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A Study on the Arbitrability of Disputes in India

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ABSTRACT

'Arbitrability' refers to the question of whether a particular dispute can be settled through the methods of alternate dispute resolutions, particularly arbitration or not.

The Arbitration and Conciliation Act, 1996 does not specifically provide which cases are arbitrable and which cases are not. However, the Indian Judiciary has been given a wide range of powers to define arbitrability of a case, keeping in mind the circumstances of the case. While determining the arbitrability of a dispute, the courts will have to keep in mind the public policy doctrine i.e., the courts have to keep in mind that the approval for arbitration of a case, and the subsequent award should not be against public policy.

This paper shall discuss the concept of Arbitrability and deal with the jurisdiction of the Arbitral tribunal to try disputes in general as well as with respect to intellectual property rights, all in relation with public policies. The scope of arbitrability of disputes shall be analysed with the help of various judgments, particularly the landmark Booz Allen case, that established the test of 'right in rem' and 'right in personam' to determine the arbitrability of disputes and the Vidya Drolia case which gave a four-fold test to determine the arbitrability of disputes.

Keywords: *Arbitrability, Disputes, Public Policy, Intellectual Property Rights, Indian Judiciary.*

I. INTRODUCTION

(A) Purpose of study

The purpose of study of this topic 'arbitrability of disputes' is to gain an understanding of the concept of arbitrability in relation with public policy

This research aims at recognizing and understanding the kinds of cases that can and cannot be tried under arbitration, as elaborated in landmark judgements pronounced by the Indian judiciary.

This paper also aims to understand the arbitrability of intellectual property rights' related disputes.

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(B) Introduction of the topic

Over the last two decades, India has seen an emergence in alternate dispute resolutions, particularly that of arbitration, on account of factors like socio-economic and political reforms and various judicial precedents. However, although arbitration is picked over other Alternate dispute resolutions as the most preferred option, it is still important to know what kind of cases are arbitrable.

In layman's terms, Arbitration involves procedures like mediation and negotiation etc, but on a larger spectrum, 'Arbitrability' means whether or not a particular dispute can be settled in an arbitral tribunal, and whether the tribunal has the jurisdiction to deal with the subject matter.

The Arbitration and Conciliation Act, 1996 ("Act") does not specifically mention which disputes are arbitrable or not, but Sections 2(3), 34(2)(b), 48(5) indirectly deal with subject matter of disputes which are not arbitrable.

According to Section 2(3) of the Act, "certain disputes may not be submitted to arbitration". Sections 34(2)(b) and 48(2) further provide for the revocation and refusal to enforce an arbitral award if "the subject-matter of the dispute is not capable of resolution by arbitration under the law". As a result, this subject appears to have been left to the Indian judiciary's interpretation of the matter, which has occasionally resulted in conflicting verdicts.

It is also pertinent to note that the Act does not define the scope of arbitrability of Intellectual property Rights' related disputes. It has been determined by a series of judgements given by the Indian courts.

(C) Overview of theoretical concepts

1. **Arbitrability** – This term has not been specifically defined in the Arbitration and Conciliation Act, 1996, but it is a fundamental concept of arbitration which relates to the subject matter of a dispute that the arbitration tribunal has the jurisdiction to try.
2. **Dispute** – A dispute in arbitration means a dispute, claim or cause of action arising out of the breach of an Arbitration Agreement between two parties. This term has not been defined in the Act, and is decided by the courts after perusing the facts of the case . However, it is pertinent to note that, whatever be the dispute, only a dispute of civil nature can be referred to arbitration.
3. **Arbitration Agreement**- An arbitration agreement is a contractual agreement between parties wherein they agree to resolve any disputes arising between them through arbitration rather than pursuing litigation in courts. This is given in Section 7 of the

Arbitration and Conciliation Act, 1996.

4. **Public Policy** – The Arbitration and Conciliation Act, 1996 does not define what a Public Policy is, however, it can be described as matters concerning the public that are good and beneficial for them. Anything that hurts the sentiments of the public, shall be deemed to be against the public policy. Thus, this term has a wide meaning and is open to interpretation.
5. **Intellectual Property Rights** - Intellectual Property Rights (IPR) refer to the legal rights granted to individuals or entities to protect their creations or inventions. These rights are designed to encourage innovation and creativity by providing creators with exclusive control over the use of their intellectual creations.

