, which reduces the risk of the opposite party alienating or disposing of its assets. Once a disclosure is made, the next step is seeking an order for attachment and sale of assets disclosed.

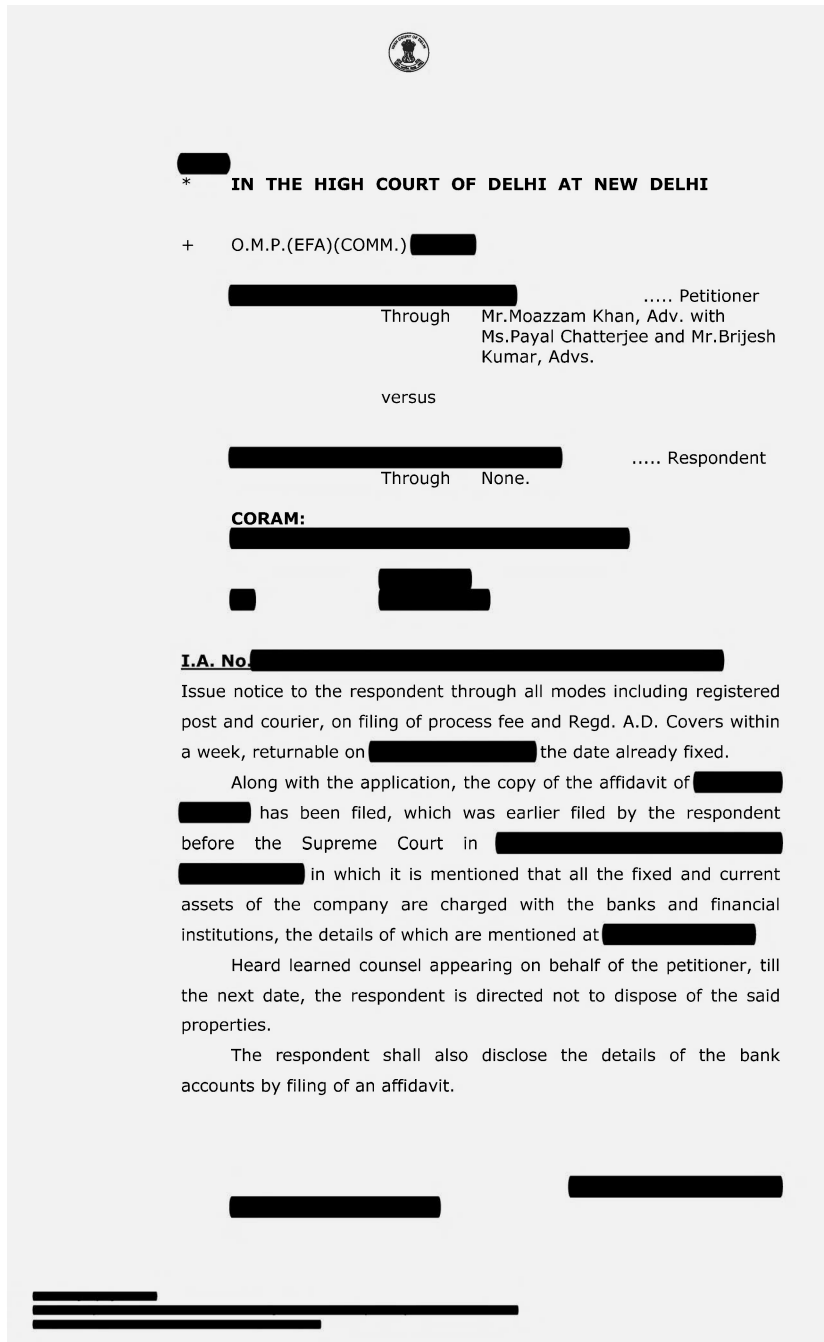
An illustrative order obtained in the initial hearings for enforcement of a domestic award, granting disclosure of assets and restraining the transfer/ alienation of assets is set out below:



An illustrative order obtained in the initial hearings for enforcement of a foreign award, granting disclosure of assets and restraining the transfer/alienation of assets is set out below:




