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International Commercial Arbitration: Preference of the Changing World

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ABSTRACT

Arbitration is an alternative dispute resolution method of settling disputes between parties, contractual or otherwise, without having to go to the court of law. However, the process is governed by a set of rules and regulations. In India, it is governed by the Arbitration and Conciliation Act, 1996 based on the UNCITRAL Model Law. The process of arbitration has gained tremendous popularity over the past few decades. It is a cost and time effective method. It provides for party autonomy. International commercial arbitration aims at resolving commercial disputes that arise between an Indian entity and a foreign entity within the framework of Arbitration laws in India.

The object of this paper is to understand why international commercial arbitration is slowly but surely becoming the preference of the world, it also focuses on the process of international commercial arbitration followed in India and its enforcement by the local courts. This objective has been achieved by putting forward various provisions of the law in force in India relating to Arbitration and some ground breaking judgments which make it easy for us to grasp the working of international commercial arbitration. Further, the arbitration laws of Singapore are also discussed. The smooth working of the SIAC is cited as one of the biggest reasons for the success of arbitration in Singapore.

I. INTRODUCTION

Globalisation has enabled the world to connect and become one as nothing has ever before. People have more opportunities than they can think of and business can now be conducted across borders more easily. Whatever you want, from wherever you want can be available at your doorstep in a few days' time. However, what may look easy on the outside is not all that it seems in reality. Many a time, contracts made between parties are not fulfilled due to one reason or the other which gives reason for disputes. These disputes are not necessarily governed by the laws of a particular country due to the fact that cross boundary transactions had taken place. This is where Arbitration comes into play.

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It is easier for the parties to go for an extra judicial method rather than going to the court of law because firstly, one of the parties to the commercial contract may not be familiar with the laws of the other party's country, for example, one of them could belong to a common law system while the other to a civil law system. Secondly, the process of arbitration is both cost and time effective. Thirdly, in arbitration there is party autonomy involved, i.e., the parties have the freedom to determine the procedure, place, language, etc. relating to the arbitral proceedings. Lastly, it preserves the business relationship between the parties.

Commercial Arbitration is the arbitration by which disputes arising out of business contracts or transactions may be settled out of court by a special tribunal[3].

International Commercial Arbitration (ICA) is an alternative dispute resolution method of resolving disputes between parties arising out of commercial transactions conducted across national boundaries.

Sir Michael John in his widely appreciated work, *Transnational Arbitration in English Law,* stated: "*The essence of the theory of 'transnational arbitration' is that the institution of international commercial arbitration is an autonomous juristic entity which is independent of all national courts and all national systems of law. One of the primary purposes of trans-nationalist movement is to break the links between the arbitral process and the courts of the country in which the arbitration takes place.*"[4]

International Commercial Arbitration was given importance for the very first time in the Resolution on the United Nations Conference on the International Commercial Arbitration in 1958. The inevitable phenomenon of 'development' has engulfed within its fold varied aspects of humanity. The wider diffusion of information in commercial arbitration laws has contributed materially to progress in the field of International Commercial Arbitration. The mélange of the concepts like liberalisation, globalisation, and consumerism has brought in a schematic change in the outlook of trade and its related concepts. Booming, multilateral, bilateral and transnational treaties and policies have made an inevitable impact across frontiers. Thus, international arbitration is considered as an excellent means of settling commercial disputes[5].

II. WHY IS ARBITRATION PREFERRED OVER LITIGATION?

In the process of litigation, the case is taken to court which is eventually decided by a judge.

[3] Merriam-Webster Dictionary, 1st ed., 2016.
[4] Sir Michael John, Transnational Arbitration in English Law, 133, Current Legal Problems, (1984).
[5] P.T. Kamala Priya and S. Karpaga, *International Commercial Arbitration- A New Dimension*, 13 MLJ 203 (2001).

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This is a long-drawn-out process. At times it takes years for a judge to pronounce the verdict and get the case over with. However, this changed when the process of arbitration gained popularity and got incorporated into the laws of different countries. Arbitration proceedings are conducted speedily resolving disputes quickly. Unlike litigation proceedings which are held publicly in a courtroom, arbitration is a private process presided over by an arbitrator who is a neutral third party selected by the parties themselves.

In the process of arbitration, the parties enjoy more freedom. They are more involved in the dispute resolution many times the parties themselves reach a conclusion and agree on a settlement.

