DECEMBER 2025- JANUARY 2026

SAMVAAD 2026

ABOUT CCADR

The Chanakya Centre for Alternative Dispute Resolution (CCADR) was established at Chanakya National Law University, Patna, in the year 2021, with the objective to promote academic research on themes pertaining to the resolution of disputes. Alternative Dispute Resolution is a new and emerging interdisciplinary field that is concerned with, inter-alia, the following themes: (a) the study of the causative structural factors and the subjective motives of the actors giving rise to disputes; (b) the study of the formal and informal institutions dedicated to the resolution of disputes; and (c) the study of the laws and regulations to produce fair outcomes of disputes.

THE YEAR IN REVIEW

THE OFFICIAL NEWSLETTER OF CCADR FOR ARBITRATION LAW UPDATES

GUEST EDITOR

This edition's Guest Author is Mohhini Priya, Advocate-on-Record at the Supreme Court of India and a trained mediator.

Ms. Mohhini Priya analyses the 2026 UNCITRAL Guidelines as a significant reform in ISDS, focusing on standardizing damages and improving predictability. She examines principles such as full reparation, fair market value, and valuation methods like DCF, while also addressing procedural innovations and challenges, ultimately advocating for greater consistency in investment arbitration.

GUEST POST

STANDARDIZING THE COMPUTATION OF DAMAGES: A LEGAL AND SYSTEMATIC ANALYSIS OF THE 2026 UNCITRAL GUIDELINES

Introduction

The framework of Investor State Dispute Settlement ('ISDS') is undergoing a paradigm shift. The inconsistency and unpredictability of damages awards have become primary sources of systemic criticism. Historically, compensation amounts were often disproportionate and bore little resemblance to the initial capital invested. The field has also lacked a unified methodology. The 2026 UNCITRAL Draft Guidelines on the Calculation of Damages and Compensation represent a landmark effort to instil predictability, economic rigor, and procedural efficiency into this area. While the guidelines aim to harmonize the interplay between legal principles and quantitative valuation, they have also ignited a robust debate. The feasibility of standardizing such a fact-intensive and inherently economic exercise is often critically analysed.

The impetus for these guidelines stems from deep-seated concerns identified by the Working Group, specifically *i) the inconsistency and unpredictability of awards on damages, ii) high amounts of compensation that affect the ability of States to regulate and provide public goods, and iii) the technical complexity of calculations, which contributes to higher costs and significant delays.*

This complexity often results in a vast difference between the amount invested and the final award, undermining the perceived legitimacy of the ISDS system. Such concerns have led to parallel initiatives by the United Nations Conference on Trade and Development ('UNCTAD') and the International Law Commission ('ILC') to seek policy options for reform and avoid the fragmentation of approaches across international investment law.

The Guidelines are anchored in the customary international law principle of full reparation, as articulated in the landmark *Chorzów Factory case* and codified in the Articles on the Responsibility of States for Internationally Wrongful Acts ('ARSIWA'). The objective of an award is to *i) obliterate all the consequences of the illegal act and ii) re-establish the situation that would, in all probability, have existed had the breach not occurred.* While restitution-the return of property or reversal of a legal act-is theoretically the primary obligation, it is rarely awarded in practice due to perceived encroachments on State sovereignty. Consequently, monetary compensation serves as a ubiquitous substitute,

By: Mohhini Priya

Mohhini Priya is an Advocate-on-Record at the Supreme Court of India and a trained mediator, with a dynamic litigation and advisory practice. She regularly appears before the Supreme Court and other forums, handling a wide range of constitutional, commercial, and regulatory matters. Her areas of work include arbitration, taxation, intellectual property, media and sports law, surrogacy and ART regulation, and family law.
Her practice reflects a strong engagement with rights-based litigation and emerging legal frameworks, particularly in areas intersecting law, policy, and social justice. In addition to her litigation work, she is actively involved in drafting and advisory work, and contributes to legal discourse through writing, conferences, and thought leadership in evolving areas of law.

generally equivalent to the Fair Market Value (‘FMV’) in a ‘but-for’ scenario.