(D) Environmental Analysis

1. **Social** – Arbitration as a means of dispute resolution should be made aware to the general public, so as to initiate fair disposal of cases while simultaneously reducing the burden on courts.
2. **Political** – A positive interpretation of the term ‘arbitrability of disputes’ can help the government in strengthening the existing act. Also, a clear understanding of arbitrable disputes can help in focussing on economic development of the nation through policies introduced by the government
3. **Historical** – Arbitrability of disputes as a concept has had judicial precedence as it is a dynamic concept and has been open to interpretation through time in many landmark cases.
4. **Educational** – The concept of arbitration and subsequently understanding the kinds of disputes that can be arbitrated or not is very important for the entire judicial system, not only law students as it helps speed up the process of settling the dispute. Thus, in order to intellectually understand and accept of this topic, it is important that a favourable and positive interpretation of the term ‘arbitrability of disputes’ is made by the Indian Judiciary.

(E) Review of literature

- a) In *Arbitrability of Disputes in India*² authored by *Chirag Balyan*, the topic of

² Chirag Balyan, *Arbitrability of Disputes in India*, SSRN, (26 Nov, 2023, 7:16PM) <https://deliverypdf.ssrn.com/delivery.php?ID=87310208808212101410701608908509007106302207208705801107607400907808201406708711101406200001802202404705508001500102411806510210706909000605411410411208706801102709800006909411312300202900000411006812508109012700706701801109111908806>

Arbitrability of disputes has been covered in an exhaustive and comprehensive manner by discussing the Booz Allen case and the Vidya Drolia case in detail. However, this article does not have proper bifurcation of topics and is mixture of a cluster of themes, ranging from international arbitrability to the landmark judgements pronounced by the Supreme Court of India.

- b) The article *Decoding Arbitrability and Determining the Boundaries of Arbitration in Indian Jurisprudence*³ written by *Vasanth Rajasekaran* has explained the concept of Arbitration really well, along with giving a detailed explanation of the landmark judgements and the co-dependence of arbitrability of disputes and public policy. Although easy to understand, the article lacked the proper justification of the title and seemed to end abruptly.
- c) *Arbitrability Of Intellectual Property Disputes In Indian Context*⁴ *Mr. Kushagra Sharma, Ms. Shivangi Sinha, Mr. Vaibhav Mahadeo Bhagat*, gives the details of Intellectual property rights related disputes, and puts forth the various judgements that led to the recent conclusion by the Supreme Court that IPR related disputes can be arbitrated.

(F) Gap Analysis

This research paper has attempted make a general understanding of the topic of arbitrability of disputes in India, and thus true to its name, the research has been limited to disputes in India, and has not dwelled into comparison of the same with foreign countries. Moreover, since this concept of arbitrability is very dynamic and is open to interpretation by the judiciary, there has been no inclusion made (if any) of any recent relevant judgements.

(G) Research Questions

1. What type of cases that can be tried under arbitration?
2. What is the test of arbitrability?
3. Can disputes regarding IPR be arbitrated?

4123124064121088121&EXT=pdf&INDEX=TRUE

³ Vasanth Rajasekaran, *Decoding Arbitrability and Determining the Boundaries of Arbitration in Indian Jurisprudence*, SCC ONLINE, 2023 SCC OnLine Blog Exp 57, (26 Nov, 2023, 8:29PM) <https://sconline.com/blog/post/2023/07/07/decoding-arbitrability-and-determining-the-boundaries-of-arbitration-in-indian-jurisprudence/#fn2>

⁴ Mr. Kushagra Sharma, Ms. Shivangi Sinha, Mr. Vaibhav Mahadeo Bhagat, *Arbitrability Of Intellectual Property Disputes In Indian Context*, 12 IJERT, 2023 https://www.researchgate.net/publication/373756571_Arbitrability_Of_Intellectual_Property_Disputes_In_Indian_Context

(H) Research Methodology

The research methodology adapted for this paper is the secondary source of research only. This paper shall contain information obtained from reliable, original sources online, including those of case laws and statutes, which will be analysed in comprehensively.

(I) Objective of study

1. To learn in depth about the concept of arbitrability of disputes in India, its emergence and its dynamism that has led its evolution through multiple landmark judgments from the Indian judiciary.
2. This paper aims at distinguishing the kinds of cases that can be tried under arbitration and those which cannot.
3. The objective of this topic is also to understand the arbitrability of intellectual property rights' related disputes.