III. INTERNATIONAL COMMERCIAL ARBITRATION IN INDIA

The process of arbitration in India is governed by the Arbitration and Conciliation Act, 1996. This Act was enacted keeping in mind the UNCITRAL[6] Model Law. It replaces three old statutes and consists of four parts.

International Commercial Arbitration is defined in India as, *"'international commercial arbitration' means an arbitration relating to disputes arising out of legal relationships, whether contractual or not, considered as commercial under the law in force in India and where at least one of the parties is—*

(i) an individual who is a national of, or habitually resident in, any country other than India; or

(ii) a body corporate which is incorporated in any country other than India; or

(iii) an association or a body of individuals whose central management and control is exercised in any country other than India; or

(iv) the Government of a foreign country[7]."

The term commercial is not defined in the Act itself however various courts have interpreted the meaning of commercial in their own manner.

It was stated in the case of *R.M. Investments & Trading Co. Pvt. Ltd. v. Boeing Co.*[8], that it has to be kept in mind that while construing the meaning of the term 'commercial' the same has to be given the widest possible meaning considering the multifarious operations that are integral to the contemporary practices in the sphere of International Trade.

[6] United Nations Commission on International Trade Law.
[7] The Arbitration and Conciliation Act, 1996, 2 (1) (f).
[8] AIR 1994 SC 1136.

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Similarly, in the case of *Atiabari Tea Company Ltd.* v. *State of Assam*[9], the Supreme Court held that, "The trade and commerce do not mean merely traffic in goods, i.e. exchange of commodities for money or other commodities. In the complexities of modern conditions, in their sweep are included carriage of persons and goods by road, air and water ways, contract, banking and insurance transactions. In stock exchanges and forward communications of information, supply of energy, postal and telegraphic services and many more activities too numerous to be exhaustively enumerated which may be called commercial intercourse."

The essentials that are given in Section 2(1) (f): at least one of the parties to the dispute must be a resident of any country other than India or body corporate which is incorporated in any country other than India or a body of individuals whose central management and control is exercised in a country other than India or a foreign government.

IV. THE PROCESS OF INTERNATIONAL COMMERCIAL ARBITRATION (ICA)

One could go on all day as to why parties are choosing arbitration over going to court nowadays but the biggest reason would be that the process itself is accommodating and is made in such a way that it is highly efficient and effective, at least on paper.

i. Notice of Arbitration

There has to be a starting point of everything for arbitration it is the serving of notice from one party to the other requesting to refer the dispute between them to arbitration. The arbitration proceeding commences when the other party receives the notice of arbitration.

Section 21[10] reads as under:

"Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent."

ii. Referral to Arbitration

Courts can refer parties to arbitration if the agreement between them contains the clause of arbitration to settle the disputes if they were to arise. This is given under Section 8 of the Arbitration and Conciliation Act, 1996.

The Supreme Court in the case of *Zhejiang Bonly Elevator Guide Rail Manufacture Co. Ltd. v. Jade Elevator,*[11]observed that invoking party may invoke an arbitration even when the

[9] AIR 1961 SC 232.
[10] The Arbitration and Conciliation Act, 1996, 21. Ever since the 2015 Amendment Act came into force if the date of commencement is after October 23, 2015 then the provisions of the amended Act will be applicable.
[11] (2018) 9 SCC 774.

dispute settlement clause in the contract grants an option of getting the dispute adjudicated by arbitration or by court.

iii. Interim Reliefs

The Arbitration and Conciliation Act, 1996 provides provision to seek interim relief from courts under Section 9 of the Act and from arbitral tribunals under Section 17 of the Act.

iv. Appointment of Arbitrators

It is at the discretion of the parties to appoint the arbitrator(s) for their dispute. If the parties are unable to do so mutually then the court may allow the parties to appoint one arbitrator each and then these two arbitrators appoint a third one who acts as a presiding arbitrator. If one of the parties fail to appoint an arbitrator within 30 days or the two arbitrators fail to appoint a third one within thirty days then the party can request the Supreme Court or relevant High Court to appoint an arbitrator[12]. The provision for the appointment of arbitrators is given in Section 11 of the Act.

In case of an International Commercial Arbitration, the application for appointment of the arbitrator has to be made to the Supreme Court and in case of domestic arbitration, the respective High Courts having territorial jurisdiction shall appoint the Arbitrator.

v. Challenge to the Appointment of Arbitrator

Section 12 of the Act provides the grounds for challenging the appointment of an arbitrator. It is absolutely necessary for an arbitrator to be impartial and unbiased.