At the heart of most ISDS claims is the concept of FMV, which serves as the primary measure of compensation, particularly for expropriation. The Guidelines define FMV as the price at which property would change hands between *i) a hypothetical willing and able buyer and ii) a hypothetical willing and able seller acting at arm’s length in an open market.*

This standard is inextricably linked to the *“but-for”* valuation principle, requiring tribunals to compare the investment’s value in a hypothetical world where the breach never occurred against the value in the actual post-breach world. In most cases, because the value in the actual world after expropriation is typically zero, damages are equivalent to the but for FMV.

Valuation Methodologies

A rigorous legal analysis of quantum must distinguish between the burden and the standard of proof, as these serve as the requirements of compensable claims. The claimant investor bears the primary burden of establishing *i) the existence of injury, ii) its monetary quantification, and iii) the causal link between the breach and the damage.* While terminology varies across cases-ranging from sufficient certainty to reasonable probabilities, the Guidelines recommend that tribunals find facts to be more likely than not, applying a balance of probabilities standard at a minimum. Claims for lost profits require a higher evidentiary threshold, generally awarded only when an anticipated income stream crystallized to be considered a legally protected interest of sufficient certainty, such as through contractual arrangements.

Causation is treated as a distinct analytical step identifying those losses that are attributable to the State’s wrongful act. Factual causation requires the *“but-for”* test, demonstrating that the investor would not have sustained the injury had the treaty violation not occurred. Legal causation limits recovery to losses that are *“proximate,” “foreseeable,”* or *“direct,”* excluding those that are too *“remote”* or *“consequential”*. Where a respondent alleges that an external factor broke the causal chain, the tribunal must assess whether that factor was so predominant or unforeseeable that the State’s breach is too remote to justify liability.

The Guidelines categorize valuation into three primary methodologies, with the income-based approach, specifically the Discounted Cash Flow (‘DCF’) method, being the most prevalent. The DCF method calculates the present-day value of a business’s anticipated cash flows by applying a discount rate to account for the time value of money and risk. However, the Guidelines caution that the DCF method is a highly sensitive tool where marginal adjustments in inputs-such as the discount rate or country risk premium-can significantly affect the result. Consequently, tribunals are encouraged to apply DCF only when *i) a historical record of performance exists, ii) future cash flows are reliable, iii) an established market exists, and iv) calculations are feasible without being speculative.*

When a project lacks the established record required for a DCF analysis, the Guidelines prescribe alternative methodologies. A market-based approach infers value from comparable transactions or similar publicly traded companies, reflecting the market’s

perception of income-making prospects. Alternatively, the asset-based approach, also known as the cost-based approach, determines value by summing investment-related expenditures incurred prior to the wrongful act. This is the preferred method for projects not yet in the production phase, where the company is not a going concern, or where future cash flow projections are speculative.

To address technical complexity and potential bias, the Guidelines advocate for specific procedural tools aimed at maximizing the value of expert testimony. These include i) the use perception of income-making prospects. Alternatively, the asset-based approach, also known as the cost-based approach, determines value by summing investment-related expenditures incurred prior to the wrongful act. This is the preferred method for projects not yet in the production phase, where the company is not a going concern, or where future cash flow projections are speculative.

To address technical complexity and potential bias, the Guidelines advocate for specific procedural tools aimed at maximizing the value of expert testimony. These include *i) the use of "witness conferencing" (hot-tubbing) to reveal areas of agreement and ii) "Scott Schedules" to specify each claim and the parties' respective positions systematically.* A novel suggestion involves "blind damages assessments," where parties exchange methodology and assumptions while withholding final quantum figures to minimize "*anchoring bias*" in the tribunal's assessment. Furthermore, tribunals should require experts to disclose their instructions and key assumptions, as differences in valuation often arise from these mandates rather than true differences in economic views.

The assessment of damages relies heavily on expert analysis, making it essential to consider procedural tools for shaping their role. Tribunals may appoint their own experts or technical advisers, particularly in complex cases, to help understand underlying assumptions or methods. However, observer groups like the ICLRC suggest caution, arguing that introducing the category of *"technical advisers"* without explicit party agreement may be inconsistent with the contractual nature of UNCITRAL Model Clauses. There is a perceived risk that a tribunal-appointed expert could become a de facto arbitrator, which is why the Guidelines suggest limiting their role to technical advising in line with the UNCITRAL Model Clause on Technical Advisers.