An illustrative order obtained in the initial hearings for enforcement of a foreign award, granting disclosure of assets and restraining the transfer/alienation of assets is set out below:



Our Expertise

An illustrative order granting attachment of properties is set out below:




IN THE HIGH COURT OF DELHI AT NEW DELHI
 + [Redacted] Decree Holder
 Through: [Redacted] Mr Moazzam Khan and Mr Brijesh Kumar, Advocates.
 versus
 [Redacted]

CORAM:
 [Redacted]

1. The learned counsel for the Decree Holder has handed over a statement culled out from all the affidavits filed by the Judgment Debtors, which indicates that several of the Judgment Debtors hold shares in various companies. However, the necessary details whether the shares are held in DEMAT account or in physical form, are not indicated. In the event, the share scrips are held in the physical form, the Judgment Debtors are directed to deposit the share certificates with the Registrar General of this Court, within a period of one week from today. In the event, the shares are held in fungible form (dematerialised form), the Judgment Debtors are also directed

[Redacted Signature]



to file an affidavit disclosing all the details including the details of the Depository Participant and the DEMAT account number.


2. The affidavits filed by the Judgment Debtor No.2 indicates that he owns a property consisting of land and residential house bearing [Redacted] and the land measuring [Redacted] situated in [Redacted]

3. The Judgment Debtor Nos. 3 & 13 have disclosed that they are owners of [Redacted] situated in the revenue estate of [Redacted]

4. The Judgment Debtor No. 9 is stated to be the owner of the property bearing [Redacted]

5. Warrants of attachment are directed to be issued in respect of the aforementioned immovable properties. The attachment shall also be executed by beat of drums, at least for one hour.

[Redacted Signature]



7. The affidavit of JD No.2 discloses that he owns and possesses a Vehicle of BMW make bearing registration No. [Redacted]. The affidavit filed by JD No.7 indicates that JD No.7 owns vehicles of the written down value of [Redacted] who has affirmed the affidavit on behalf of JD No. 7 states that the said amount reflects the written down value of three vehicles: one is Mahindra XUV and the other is Mercedes and he is not aware of the make or the details of the third vehicle. [Redacted] is directed to file an affidavit disclosing complete details of the vehicles, within a period of one week from today.


8. [Redacted] Advocate (Mobile No. [Redacted]) is appointed as the Court Commissioner to take possession of the above vehicles. The Court Commissioner shall have the vehicles valued and release the vehicles on *superdari* to the respective Judgment Debtors.

9. The affidavits of Judgment Debtor Nos. 2 and 11 also disclose certain jewellery and precious metal. The Court Commissioner is also directed to take possession of the said jewellery and precious metal. He shall have the photographs of the same taken and have the same valued by an approved valuer. Thereafter, the jewellery and the precious metal shall be returned on *superdari* to the respective Judgment Debtors. The Judgment Debtors are directed to cooperate for the aforesaid purposes.

10. The Court Commissioner is entitled to take police assistance for recovering the possession of the assets. The Court Commissioner shall submit a report before the next date of hearing.

11. The fees of the court commissioner is fixed at [Redacted]. In the first instance, the same shall be borne by the Decree Holder along with other

[Redacted Signature]



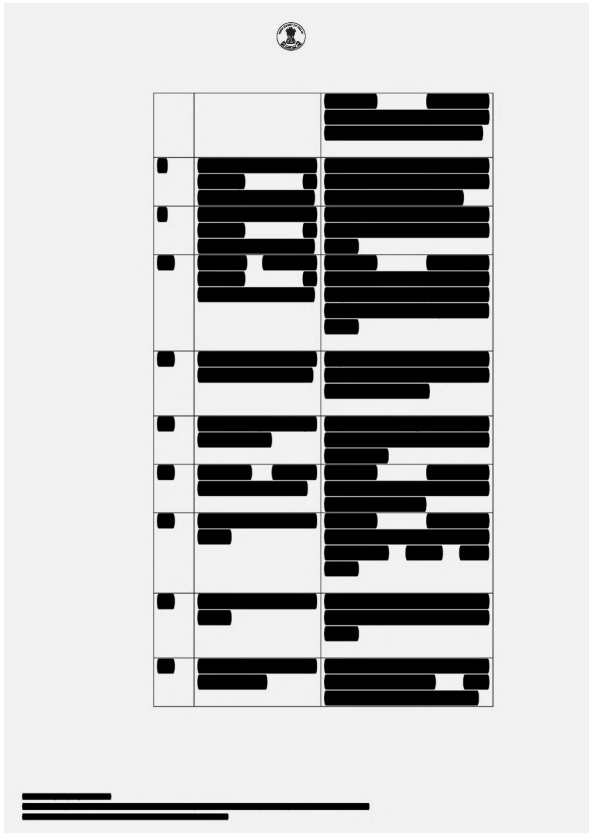
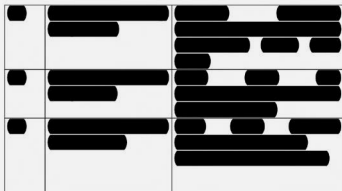
expenses. The same shall be recovered from the sale of assets of the Judgement Debtors.