"*An arbitrator may be challenged only if—*

(a) circumstances exist that give rise to justifiable doubts as to his independence or impartiality, or

(b) he does not possess the qualifications agreed to by the parties."[13]

In the case of *Vinod Bhaiyalal Jain v. Wadhwani Parmeshwari Cold Storage Pty*[14], the Supreme Court interpreted the Act to determine that the arbitral award rendered by the appointed arbitrator should be set aside as the Appellants had a reasonable basis to doubt the arbitrator's ability to be independent and impartial in pronouncing the arbitral award.

[12] The Arbitration and Conciliation Act, 1996, 11(6).
[13] The Arbitration and Conciliation Act, 1996, 12(3).
[14] 2019 SCC OnLine SC 904.

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vi. Mandate of the Arbitrators

In the case of *NBCC Ltd. v. J.G. Engineering Pvt. Ltd.*[15], the Apex Court held that the mandate of the arbitrator expires in case an award is not delivered within the time limit stipulated by the parties in the arbitration agreement.

Section 14 and 15 of the Arbitration and Conciliation Act provide on what grounds the mandate of an arbitrator shall terminate.

vii. Challenge to Jurisdiction

Section 16 of the Act gives the Arbitral Tribunal the power to rule on its own jurisdiction which includes ruling on any objections with respect to the existence or validity of the arbitration agreement.

In the case of *S.B.P. and Co. v. Patel Engineering Ltd. and Anr*.,[16] the Apex Court held that where the arbitral tribunal was constituted by the parties without any judicial intervention, the arbitral tribunal could determine all jurisdictional issues by exercising its powers of competence under Section 16 of the Arbitration and Conciliation Act, 1996.

viii. Settlement during Arbitration

The parties may mutually arrive at a settlement even when the arbitration proceedings are underway. If the parties decide on a mutual settlement then the arbitration proceeding is terminated. The arbitral tribunal may also pass a 'consent award', this happens when both the parties and the arbitral tribunal agree and the settlement is recorded in the form of an arbitral award based on the agreed terms.

The provision for settlement is given under Section 30[17]. It reads as under:

"Settlement.—(1) It is not incompatible with an arbitration agreement for an arbitral tribunal to encourage settlement of the dispute and, with the agreement of the parties, the arbitral tribunal may use mediation, conciliation or other procedures at any time during the arbitral proceedings to encourage settlement.

(2) If, during arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.

(3) An arbitral award on agreed terms shall be made in accordance with section 31 and shall

[15] (2010) 2 SCC 385.
[16] 2005 (8) SCC 618.
[17] The Arbitration and Conciliation Act, 1996, 30.

state that it is an arbitral award.

(4) An arbitral award on agreed terms shall have the same status and effect as any other arbitral award on the substance of the dispute."

ix. Arbitral Awards

The decision of the arbitral tribunal is called the arbitral award. It must be in the majority[18]. The arbitral award includes interim awards under Section 2 (c) of the Act. The award must be in writing and must be signed by all the members of the tribunal.

x. Challenge to an Arbitral Award

Section 34 of the Act provides for an application for setting aside an arbitral award. A party can challenge an arbitral award before the expiry of three months from the date of receiving the award. After the period expires, the party can apply for execution of the arbitral award as a decree, however, enforcement is not possible if this period persists.

xi. Enforcement of Foreign Arbitral Awards

Part II of the Act provides for the enforcement of certain foreign awards. Section 44[19] defines foreign award, it reads as under:

"In this Chapter, unless the context otherwise requires, "foreign award" means an arbitral award on differences between persons arising out of legal relationships, whether contractual or not, considered as commercial under the law in force in India, made on or after the 11th day of October, 1960—

(a) in pursuance of an agreement in writing for arbitration to which the Convention set forth in the First Schedule applies, and

(b) in one of such territories as the Central Government, being satisfied that reciprocal provisions have been made may, by notification in the Official Gazette, declare to be territories to which the said Convention applies."

The domestic as well as foreign awards are enforced in the same manner, as a decree of a court in India. This is governed both the by Arbitration and Conciliation Act, 1996 and the Code of Civil Procedure, 1908.