One of the most contentious procedural recommendations involves the bifurcation of the damages phase. While the Guidelines suggest tribunals consider this early on to save time and costs if a claim fails on liability, comments from the ICLRC suggest that bifurcation remains an exception. Critics point out that holding separate hearings can actually increase the overall length of proceedings and costs due to the need for separate disclosure processes and calling the same witnesses twice. Moreover, bifurcation is deemed impractical where questions of liability are deeply intertwined with issues such as causation, mitigation, or the existence of a breach.

A State may invoke various circumstances that limit the amount of compensation due, shifting the burden to the respondent to prove these factors. Contributory fault requires reparation to account for the investor's *"wilful or negligent action"* that materially contributed to the injury, reflecting the notion that IIAs are not insurance policies for commercial imprudence.

Additionally, investors are obligated under the duty to mitigate to act reasonably in avoiding or reducing losses once they become aware of the breach. Some tribunals have reduced compensation where investors were unreasonably inactive or engaged in unreasonable conduct after the state's breach occurred.

Interest determinations are essential for ensuring full reparation for the loss of use of funds while payment is withheld. Pre-award interest compensates for delayed payment due to the breach, while post-award interest incentivizes prompt payment of the award. While traditionally simple, the practice has shifted toward compound interest, as it more accurately reflects the time value of money and mirrors real-world financial transactions. Tribunals should justify the start date, rate, and mode of calculation, ensuring the interest is consistent with the principle of full reparation and not punitive in nature.

Tribunals possess broad discretion to allocate arbitration costs and the parties legal fees. While the traditional approach was for each party to "bear its own costs," there is a gradual shift toward "costs follow the event" (loser pays) in recent years. Cost allocation can be used to control party conduct, such as rewarding clarity in expert analyses or deterring frivolous claims and inflated damages. The Guidelines recommend that tribunals allocate costs based on applicable rules, apply them consistently, and provide detailed reasons for the allocation.

Conclusion

The 2026 UNCITRAL Guidelines represent a sophisticated attempt to reconcile the legal requirement of full reparation with the economic complexities of valuation. For States and treaty-makers, the Guidelines emphasize that "*ambiguous*" treaty terms are often interpreted in line with FMV standards, suggesting a need for clearer treaty drafting to address specific harms. For practitioners, the shift toward requiring robust, fact-based harm analyses and mandated disclosure of expert assumptions marks a move away from speculative outcomes toward a more transparent and legitimate ISDS system. Ultimately, these guidelines aim to promote clarity and predictability through established procedural standards, fostering more coherent outcomes in international investment arbitration.

EDITOR BLOG

CURIAL LAW VERSUS GOVERNING LAW: UNTANGLING THE LEX ARBITRI IN INDIAN JURISPRUDENCE

-Tanya Raj

The drafting of dispute resolution clauses in International Commercial Arbitration (ICA) necessitates a precise alignment of multiple legal regimes to avoid jurisdictional paralysis. When contracting parties from diverse jurisdictions enter into a contract, they often integrate different legal systems where one law is chosen to apply to the contract, another to the procedure, and a third to the seat of arbitration. Although this is a common practice, it may result in the creation of "pathological clauses" that contain inherent contradictions, thereby undermining the efficacy of the arbitration agreement. The recent Supreme Court (the '**Court**') decision in Disortho S.A.S. v. Meril Life Sciences Pvt. Ltd. (2025) (the '**Disortho**') serves as a poignant reminder of the judicial scrutiny applied to 'boilerplate' dispute resolution provisions. It posed a typical pathological dilemma before the Court in which the conflicting clauses of the contract indicated two different sources of justice, namely, Colombia and India. The Court while reconciling the jurisdictional antinomy, demonstrated how to deal with the regulatory framework of arbitration law: *i) Lex Contractus (Substantive Law of the Contract), ii) Lex Arbitri (Law of the Arbitration Agreement), iii) Lex Fori (Curial or Procedural Law) and reaffirmed the significance of lex contractus in determining the law applicable to the arbitration agreement.*