(J) Scope of study

This paper will analyse the concept of 'arbitrability of disputes in India', and examine how the law defines and interprets the same with the help of landmark judgements that have aided in shaping the jurisprudence of arbitration. This paper shall also mention the types of disputes that are not arbitrable, and shall also analyse the role of public policy in determining arbitrability of a dispute.

The scope of study of this topic will majorly include an analysis of the landmark cases and its judgements that laid foundation to determine the kinds of cases that can be arbitrated and not.

This paper shall also include study on the arbitrability of Intellectual Property Rights' relate disputes, as it is an up-and-coming relevant subject in the present scenario and has also gone through a series of judgements due to its complex nature.

(K) Limitation of study

This research paper is largely construed upon the secondary sources of information and has based its reliance on articles from online sources. Also, this topic 'arbitrability of disputes' is subject to evolution as, the Arbitration and Conciliation Act, 1996 is always open to amendments by keeping in mind the interest of the public.

This study, however is mainly focused on the arbitrability of domestic disputes only, and thus has little to no mention of international disputes and its arbitration. Since public policies are bound to change with changing times, the meaning of arbitrability of disputes is also bound to

be interpreted accordingly.

II. FINDINGS AND ANALYSIS

(A) Concept of arbitrability and public policy

The traditional form of dispute resolution is litigation, which is an extremely lengthy and tedious process, often overburdening the Indian judiciary. Thus, the desire for a quick and speedy disposal of cases leads to parties to look for alternate methods of dispute resolution, the most populous of which is Arbitration. It is a process through which parties aim at settling their dispute, with the help of third person called the Arbitrator.

A formal statute relating to Arbitration was formed on the basis of the UNICITRAL model of International Commercial Arbitration, 1985, known as the Indian Arbitration and Conciliation Act, 1996.

The key objectives of this Act are:

1. to reduce the courts intervention,
2. provide speedy disposal of cases
3. cost effective proceedings
4. ensuring the proceedings are conducted in a just and fair manner, by the inclusion of an unbiased third party i.e., Arbitrator
5. allowing the Arbitral Award to have the same value as a decree of the court.

The Act, however does not specify anywhere what kind of disputes can be arbitrated. It only specifies that It simply states that if an award is made in a matter that is unlikely to be resolved through arbitration, it must be set aside. This brings the focus on a limitation of the Act.

The concept of Arbitrability involves determining the types of disputes that can be subjected to arbitration , and those disputes on which courts have exclusive jurisdiction to adjudicate upon.

Public policy is similar to policy of the law, and hence any act committed by anyone that is damaging or harmful to the interest of the public, will be considered as against the public policy.

Public policy, akin to Arbitrability, is not specifically defined under the Act, however, the following maybe considered to be in contravention of public policy, if the arbitral award was against:

1. Fundamental Policy of the Indian Law
2. The interest of India

3. Justice or morality
4. Patently illegal

In the case of *Renusagar Power Co. Ltd v. General Electric Co*⁵, the Supreme Court held that the term ‘Public Policy’ has a much wider meaning for a domestic award as compared to a foreign award.

The concept of ‘Public Policy’ implies what is good for the public or what is in public’s interest or what would be injurious or harmful for the public. Thus, an act in violation of law would be considered against the ‘Public Policy’

Therefore, the arbitrator/ arbitral tribunal, while declaring the award for the settlement of dispute, should ensure that it is not against public policy.

(B) Test of Arbitrability

a. Pre Vidya Drolia Case

Prior to the landmark case of *Vidya Drolia and Others v Durga Trading Corporation*⁶, in the case of *Booz Allen & Hamilton Inc. v. SBI Home Finance Ltd*⁷, the Supreme Court dealt with different aspects of ‘arbitrability’. It laid down the following tests to determine whether the matter should be decided *public fora* or *private fora* i.e., whether it should be adjudicated on a public forum in the court or settled in a private forum through arbitration:

1. **Nature of Dispute Test:** According to the court, “*Generally and traditionally all disputes relating to rights in personam are considered to be amenable to arbitration; and all disputes relating to rights in rem are required to be adjudicated by courts and public tribunals, being unsuited for private arbitration.*”⁸.

In simpler words, disputes dealing with ‘*rights in rem*’ which means right available against the world at large, is not arbitrable whereas disputes dealing with ‘*rights in personam*’ which means rights available against a particular individual, is arbitrable.

