

Dispute Resolution Hotline

June 18, 2019

STAMPING OF THE UNDERLYING CONTRACT FOR A VALID ARBITRATION CLAUSE - AN 'EXISTENTIAL' CRISIS

This article was originally published in the ICC India Arbitration Newsletter (Issue 4)



When the Arbitration & Conciliation Act, 1996 (Act) was amended in 2015, insertion of Section 11(6A) limited the scope of court inquiry to only the '*existence*' of an arbitration agreement while entertaining an application for appointment of an arbitrator. Further, insertion of Section 11(13) provided a strict time frame for disposal of such applications. The objective behind such amendments was to expedite the arbitral process in India, historically prone to severe delay. Arbitration applications, even for simpliciter appointment of arbitrators, languish in courts for years.

In what may just be a case of one step forward and two steps back, the Supreme Court of India in a recent decision raked up an old issue concerning the validity of an arbitration agreement in an unstamped document by holding that a court cannot appoint an arbitrator under Section 11 of the Act when the contract containing the arbitration clause is insufficiently stamped.

This article analyzes the evolution of the law prior to this decision, what it means for applications such as those seeking interim reliefs, and the decision's possible impact on the recent progress made by the judiciary as well as the legislature in minimizing court interference.

To access the article, please click [here](#).

Siddharth Ratho

DISCLAIMER

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

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

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

Research Papers

Clinical Trials and Biomedical Research in India

April 22, 2025

Structuring Platform Investments in India For Foreign Investors

March 31, 2025

India's Oil & Gas Sector— at a Glance

March 27, 2025

Research Articles

2025 Watchlist: Life Sciences Sector India

April 04, 2025

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

February 04, 2025

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

January 15, 2025

Audio

CCI's Deal Value Test

February 22, 2025

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

December 18, 2024

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

November 19, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

[Click here to view Hotline archives.](#)

Video

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

**Vaibhav Parikh, Partner, Nishith
Desai Associate on Tech, M&A, and
Ease of Doing Business**

March 19, 2025

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

February 18, 2025