12. Warrants of attachment be also issued in respect of the bank accounts of the Judgment Debtors. The details of the bank accounts are as under:-

JD 2	Account No
[Redacted]	[Redacted] New Delhi
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]

[Redacted Signature]

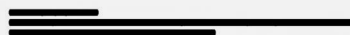

Our Expertise

13. On the strength of this order, the respective banks shall remit the amounts lying to the credit of the respective Judgment Debtors in the abovementioned accounts, to the credit of the account of the Decree Holder, the details of which are as under.

Name of the Bank	Account Holder	Bank Account No.	IFSC Code
[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]

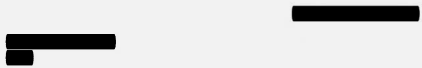

14. This Court is of the *prima facie* view that the details of the assets have been wilfully withheld by the Judgment Debtors as repeated opportunities have been granted to the Judgment Debtors to disclose complete details of their assets. As indicated above, the necessary details have not been provided. A Final opportunity is granted to the Judgment Debtors to make a clear and candid disclosure of their assets with full particulars which would enable this Court to identify the assets for the purposes of attachment and

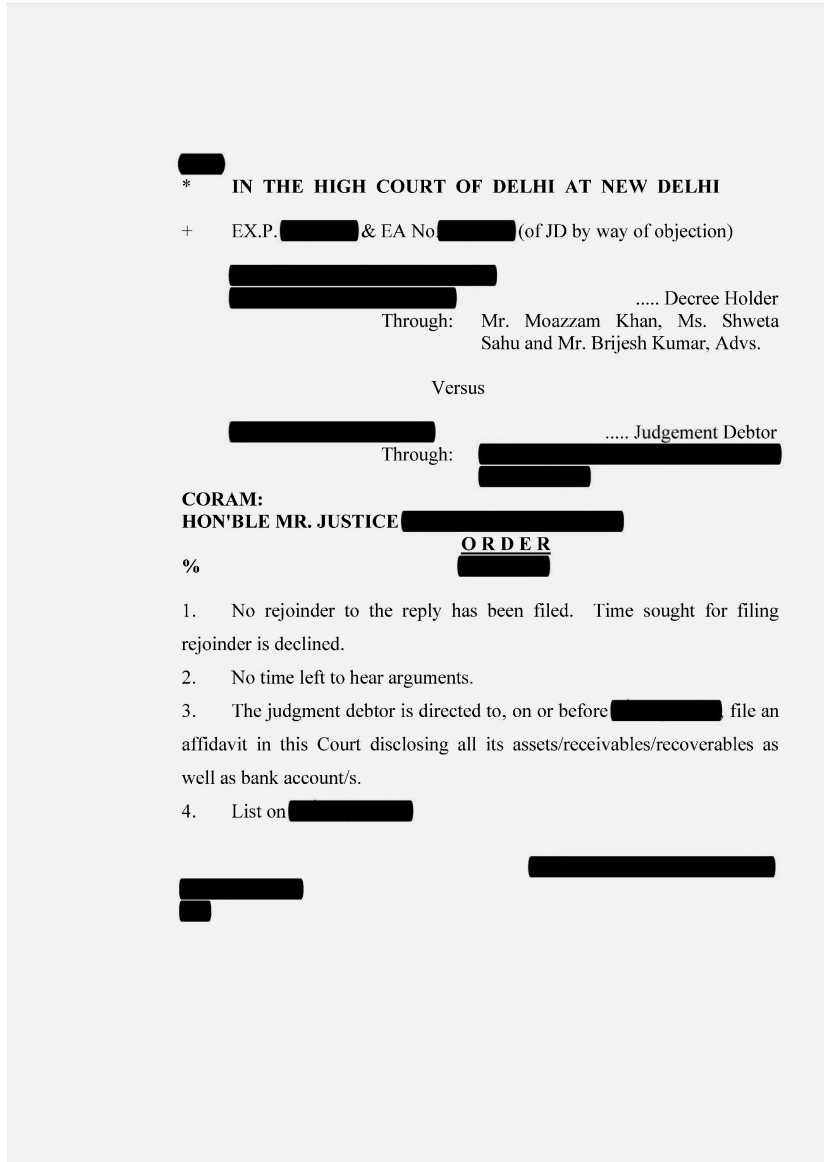
sale. The Judgment Debtors are cautioned that the failure to do so would invite this court to take a serious view.