The Court's reasoning in Disortho was predicated on the distinct yet intersecting legal regimes governing international arbitration, the first being the Lex Contractus, which governs the rights and obligations of the parties, the second being the Lex Fori (the law of the court) or Curial Law (the procedural law of the arbitration), which regulates the conduct of the proceedings and the third being *Lex Arbitri* (the law of the arbitration agreement itself), which determines the agreement's validity and the supervisory jurisdiction of the courts. In the Disortho case, the Court made it clear that while these laws may vary, they are inextricably linked. It is observed that where there is no express selection of the *lex arbitri*, a strong presumption exists that the law applying to the main contract, i.e., *Lex Contractus*, is equally applicable to the arbitration agreement. This reliance on the lex contractus affirms that the arbitration agreement, as an autonomous contractual obligation, remains governed by a stable legal framework despite its independence from the underlying contract. The Court cautioned against the fragmentation of the *lex arbitri*, observing that a split between the law governing validity and the law governing supervision is a rare exception and must be explicitly expressed by the parties. By designating Indian law as the *lex contractus* through Clause 16.5, the Court clarified that Indian law governs both the validity of the arbitration agreement and the court's authority to appoint an arbitrator.

The dispute in Disortho arose from a distribution agreement between a Colombian company and an Indian company, which contained two conflicting clauses, namely Clause 16.5, stipulating Indian law and exclusive jurisdiction in Gujarat, and Clause 18, mandating

arbitration in Bogota. The Court’s analysis was guided by the three-stage inquiry, also known as the *Sulamérica test*, established in the English case of Sulamérica Cia Nacional De Seguros S.A. v. Enesa Engenharia S.A. (2012), which requires looking for i) an Express Choice, ii) an Implied Choice, or the system with iii) the Closest and most real connection to the dispute. In the absence of an express choice regarding the law governing the arbitration agreement, the Court looked for an implied choice. Central to this determination is the *Shashoua Principle*, derived from the judgment in Roger Shashoua v. Mukesh Sharma (2017), which upheld that where a “*place*” is appointed as the “*venue*” of arbitration without contrary indicators, that place is typically the “*Seat*.” However, the Court held that the Exclusive Jurisdiction conferred on the Courts of Gujarat under Clause 16.5 was a significant contrary indicium. By explicitly vesting 'exclusive jurisdiction' in the courts of Gujarat, the parties signaled an intent for Indian courts to retain supervisory control. This effectively demoted Bogota to a mere geographical venue for hearings, ensuring that the *lex arbitri* remained Indian law despite the foreign location of the proceedings. Accordingly, India was the rightful Juridical Seat for arbitration. This structural distinction is vital because the Seat determines which national law governs the arbitration's supervisory jurisdiction, including the power to grant interim relief or set aside an award under the Arbitration and Conciliation Act, 1996 (the ‘**Act**’).

One of the central elements of the ruling was the repudiation of the “Rule of Thumb”, the judicially established principle that automatically gives precedence to a clause appearing earlier in a contract over one that appears later. Instead, the Court adopted the principle of harmonious construction, which requires interpreting the contract as a whole so that each provision is given effect. This approach aligns with the Validation Principle, which mandates a construction that preserves the efficacy of the arbitration clause, reflecting the parties' presumed intent to create a binding and functional dispute resolution mechanism. By declaring India as the *Seat* and Bogota as the *Venue*, the Court rendered the contract a viable legal tool. This approach aligns Indian jurisprudence with global standards, such as the UK Supreme Court’s position in Enka v. Chubb (2020) and the Singaporean approach in BCY v. BCZ (2016), both of which emphasize that the law of the main contract serves as the most reliable indicator of the parties' implied choice for the arbitration agreement. Adhering to this global practice ensures that the decision to hold a meeting in a neutral location does not inadvertently deprive the parties of the legal safeguards accorded to them by the law they selected to govern their entire business relationship.