2. **Relief Test:** whether the relief sought before the arbitral tribunal can be granted by it or by a special court. The court stated that “*the types of remedies which the arbitrator can award are limited by considerations of public policy and by the fact that he is appointed by the parties and not by the state.*”⁹. Thus, the parties can only

⁵1985 AIR SC 1156

⁶ 2020 SCC OnLine SC 10

⁷ CIVIL APPEAL NO.5440 OF 2002

⁸ Booz Allen & Hamilton Inc. v. SBI Home Finance Ltd, para 23

⁹ Booz Allen & Hamilton Inc. v. SBI Home Finance Ltd, para 25

seek those remedies, that are given under the statute.

This case primarily dealt with the question of arbitrability with reference to the enforcement of a bank mortgage by sale. The entire cause of action was based on the enforcement of agreements between the bank and parties.

Here, the Supreme Court examined the question of arbitrability, with respect to (a) whether the subject matter of the dispute is capable of being settled through a private forum; or (b) whether the relief claimed in the dispute can only be granted by a special court or by a tribunal¹⁰.

The Supreme Court observed that any civil or commercial dispute which limited itself to the rights of the parties could be arbitrated upon. However, disputes which pertain to exercise of rights against the world at large were held to be non-arbitrable¹¹

b. Post Vidya Drolia Case

This case dealt with whether landlord-tenant disputes under the Transfer of Property Act, 1882 can be arbitrable or not.

The Supreme Court overruled the decision in *Himangni Enterprises v. Kamaljeet Singh Ahluwalia*¹², in which it stated that landlord-tenant disputes under the Transfer of Property Act, 1882 are not arbitrable. In the aforementioned *Vidya Drolia case*, the court said that landlord-tenant disputes are not action in *rem*, but are actions in *personam* and thus can be arbitrable.

Moreover, Transfer of Property Act, 1882, does not put a bar on settling disputes under arbitration.

The position of Arbitrability was extensively discussed in the case of *Vidya Drolia and Others v Durga Trading Corporation*, that gave the following four-fold test, which will help decide whether the dispute is arbitrable or not:

1. When cause of action and subject-matter of the dispute relates to actions in *rem*, that do not pertain to subordinate rights in *personam* that arise from rights in *rem*.
2. When cause of action and subject-matter of the dispute affects third-party rights, has *erga omnes* effect, requires centralised adjudication, and mutual adjudication would not be appropriate and enforceable.

¹⁰*Supra* Note 5

¹¹ Vasanth Rajasekaran and Harshvardhan Korada, 'Arbitrability' in times of fast emerging techno-centric businesses in India, BUSINESS LINE (May 15, 2022 at 10:00 PM) <https://www.thehindubusinessline.com/business-laws/arbitrability-in-times-of-fast-emerging-techno-centric-businesses-in-india/article65410621.ece>

¹² 2016 SCC ONLINE DEL 6577

3. When cause of action and subject-matter of the dispute relates to inalienable sovereign and public interest functions of the State and hence mutual adjudication would be unenforceable.
4. When the subject-matter of the dispute is expressly or by necessary implication non-arbitrable as per mandatory statute(s)¹³.

The court noted that these tests must be applied cautiously as they are ‘*not watertight apartments*’ and may also overlap¹⁴. The court also stated that, delay tactics should not be undertaken by the parties, and also one party should not force the other to arbitrate the dispute, despite it clearly being non-arbitrable.

By applying the aforesaid tests, the Supreme Court went on to expressly overrule: (1) its 2010 judgment in *N. Radhakrishnan v. Maestro Engineers*¹⁵ and held that allegations of fraud in a civil dispute are arbitrable; (2) the Delhi High Court’s 2012 judgment in *HDFC Bank Ltd. v. Satpal Singh Bakshi*¹⁶ holding that disputes falling under the jurisdiction of the Debt Recovery Tribunal created under the Recovery of Debts Due to Banks & Financial Institutions Act, 1993 are non-arbitrable; and (3) its 2017 judgment in *Himangni Enterprises v. Kamaljeet Singh Ahluwalia*¹⁷ to hold that tenancy disputes under the Transfer of Property Act, 1882 (“Transfer of Property Act”) are arbitrable in as much as there is no exclusive jurisdiction vested in another specific forum to apply and decide any special rights and obligations¹⁸

The Supreme Court also discussed in detail which courts can determine arbitrability of disputes:

1. A court or judicial authority under Section 8 of the Act
2. The Chief Justice or his designate under Section 11 of the Act
3. An Arbitral tribunal which exercises power under Section 16 of the Act

(C) Non Arbitrable Disputes in India

Non-Arbitrability of disputes means those disputes which cannot be subject to the process of arbitration, despite being mentioned in the Arbitration agreement, but instead has to be adjudicated in a competent court.