15. The Judgment Debtor No.2 and 3 shall be present in the Court on the next date of hearing for examination.

16. List on [Redacted]

An illustrative order obtained in the initial hearings for enforcement of a foreign judgment, granting disclosure of assets is set out below:



Our Expertise

An illustrative order granting attachment of properties in the course of enforcement of a foreign judgment is set out below:

* IN THE HIGH COURT OF DELHI AT NEW DELHI
 + EX.P. [REDACTED]
 [REDACTED]
 Through: [REDACTED] Decree Holder
 [REDACTED] Mr. Moazzam Khan,
 Advocate, Ms. Shweta Sahu,
 Advocate [REDACTED]
 versus
 [REDACTED] Judgement Debtor
 Through: [REDACTED]
 [REDACTED]
CORAM:
HON'BLE MR. JUSTICE [REDACTED]
ORDER
 %
 1. This execution petition is filed by the decree holder [REDACTED] seeking execution of the judgment passed by the High Court of Republic of Singapore for [REDACTED] alongwith [REDACTED]. This judgment and decree which is sought to be executed reads as under:-
 " **JUDGMENT**
 [REDACTED]

[REDACTED]

sd/-
[REDACTED]
SINGAPORE"

2. As per the execution petition filed for the aforesaid judgment and decree, as on the date of filing of the execution petition, approximately a sum of [REDACTED] was payable as principal and [REDACTED] was payable towards interest. Interest has thereafter to be added on the principal amount at [REDACTED]

3. This matter has been coming up before this Court from [REDACTED] and whereafter efforts were made to see if the judgment debtor can give some security for being attached for satisfaction of the subject judgment and decree, however in spite of taking repeated adjournments, the

judgment debtor company has not given any security to the decree holder being available for satisfaction of the judgment and decree. The judgment debtor was giving a corporate guarantee, and which is neither here nor there, inasmuch as what a corporate guarantee can do unless it is secured by properties, whether immovable or movable.

4(i) Today, learned senior counsel for the judgment debtor sought to argue [REDACTED] this Court should not proceed ahead for attachment.

(ii) I reject this argument as completely frivolous firstly because if the judgment debtor was *bonafide* there was no reason why the judgment debtor company, [REDACTED] should not have given the necessary security for attachment for the decree holder towards the subject judgment and decree. Secondly, [REDACTED] but that does not mean that what are the dues of a decree holder under a judgment and decree which is executed, and which is being executed under Section 44A CPC in

this case, should not be payable.