In a final demonstration of the nature of arbitration, the legal tussle was ultimately settled not just by judicial fiat, but by an exercise of Party Autonomy, ensuring the fundamental right of parties to determine their own dispute resolution path. At the hearing, both parties agreed to have the arbitration in India before a retired judge of the Delhi High Court. This agreement underscores the fact that while the courts offer the essential guidelines for interpreting intricate provisions, the parties remain the masters of the reference. The Disortho ruling is a significant landmark in Indian law as it provides a nuanced application of the *Sulamérica Test* and reinforces a pro-arbitration stance. It sends a strong signal to legal practitioners that unless the selection of a “*Seat*” is explicitly and unequivocally made, the law of the contract, i.e., *Lex Contractus*, will have a determinative influence on the supervisory jurisdiction. The key lesson for drafters is that the distinction between the

Seat and the Venue is not just a technical nuance, but the very legal foundation on which the entire arbitration process is built. By offering such clarity and rejecting arbitrary rules of interpretation, the Supreme Court has significantly advanced India's standing as a predictable and stable center for international commercial arbitration. This decision ensures that even when parties fall into the trap of drafting pathological clauses, the judiciary will apply the Principle of Harmonious Interpretation to preserve the validity of the agreement and respect the broader commercial intent of the parties.

BLOG OF THE MONTH

BIT OF A PROBLEM: REVISITING INDIA'S INVESTMENT AWARD ENFORCEMENT REGIME

This article has been authored by Dhananjay Shukla, 4th year B.A.LL.B. (Hons.) student at Gujarat National Law University, Gandhinagar and Priyanshu Ranjan, 4th year B.B.A.LL.B. (Hons.) student at Gujarat National Law University, Gandhinagar.

Introduction

The frenzy around Bilateral Investment Treaties (BITs) is often restricted to their persuasive promise of increasing bilateral investment between the two signatory nations, thereby leading to economic growth and prosperity. Nevertheless, it must not be forgotten that a BIT is essentially a reciprocal agreement for investor protection, which endeavours to protect foreign investors in the host state. The success of these agreements becomes questionable if the protections contemplated therein exist merely in principle and not in practice, subsisting merely in letter and not in spirit. As of now, the Indian regime has been afflicted with a vacuum in the enforcement of arbitral awards resulting from investment disputes.

The ambiguity over enforcement of investment awards in India has gained renewed importance as courts in other jurisdictions (Australia and U.K.) have recently adjudicated on applications filed by foreign investors involving enforcement claims against the Republic of India. Meanwhile, the continuing impasse and the unsettled position in India corrodes investor confidence and obstructs effective award realization, underscoring the urgent need for India to clarify its enforcement framework. This article endeavours to elaborate the framework for enforcement in India, how it is destined to fail, and what courts elsewhere have ruled on this issue.

The Enforcement Mechanism

A Bilateral Investment Treaty provides certain protections such as fair and equitable treatment, protection from expropriation and free transfer of funds, among others, which the host state guarantees to the foreign investors. If these guarantees are breached, the foreign investor can initiate arbitration proceedings against the host state. Upon being successful, the investor can enforce the award against the state. Although the award in an investment dispute may be rendered elsewhere, the parties usually decide to enforce these awards in a country where the assets of the host state are situated. This has resulted in a situation where several investors have knocked the doors of courts, flooding their corridors with litigation and seeking to enforce a foreign award under the domestic laws of the country. The courts in India have given divergent views on the enforceability of such awards under the Indian framework of arbitration. As a result of this, the enforcement of investment awards has become impossible in India.

While the BITs provide for a mechanism for arbitration of disputes arising out of the failure of host states to honour the protections guaranteed under the terms of the treaty, they are silent on the aspect of enforcement of the awards. India has not signed the International Centre for Settlement of Investment Disputes (ICSID) Convention. As a result, such awards can only be enforced under Part II of the Arbitration and Conciliation Act, 1996 (Act of 1996), which contains the apparatus for enforcement of foreign awards.

However, India has adopted the reservation provided under Article I (3) of the New York Convention (NYC Convention), and Section 44 of the Act of 1996 was enacted in a manner consistent with India's reservation to the New York Convention. 'Foreign award' is defined under the section as *"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." Accordingly, enforcement of arbitral awards passed under a Bilateral Investment Treaty cannot be guaranteed unless such awards can be said to have arisen out of differences that are considered as "commercial".

A footnote in Article I (Scope of Application) of the UNCITRAL Model Law states that the term 'commercial' in the phrase 'International Commercial Arbitration' should be given the widest meaning and it expressly includes a transaction involving investment (But it is noteworthy that Investment Arbitration as a species is distinct from International Commercial Arbitration). The Model BIT of India published in 2016 under Article 27.5 acknowledges that a claim submitted for arbitration under Article 27 shall be considered to have arisen from a commercial relationship for the purpose of Article I of the New York Convention. Consequently, some authors have argued that awards arising from investment disputes can be enforced in India.