Section 35 of the Act states that an arbitral award shall be final and binding on the parties and persons claiming under them, thus, an arbitral award becomes immediately enforceable unless

[18] The Arbitration and Conciliation Act, 1996, 29.
[19] The Arbitration and Conciliation Act, 1996, 44.

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it is challenged under Section 34.

India is a signatory to the UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958, more commonly known as, the New York Convention, 1958 as well as the Geneva Convention on the Execution of Foreign Arbitral Awards, 1927, also known as, the Geneva Convention, 1927. Sections 44 to 52 of the Arbitration and Conciliation Act, 1996 deal with foreign awards passed under the New York Convention while Sections 53 to 60 of the Act deal with foreign awards passed under the Geneva Convention.

A foreign arbitral award will be enforceable in India if the courts receive an arbitral award from a country that has signed either the New York Convention or the Geneva Convention however, this alone is not required. It is also necessary that the country must be notified as a convention country in India. Till now 48 countries have been notified by the central government of India as reciprocating countries.

Enforcement of foreign awards can only be refused on the grounds mentioned in Section 48 of the Act.

V. LEADING JUDGMENTS ON INTERNATIONAL COMMERCIAL ARBITRATION IN INDIA

(A) Bhatia International v. Bulk Trading SA[20]

In this case, the arbitration proceedings were held in Paris as per the ICC Rules of Arbitration. An application under Section 9 of the Arbitration and Conciliation Act, 1996 was moved for an injunction order restraining the transfer, creation or alienation of third-party rights on the property. It was held that the application was maintainable[21].

The Supreme Court of India held, “the provisions of Part I of the 1996 Act would apply to all arbitrations and to all proceedings relating thereto. Where such arbitration is held in India, the provisions of Part I would compulsorily apply and parties are free to deviate only to the extent permitted by the derogatory provisions of Part I. In cases of International Commercial Arbitrations, held out of India, provisions of Part I would apply unless the parties by agreement, express or implied, exclude all or any of its provisions. In that case, the laws or rules chosen by the parties would prevail. Provisions in Part I of the Act which are contrary to or excluded by that law or rules shall not apply."

[20] (2002) 4 S.C.C. 105, 116.
[21] Anuja B S, *INTERNATIONAL COMMERCIAL ARBITRATION AND INDIAN LAW – NEED FOR REFORMS,* (2021) (LL.M. dissertation, NUALS).

Prior to this settlement, the different High Courts varied in their approach. It was observed by certain high courts that interim measures cannot be granted since the act did not provide for the same[22], while others viewed that since Part I can be applied to outside arbitrations therefore, interim measures could be ordered[23].

This judgment has been criticised by experts from all over the world as 'erroneous' and for spreading 'uncertainty'. It has made way for more doubts and issues.

(B) Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc[24]. (Also known as the BALCO case)

This case was in a way an answer to *Bhatia International v. Trading Bulk SA*. The prior case was overruled by this decision. The new decision reduced Court's intervention in arbitrations seated outside India.

The Supreme Court held that if the seat of arbitration in an international commercial arbitration is outside of India then Part I of the Arbitration and Conciliation Act shall have no applicability, thus, successfully clearing away the doubts that had arisen from the earlier judgment.

The Supreme Court observed the following in this case:

- Section 2(2) of the Arbitration and Conciliation Act, 1996 makes a declaration that Part I shall apply to all arbitrations which take place within India. Part I of the aforementioned Act, therefore, has no application to International Commercial Arbitrations held outside India. Provisions contained in Section 2(2) of the aforementioned Act are not in conflict with any of the provisions of either Part I or Part II.
- In a foreign seated international commercial arbitration, no application for interim relief is maintainable either under Section 9 of the Act or under any other provision of Part I of the Act. Applicability of Part I of the Arbitration and Conciliation Act, 1996 is limited to all arbitrations which take place in the country of India.
- The territoriality principle is accepted under the Arbitration and Conciliation Act, 1996[25].
- Part I of Arbitration and Conciliation Act, 1996 is applicable only to those arbitrations which take place within the territory of India.

[22] *East Coast Shipping v. M. J. Scrap*, 1 Cal HN 444.
[23] *Olex Focas Pty. Ltd. v. Skodaexport Co. Ltd*., 1999 (Suppl.) Arb LR 533 (Delhi).
[24] (2012) 9 SCC 552.
[25] This principle is adopted in the UNCITRAL Model Law.