5. Accordingly, since there is no stay of operation of the subject judgment and decree [REDACTED] passed by the High Court of Republic of Singapore, and which is being executed by this Court under Section 44A CPC with Singapore being a reciprocating territory, therefore, the following properties of the judgment debtor company are attached:-

"Bank Accounts (other than Credit Attachment)

Sr. No.	Details of banks in Delhi	Account No.	Amount (INR)	References
1.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Our Expertise

3.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

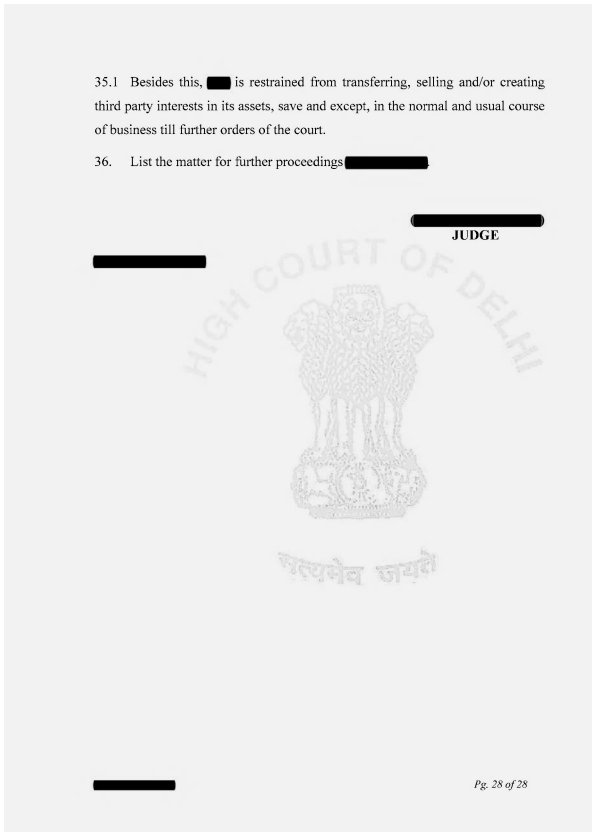
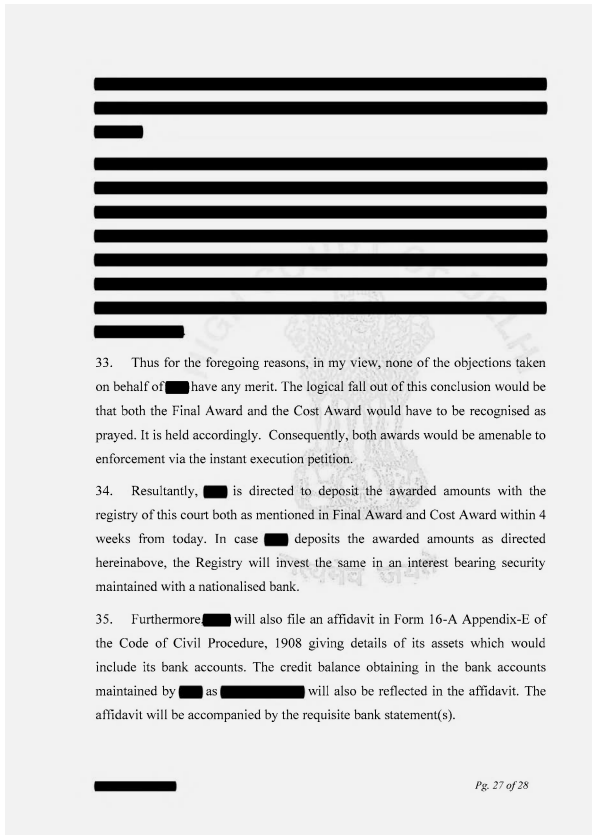
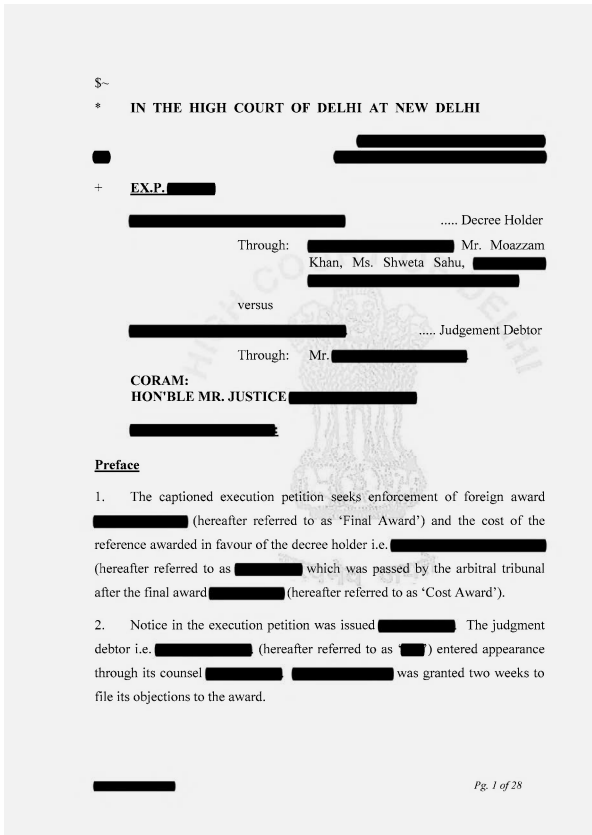
4.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
5.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