However, the UNCITRAL Model Law, the Model BITs, etc., are of no help to interpret the meaning and scope of the term 'commercial' because they are not *'laws in force in India'.* Conversely, Section 44 of the 1996 Act requires the differences arising from the relationship to be considered as commercial under the law in force in India. The commercial reservation in section 44 originates from Article 1(3) of the New York Convention, which permits a state to declare that it will apply the Convention solely to disputes arising from legal relationships—whether contractual or otherwise—that are regarded as commercial under the state's domestic law. Investment disputes, however, are not categorically stated to be commercial under the Indian law. The term 'Commercial disputes' has been defined in Section 2(1)(c) of the Commercial Courts Act, 2015. The provision is exhaustive since the expression "means" has been used. Notably, it does not include investment disputes within its ambit.

The view that investment awards do not arise from commercial relationships has been reinforced by the judicial decisions not only in India but also in other countries. Hence, disputes arising from Bilateral Investment Treaties cannot be considered 'commercial' for the purpose of enforcement under the 1996 act.

Judgements of Courts in India

The courts have given conflicting opinions on the enforcement of investment arbitration awards in India. For instance, in the case of *Board of Trustees of the Port of Kolkata v. Louis Dreyfus Armatures*, while issuing an injunction against arbitration proceedings, the Calcutta High Court assumed that the Act of 1996 is also applicable to investment arbitration disputes in the same way it governs foreign-seated commercial arbitration. However, the Delhi High Court, in the case of *Union of India v. Vodafone Grp. Plc U.K. & Anr.*, held that investment arbitration is not the same as commercial arbitration as the cause of action, is based on "state guarantees and assurances" which make them essentially distinct from commercial contracts. The bench observed that such an award is neither a foreign-seated commercial arbitration nor a domestic arbitration. Furthermore, the Court said that the Act does not apply "proprio vigore" to investment arbitration disputes.

In the same case, the Delhi High Court disagreed with the decision of the Calcutta High Court. The court noted that in the case before the Calcutta High Court, the issue of whether the act of 1996 applies to investment arbitration was neither argued by the parties nor raised by the court. Referring to the principle of *sub silentio*, the Delhi High Court held that since the matter was not considered or addressed, the Calcutta High Court's judgment cannot be treated as a binding precedent. Moreover, in *Union of India v. Khaitan Holdings (Mauritius) Limited & Ors.*, the Delhi High Court, relying on the Vodafone Group Plc judgment, held that investment arbitration is a fundamentally distinct category of arbitration and therefore does not fall within the scope of the Arbitration and Conciliation Act, 1996.

Cross-Jurisdictional Analysis

The policies and practices in some other jurisdictions suggest that investment arbitrations were not intended to be covered within the bounds of the commercial reservation contained in Article I (3) of the New York Convention. Lately, courts in other jurisdictions have also decided the issue in favour of the host state. In *Republic of India v CCDM Holdings*, the Full Federal Court of Australia, while adjudicating the enforcement proceedings against India, held that India's relationship with the BIT is *"in the realm of public international law that gave international law rights to private investors in India"*. It, therefore, cannot be considered a commercial relationship.

Recently, the High Court of England and Wales in *CC/Devas (Mauritius) Ltd & Ors v Republic of India* observed that the claimants in that case failed to advance any evidence as to whether the BIT awards arise "out of a legal relationship that is considered as commercial under the law of India". The court noted that although it was not difficult to conclude based on English law that differences of such nature were "commercial", the court emphasized that the test is to determine their nature in accordance with Indian law. However, the claimants failed to establish that the differences were of commercial nature under the Indian legal regime. It was concluded that since the issue had already been decided by the Full Federal Court of Australia (in the *CCDM Holdings Case*), a separate judgment was not required on this issue.