¹³ *Supra* Note 4

¹⁴ *Supra* Note 3

¹⁵ (2010) 1 SCC 72.

¹⁶ 2012 SCC ONLINE DEL 4815

¹⁷ *Supra* Note 11

¹⁸ Shahezad Kazi and Gladwin Issac, *Supreme Court of India Clarifies ‘What is Arbitrable’ under Indian Law and Provides Guidance to Forums in Addressing the Question*, S&R ASSOCIATES (JANUARY 5, 2021) <https://www.snrlaw.in/supreme-court-of-india-clarifies-what-is-arbitrable-under-indian-law-and-provides-guidance-to-forums-in-addressing-the-question/>

In general, disputes tend to be non-arbitrable in the following cases:

1. Non-existence of arbitration agreement
2. The arbitration agreement being invalid under any applicable law or statute
3. A dispute that falls outside the jurisdiction of arbitration (eg. Criminal cases)
4. Matters concerning public policy under a specific law which bars it from being referred to arbitration
5. Conditions mentioned in the arbitration agreement are not met by either parties

As per the Hon'ble Supreme Court in the *Vidya Drolia Case*, the issue of Arbitrability of disputes can be raised at three stages:

1. **Before the court, under Section 11 (on an application for reference) Section 8 (or stay of pending judicial proceedings and reference) of the Arbitration Act** – the Supreme Court made it clear that the scope of judicial review granted to the courts under section 8 and 11 of the Act is limited and restrictive and the courts, at the referral stage, have to conduct a prima facie review of the dispute, in order to rule out non-arbitrable cases.
2. **Before the Arbitral Tribunal** – an arbitral tribunal is competent and has the authority to decide, within its jurisdiction, any matter that it deems to be non-arbitrable.
3. **Before the court at the stage of the challenge to the award or its enforcement** – the issue of non arbitrability can be raised at the time of appealing or executing the award. For instance, the unilateral appointment of a sole arbitrator (which is void ab initio), and the subsequent award pronounced by him can be challenged at the court or even at the time of executing the award.

The *Booz Allen case* and *the Vidya Drolia case* gave a list of disputes that are non-arbitrable:

1. Insolvency disputes
2. Grant/issue of patents
3. Criminal matters
4. Matrimonial disputes
5. Matters with respect to probate, testamentary will etc
6. Allegation of fraud that invalidates the arbitration agreement
7. Disputes falling under debt recovery tribunal

8. Landlord-tenant disputes under Rent Control legislations are non-arbitrable
9. Dispute under the Trust Act
10. Guardianship dispute
11. Insolvency/ Winding of a company

As an extension to the previously mentioned point, the following types of disputes cannot be subjected to Arbitration:

1. **Criminal Offenses** – offenses that are criminal in nature, usually uphold the interest of the public, and thus, using arbitration as a method of dispute resolution is unfair to the victim as well as the public interest.
2. **Matrimonial Disputes** – regarding dissolution of marriage or restitution of conjugal rights are not arbitrable, however the couple may seek arbitration to determine the terms on which they agree to separate.
3. **Consumer Disputes** – the Supreme Court in the case of *M/s Emaar MGF Land Limited v Aftab Singh*¹⁹ held that consumer disputes have to undergo special proceedings mentioned under the Consumer Protection Act, 1986, and thus are non-arbitrable.
4. **Trust Disputes** – in the case of *Vimal Kishor Shah v Jayesh Dinesh Shah*²⁰, the Supreme Court held that dispute between trustees and beneficiaries with respect to their rights, duties and obligations is a matter fit for adjudication in a civil court and cannot be arbitrated through arbitration proceedings.
5. **Dissolution/ Oppression and Mismanagement of a company** – the NCLT (National Company Law Tribunal) has the judicial authority under section 8 of the Arbitration and Conciliation Act, 1996, which allows the NCLT to refer any matter to arbitration. However, the NCLT may refuse to send matters relation to winding up of a company or matter relation to oppression and mismanagement in a company, to arbitration.
6. **Industrial Disputes** – in the case of *Kingfisher Airlines Limited v Prithvi Malhotra Instructor*²¹, the Supreme Court observed that, disputes under the Industrial Disputes Act, 1947 are non-arbitrable, because it concerns not only one employee, but potentially all the employees, and thus an arbitrator cannot undertake the duty of