6. The warrants of attachment be issued with respect to aforesaid properties on the decree holder filing process fee by today and Registry is directed to ensure that necessary warrants of attachment qua the aforesaid properties being the Bank Accounts and Trade Receivable/Book Debts are issued in favour of the decree holder by tomorrow. Warrants of attachment be issued, returnable on [REDACTED]

[REDACTED] [REDACTED]

Our Expertise

An extract of an illustrative order recognizing a foreign award is set out below:



Enforcement of Awards and Execution of Decrees

Foreign and Domestic

A few of the clients that we have represented/are representing:

- The world's second largest oilfield services company in the enforcement of an award passed in a London seated arbitration conducted as per UNCITRAL Rules. This matter was handled entirely by NDA's internal Advocacy Unit out of New Delhi. Within one month of initiating the said proceedings, we secured favourable orders directing disclosure (of assets, bank accounts etc.) and the opposite party was restrained by the Court from alienating any of its assets thus securing the award amounts.
- A Singapore entity in the enforcement of an international commercial arbitration award passed in India against an Indian listed entity. This matter was handled by NDA's internal Advocacy Unit out of New Delhi. Within one month of initiating the said proceedings, we secured favorable orders directing disclosure (of assets, bank accounts etc.,) and the opposite party was restrained by the Court from alienating any of its assets thus securing the award amounts.
- An Indian fund in the enforcement of a domestic award in an ad hoc arbitration against an Indian public listed infrastructure company and its promoters. This matter was handled by NDA's internal Advocacy Unit out of New Delhi. On the first hearing of the matter, we secured favorable orders directing disclosure (of assets, bank accounts, tax returns etc.,) and the opposite parties were restrained by the Court from alienating any of its assets thus securing the award amounts and costs were imposed. Subsequent appeals by the opposite parties before a Division Bench of the Delhi High Court were dismissed. Thereafter, we obtained an order for attachment of immovable as well as movable properties of the opposite parties.
- A Swiss multi-national commodity trading and mining company against an Indian public company in enforcement of a Singapore-seated SIAC award. In this matter, favourable orders were obtained for recognition and enforcement of the award along with directions to the judgment-debtor deposit the respective award amount.
- A Korean conglomerate in enforcement of an award passed in an Austria seated ICC arbitration against an Indian public listed company. The matter was handled at all stages by NDA's Internal Advocacy Unit out of New Delhi and comprised of several related and on-going litigations, each dependent on the success of the other – initiated by the opposite party aimed at scuttling the realization of the awarded amounts by our clients. The synchronized strategy adopted by us at all levels in India, Korea as well as other jurisdictions where the Award was sought to be enforced, enabled us to successfully stem the attempts made by Indian Award debtor seeking to restrain our client from pursuing enforcement of the Award in a foreign jurisdiction through an injunction order from an Indian Court. Our concerted efforts ultimately resulted in a settlement where the opposite party paid the entire awarded amount to our client.
- A Japanese entity in enforcement in India of a multi-billion-dollar arbitral award delivered in Singapore arising out of the biggest M&A transaction in India;
- A Finnish Fund before Indian courts for enforcement of an award issued in a Finland-seated arbitration administered under the Rules of Arbitration Institute of the Finland Chambers of Commerce;
- An Indian joint venture partner against a large foreign multinational to resist enforcement of a multi-million dollar award arising from an arbitration under LCIA Rules;
- Enforcement in India of awards and judgments issued by Dubai International Financial Centre (“**DIFC**”) Courts and executing a unique memorandum of guidance on execution of DIFC Court Judgments in India with the Chief Justice of the DIFC Courts;