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(C) Enercon (India) Ltd. & Ors v. Enercon GmbH & Anr.[26]

In this case it was held that the 'venue' of the arbitration proceedings is a geographical location or place which is chosen based on the convenience of the parties involved in the proceedings this is different from the 'seat' of arbitration which decides the exclusive jurisdiction to be exercised by the courts. The Indian law, in this case, was chosen as the law applicable to all aspects of the agreement and the arbitration, however, the venue chosen for the arbitration proceedings was London.

The Court, based on the BALCO ruling, held that the parties must have intended for the seat to be in India as the parties specifically applied portions from Part I of the *1996 Act*, which, in the post-BALCO phase was only effective where the seat of arbitration was India[27].

(D) Harmony Innovation Shipping Ltd. v. Gupta Coal India Ltd. and Anr.[28]

The Supreme Court of India in this case dealt with the anomaly of implied exclusion of Indian laws under an arbitration agreement. It was agreed that in case a dispute arose involving an amount which is less than USD 50,000, then the arbitration will be conducted in accordance with the small claims procedure of the London Maritime Arbitration Association. The agreement between the parties clearly stated that the contract shall be governed by the English law qua the arbitration clause. There wasn't an express exclusion of Indian laws, however, there seemed an indication as to this through the express inclusion of various phrases such as: 'arbitration in London to apply', 'arbitrators are to be the members of the London Arbitration Association' and 'contract is to be governed and is to be construed in accordance with English law'. The agreement was executed in the pre-BALCO phase which meant that the principles laid down in the BALCO case were not applicable to it.

The Supreme Court stated that the ratio of *Bhatia International v. Bulk Trading SA* was applicable here.

(E) Shri Lal Mahal Ltd. v. Progetto Grano Spa[29]

In this case, the arbitral award passed under the rules of Grain and Feed Trade Association, London was upheld by the courts in the United Kingdom and was to be enforced in India with the help of the Arbitration and Conciliation Act, 1996. An objection to the enforcement of

[26] (2014) 5 SCC 1.
[27] STA Law Firm, *Overview: Five Landmark Judgements On Cross Border Arbitration In India*, Mondaq, (Jan. 18, 2022, 7:05 PM), https://www.mondaq.com/india/arbitration-dispute-resolution/977830/overview-five-landmark-judgements-on-cross-border-arbitration-in-india?.
[28] (2016) 11 SCC 508.
[29] 2014 (2) SCC 433.

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awards was raised under Section 48 of the aforementioned Act on the ground that 'the award was patently illegal and in violation of public policy'.

It was held that the ground of 'patent illegality' is limited to Section 34 of the Arbitration and Conciliation Act, 1996, where the issue is whether the award should be set aside or not. The terms 'public policy' under Section 48 of the aforementioned Act would not bring within its folds the ground of 'patent illegality'.

VI. SINGAPORE: THE HUB OF INTERNATIONAL COMMERCIAL ARBITRATION

Singapore has reached new heights in arbitration in the past few years. It now stands at par with London at the very top. It is home to some of the most efficient international dispute resolution institutions like, Singapore International Arbitration Centre (SIAC), Singapore International Mediation Centre (SIMC) and the Singapore International Commercial Court (SICC).

The SIAC which primarily conducts arbitration in the country was established in the year 1991. It was set up as a non-profit organisation to administer arbitration by its own rules called the SIAC Rules of Arbitration.

SIAC has a secretariat comprising of over 20 full-time employees who administer the cases handled by SIAC and who attend the business of the organisation. SIAC has made a point of recruiting staff from the region and beyond. Currently, SIAC staff come from Singapore, the United Kingdom, Canada, India, Malaysia and Belgium. SIAC is housed at Maxwell Chambers in Singapore. Maxwell Chambers is a state-of-the-art arbitration facility that comprises of 14 custom-designed and fully equipped hearing rooms and 12 preparation rooms. In addition, there is a lounge for arbitrators and other support facilities such as a concierge service. A number of organisations, apart from SIAC, have offices in Maxwell Chambers including The International Chamber of Commerce, WIPO, ICDR (part of the American Arbitration Association) and leading sets of chambers from London. SIAC maintains a panel of international arbitrators. In cases where there is to be a sole arbitrator, the parties are asked to choose the arbitrator. If they cannot do so then SIAC will make the appointment. In tribunals consisting of three arbitrators, each party appoints an arbitrator and the chairman is appointed by the co-arbitrators or, failing agreement, by SIAC.[30]