¹⁹ (2019) 12 SCC 75

²⁰ (2016) 8 SCC 788

²¹ (2013) (1) AIR Bom R 255

discharging/dismissing an employee. Moreover, industrial dispute resolution is to be specifically undertaken by the authorities mentioned in the Industrial Disputes Act, 1947

7. **Disputes under The Competition Act, 2002** – in the case of *Union of India v Competition Commission of India*²², the Supreme Court held that an arbitral tribunal does not have the competency to look into and adjudicate on the dominant position of a company, and so disputes arising under the Competition Act shall be non-arbitrable.

(D) Arbitrability of Intellectual Property Right (IPR) Disputes

It is often called upon the courts to decide whether disputes regarding Intellectual Property Rights (IPR) are arbitrable or not as such disputes pose a unique challenge. However, a general consensus is that arbitration actually can help in the settlement of disputes regarding IPR, for the following reasons:

1. As courts usually lack the expertise needed to adjudge a case regarding IPR, it seems like a more viable option to opt for arbitration as parties have the authority to appoint an arbitrator who is an expert with knowledge of IPR.
2. The parties can also ensure that their confidential and sensitive information can remain away from the public.
3. As IPR Disputes often span globally, the parties to the dispute, under arbitration have the authority to settle on the seat and venue of arbitration, per their convenience.
4. It also ensures for fast and speedy disposal of the case, by ensuring uninterrupted proceedings to be finished within a specific time period.

However, the courts, across the country deviated from the decision laid down in *the Booz Allen Case*, and in the case of *A. Ayyasamy v. A. Paramasivam*²³, although the case was not related to Intellectual Property, held that, patents, trademarks and copyright are to be “generally treated as non-arbitrable”²⁴. This view has also been reiterated in the cases of *Steel Authority of India Ltd. v. SKS Ispat and Power Ltd*²⁵ and *Sanjay Lalwani v. Joystar Enterprises*²⁶, wherein it was held that trademark and copyright issues are related to rights in rem and thus, are non-arbitrable.

On the flipside, the landmark *Vidya Drolia Case*, reinforced the principles laid down in the *Booz Allen Case*, and stated that there can be an interplay between rights in *rem* and rights in

²² (1999) 6 SCC 667

²³ 2016 AIR SC 4675

²⁴ NLIU CELL FOR STUDIES IN INTELLECTUAL PROPERTY RIGHTS, <https://csipr.nliu.ac.in/intellectual-property/from-booz-to-tobacco-accepting-the-arbitrability-of-ipr-disputes/>, (25 Nov, 2023)

²⁵ 2014 SCC OnLine Bom 4875

²⁶ 2020 SCC ONLINE MAD 2003

personam. Given that IPR is a right in rem, but copyrights and trademarks are rights in *personam*, there is a reciprocity of the two rights, and hence it is not enforceable on third parties. therefore it is arbitrable. This was confirmed in the case of **Golden Tobie (P) Ltd. v. Golden Tobacco Ltd.**²⁷, by the Delhi High Court.

III. CONCLUSION

India being one of the fastest growing economies in the world, requires a stable arbitration law in order to help settle disputes globally as well as nationally. The Arbitration and Conciliation Act, 1996, has undergone multiple amendments particularly in 2015 and 2019, which has slowly but surely laid foundation to India being a pro-arbitration nation.

This largely comes from the wide interpretive powers given to the Apex Court of India, which has interpreted the term ‘arbitrability of disputes’ through various landmark judgments. It can also be observed that there has been a complexity surrounding the arbitrability of IPR disputes, which went through a series of judgements, before finally adapting the principles laid down in the Vidya Drolia case, concluding that IPR disputes are arbitrable.

The Vidya Drolia case is one such landmark case which brings about clarity on arbitrability of landlord-tenant disputes and on the concept of arbitrability in general for various disputes by giving a comprehensive four-fold test to decide on its arbitrariness. The judgment in Vidya Drolia as well as Booz Allen, is a welcome development in the progress of arbitration in India, as it laid out the kinds of disputes that can be arbitrated or not. Moreover, this term is very dynamic in nature and is bound to be subjected to more interpretations in the future.

²⁷ 2021 SCC ONLINE DEL 4506