Our Expertise

- One of the largest natural resource companies in an action for enforcement of a judgment of Singapore court in India against a large public sector undertaking;
- A Saudi-based fund in enforcement of a multi-million dollar domestic award against the Indian promoters;
- A Singapore-based insurance company in enforcement of a judgment of Singapore High Court of over INR 1 billion against an Indian listed entity;
- An Indian (FinTech: Banking and Payment Software Solutions Co.) company in proceedings before the Mauritius Supreme Court & Privy Counsel for setting aside a multi-million-dollar arbitration award seated in Mauritius;
- The world's largest Art Fund before various courts including Supreme Court of India in a matter concerning enforcement of multi-million-dollar judgment of Commercial Courts, United Kingdom;
- A US-based company involved in the gaming industry for enforcement of an AAA arbitral award passed in US against a Mumbai based leading gaming entity;
- A leading Japanese company for enforcement of Singapore-seated, multi-million-dollar ICC arbitral award in India.

About NDA

At Nishith Desai Associates, we have earned the reputation of being Asia's most Innovative Law Firm — and the go-to specialists for companies around the world, looking to conduct businesses in India and for Indian companies considering business expansion abroad. In fact, we have conceptualized and created a state-of-the-art Blue Sky Thinking and Research Campus, Imaginarium Aligunjan, an international institution dedicated to designing a premeditated future with an embedded strategic foresight capability.

We are a research and strategy driven international firm with offices in Mumbai, Palo Alto (Silicon Valley), Bengaluru, Singapore, New Delhi, Munich, and New York. Our team comprises of specialists who provide strategic advice on legal, regulatory, and tax related matters in an integrated manner basis key insights carefully culled from the allied industries.

As an active participant in shaping India's regulatory environment, we at NDA, have the expertise and more importantly — the VISION — to navigate its complexities. Our ongoing endeavors in conducting and facilitating original research in emerging areas of law has helped us develop unparalleled proficiency to anticipate legal obstacles, mitigate potential risks and identify new opportunities for our clients on a global scale. Simply put, for conglomerates looking to conduct business in the subcontinent, NDA takes the uncertainty out of new frontiers.

As a firm of doyens, we pride ourselves in working with select clients within select verticals on complex matters. Our forte lies in providing innovative and strategic advice in futuristic areas of law such as those relating to Blockchain and virtual currencies, Internet of Things (IOT), Aviation, Artificial Intelligence, Privatization of Outer Space, Drones, Robotics, Virtual Reality, Ed-Tech, Med-Tech and Medical Devices and Nanotechnology with our key clientele comprising of marquee Fortune 500 corporations.

The firm has been consistently ranked as one of the Most Innovative Law Firms, across the globe. In fact, NDA has been the proud recipient of the Financial Times–RSG award 4 times in a row, (2014-2017) as the Most Innovative Indian Law Firm.

We are a trust based, non-hierarchical, democratic organization that leverages research and knowledge to deliver extraordinary value to our clients. Datum, our unique employer proposition has been developed into a global case study, aptly titled 'Management by Trust in a Democratic Enterprise,' published by John Wiley & Sons, USA.

Research@NDA

Research is the DNA of NDA. In early 1980s, our firm emerged from an extensive, and then pioneering, research by Nishith M. Desai on the taxation of cross-border transactions. The research book written by him provided the foundation for our international tax practice. Since then, we have relied upon research to be the cornerstone of our practice development. Today, research is fully ingrained in the firm's culture.

Over the years, we have produced some outstanding research papers, reports and articles. Almost on a daily basis, we analyze and offer our perspective on latest legal developments through our "Hotlines". These Hotlines provide immediate awareness and quick reference, and have been eagerly received. We also provide expanded commentary on issues through detailed articles for publication in newspapers and periodicals for dissemination to wider audience. Our NDA Labs dissect and analyze a published, distinctive legal transaction using multiple lenses and offer various perspectives, including some even overlooked by the executors of the transaction. We regularly write extensive research papers and disseminate them through our website. Our ThinkTank discourses on Taxation of eCommerce, Arbitration, and Direct Tax Code have been widely acknowledged.