There are many reasons for the growing popularity of Singapore as an international commercial

[30] Professor Michael Pryles, *Singapore: The Hub of Arbitration in Asia*, SIAC, (Jan. 20, 2022, 7:23 PM), https://www.siac.org.sg/2013-09-18-01-57-20/2013-09-22-00-27-02/articles/198-singapore-the-hub-of-arbitration-in-asia

arbitration hub. Firstly, it is at the heart of Southeast Asia close to countries like India, China, Indonesia, Thailand and Malaysia. Secondly, it is a stable, modern and efficient country with outstanding infrastructure. Thirdly, the lack of public corruption makes it a trustworthy and appealing option. Fourthly, it is home to leading global law firms of the world. Lastly, the legal regulatory framework is favourable for non-resident arbitrators.

International Commercial Arbitration in Singapore is governed by the International Arbitration Act, 1994 which incorporated the New York Convention as well as the 1985 UNCITRAL Model Law.

The courts of Singapore are knowledgeable in the field of arbitration and have always been in support of it. The Singapore Court of Appeal in the case of *Tjong Very Sumito v. Antig Investments*[31], observed that, *"an unequivocal judicial policy of facilitating and promoting arbitration has firmly taken root in Singapore."* It further stated that "the role of Courts in matters where the parties have already decided to resolve through arbitration is to render support and not in any way displace the arbitral process."

VII. WHY IS SINGAPORE THE PREFERRED COUNTRY FOR ICA?

Just like everywhere else in the world, companies in India prefer to settle their disputes outside of court. Most of them choose an alternative dispute resolution method to solve their issues with the help of a neutral third party. Arbitration is the most preferred method because it takes up less time and the proceedings are conducted in private which keeps matters confidential.

Nowadays, Indian companies prefer to hold arbitration proceedings in Singapore rather than their own country. Reasons for this are threefold, firstly, the SIAC regularly amend and enhance the quality of their rules and provisions. Secondly, the implementation of these laws is firm and proper. Lastly, foreign arbitrators are exempted from taxes on income derived from work there.

However, the past few years saw tremendous change in Arbitration laws in India. Many amendments have been made to the Arbitration and Conciliation Act to bring it up to date. An Act that had not been amended for nearly two decades since 1996 was amended three times in the past six years. This reassures that the Indian legislature is updating ADR mechanisms to meet international standards[32].

[31] [2009] 4 SLR(R) 732.
[32] Ashima Obhan, *The Arbitration and Conciliation (Amendment) Act, 2021,* Mondaq, (Jan. 22, 2022, 12:50 PM), https://www.mondaq.com/india/arbitration-dispute-resolution/1048504/the-arbitration-and-conciliation-amendment-act-2021 .

VIII. CONCLUSION

The introduction of arbitration in the form of ADR gave people a new process to settle their disputes. International Commercial Arbitration has become one of the most successful methods of alternative dispute resolution globally. The same can be gauged by seeing the various changes that are made in the arbitration laws all over the world. Concepts like 'party autonomy' and 'fast track arbitration' lure parties towards arbitration. MNCs prefer the hassle-free way of arbitration rather than the cumbersome and tiresome process of litigation.

The position in India relating to international commercial arbitration was settled for a very long time by the pronouncement of the Supreme Court in the *Bhatia International* case which observed that arbitrations seated offshore were also brought within the ambit of the Indian jurisdiction. This was a subject of major criticism since the Indian courts were given a long-arm owing to the wide interpretation accorded by the court which was not even contemplated under the Act. The *BALCO* case has made an attempt to make the Indian laws in tune with the international standards and to be pro-arbitration. The *BALCO* judgment has clearly stated that the Indian Courts do not have the jurisdiction to interfere in matters relating to arbitrations seated offshore and that the Supreme Court has been given utmost importance to the autonomy of the parties in choosing their seat of arbitration[33].

India needs to buckle up if it aims to be the hub of International Commercial Arbitration. Despite it being one of the earliest countries to sign the New York Convention, international arbitration in India is not even close to that in other countries like Singapore or the UK.

There is still a long way to go but even if you take one step forward it is considered to be progress; and with the amendments made and a newer view on arbitration of the judges, jurists, lawyers and legal professionals India is going in the accurate direction.

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[33] Dr. Mukesh Kumar Malviya, *Jurisdictional Issues in International Arbitration with Special Reference to India*, BLR, 36, 58, (2017).

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