As we continue to grow through our research-based approach, we now have established an exclusive four-acre, state-of-the-art research center, just a 45-minute ferry ride from Mumbai but in the middle of verdant hills of reclusive Alibaug-Raigadh district. Imaginarium AliGunjan is a platform for creative thinking; an apolitical ecosystem that connects multi-disciplinary threads of ideas, innovation and imagination. Designed to inspire 'blue sky' thinking, research, exploration and synthesis, reflections and communication, it aims to bring in wholeness — that leads to answers to the biggest challenges of our time and beyond. It seeks to be a bridge that connects the futuristic advancements of diverse disciplines. It offers a space, both virtually and literally, for integration and synthesis of knowhow and innovation from various streams and serves as a dais to internationally renowned professionals to share their expertise and experience with our associates and select clients.

We would love to hear from you about any suggestions you may have on our research publications. Please feel free to contact us at research@nishithdesai.com.

Recent Research Papers

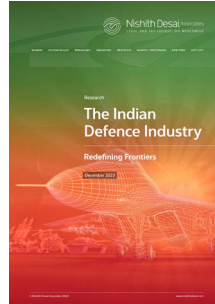
Extensive knowledge gained through our original research is a source of our expertise.



December 2023

Prevention of Sexual Harassment at the Workplace (POSH)

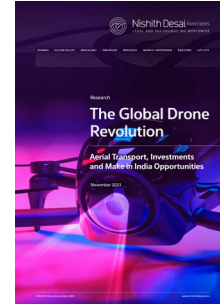
India Legal & HR Considerations



December 2023

The Indian Defence Industry

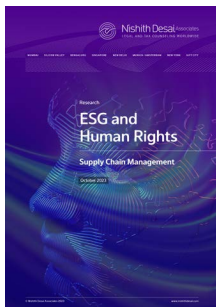
Redefining Frontiers



November 2023

The Global Drone Revolution

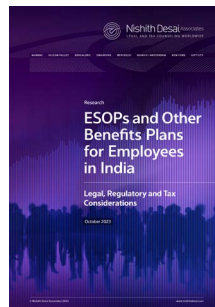
Aerial Transport, Investments and Make in India Opportunities



October 2023

ESG and Human Rights

Supply Chain Management



October 2023

ESOPs and Other Benefits Plans for Employees in India

Legal, Regulatory and Tax Considerations



October 2023

Private Equity and Private Debt Investments in India

Regulatory, Legal and Tax Overview

For more research papers [click here](#).



Nishith Desai Associates
LEGAL AND TAX COUNSELING WORLDWIDE

MUMBAI

93 B, Mittal Court, Nariman Point
Mumbai 400 021, India
Tel +91 22 6669 5000

SILICON VALLEY

220 S California Ave., Suite 201
Palo Alto, California 94306, USA
Tel +1 650 325 7100

BENGALURU

Prestige Loka, G01, 7/1 Brunton Rd
Bengaluru 560 025, India
Tel +91 80 6693 5000

SINGAPORE

Level 24, CapitaGreen
138 Market St
Singapore 048 946
Tel +65 6550 9855

MUMBAI BKC

3, North Avenue, Maker Maxity
Bandra-Kurla Complex
Mumbai 400 051, India
Tel +91 22 6159 5000

NEW DELHI

13-H, Hansalaya Building, 15
Barakhamba Road, Connaught Place
New Delhi 110 001, India
Tel +91 11 4906 5000

MUNICH / AMSTERDAM

Maximilianstraße 13
80539 Munich, Germany
Tel +49 89 203 006 268

NEW YORK

1185 6th Avenue, Suite 326
New York, NY 10036, USA
Tel +1 212 464 7050

GIFT CITY

408, 4th Floor, Pragya Towers
GIFT City, Gandhinagar
Gujarat 382 355, India

Enforcement of Arbitral Awards and Decrees in India
Domestic and Foreign