Besides, India is not the only country opposing the enforcement of Investment Awards. On 10 April 1987, China's Supreme People's Court issued a notice regarding the implementation of the New York Convention. Section 2 of the notice defines "commercial relations" as "relationships arising out of contracts, torts…or relevant provisions of law, *but excludes disputes between foreign investors and the host states"*. Hence, the New York Convention cannot serve as the medium for recognition and enforcement of international investment arbitration awards in China, as such awards are expressly excluded under its provisions.

Way Forward

A possible reason for this apprehension against the enforcement of investment arbitration awards could be that countries are averse to diluting their sovereign status by liquidating public assets for enforcement of private contracts. Even so, the ambiguity surrounding enforcement of investment arbitration awards in India has jeopardised the foreign investment. The judiciary and the parliament must act proactively to fill the vacuum in the enforcement mechanism, thereby balancing investor protection and state sovereignty. Defining investment disputes as a form of "commercial" relationship for enforcement purposes would align India's arbitration regime with its Model BIT, the UNCITRAL Model Law and global arbitration standards. A robust, predictable enforcement regime would not only reduce litigation but also position India as an investor-friendly destination—a key step for attracting stable foreign investment. By bridging the legislative gaps, harmonizing jurisprudence, and strengthening treaty frameworks, India can move from ambiguity to certainty, ensuring BITs not only fulfil their promise but also realize their potential.

DOMESTIC CASES

Referral Stage under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter the "A&C Act") is confined to a prima facie inquiry into the existence of an arbitration agreement *[A.P. Power Generation Corpn. Ltd. v. TECPRO Systems Ltd., 2025 SCC OnLine SC 2851]*

~Priyasha Priyadarshini

The dispute arose from an EPC contract awarded by APGENCO to a consortium comprising Tecpro Systems, VA Tech Wabag, and Gammon India. Following financial distress, Tecpro lost its consortium leadership, entered liquidation, and unilaterally invoked the arbitration clause contained in the General Conditions of Contract. APGENCO and the other consortium members objected, contending that the arbitration agreement existed only between APGENCO and the consortium as a collective entity, and that an individual member lacked the contractual capacity to invoke arbitration. The High Court of Telangana (the **'High Court'**) constituted an Arbitral Tribunal under Section 11(6), prompting the present appeals.

The Supreme Court (hereinafter **'the Court'**) dismissed the appeals, holding that the High Court had correctly confined itself to the limited enquiry mandated by Section 11(6-A). The Court emphatically rejected the appellants' invitation to conduct a mini-trial on issues of contractual capacity and arbitrability. It observed that the legislative policy under the A&C Act strongly favours minimal judicial intervention at the pre-arbitral stage, and that the referral court must refrain from undertaking a detailed enquiry based on evidence to arrive at a finding of fact in the nature of a 'proof'. Relying on the Constitution Bench decisions in *Cox and Kings Ltd. v. SAP India Pvt. Ltd. (2024) 4 SCC 1* and *In Re: Interplay Between Arbitration Agreements under Arbitration and Conciliation Act, 1996 and Stamp Act, 1899 (2024) 6 SCC 1*, the Court clarified that the determination of whether a consortium member is a "veritable party" to the arbitration agreement, including the construction of the Consortium Agreement, the effect of insolvency, and the authority to invoke arbitration, are substantive jurisdictional questions that falls squarely within the competence of the Arbitral Tribunal under Section 16. Concluding that the arbitration agreement prima facie existed, the Court upheld the High Court's order and dismissed the appeals, directing the Arbitral Tribunal to consider all preliminary objections on their merits.

Section 29A(6) empowers & obligates the Court to substitute the Arbitrator when the mandate has expired & continuation is impermissible: Supreme Court *[Mohan Lal Fatehpuria vs. M/s Bharat Textiles & Ors., 2025 INSC 1409]*

~ Anurag Kumar

The dispute came up from the Delhi High Court's order dated 22.04.2025, which turned down the demand of substitution of a sole arbitrator and instead increased his mandate under Section 29A(6) of the Arbitration and Conciliation Act, 1996 (the **'Act'**)for an extended period of 4 months. In 1992 the Appellants and Respondents executed a partnership deed containing an Arbitration Clause.

When disagreements arose, the High Court assigned a sole arbitrator in 2020 to decide the matter, directing that the fee be paid as per the 4th Schedule to the Act. The arbitrator entered the reference on 20.05.2020, but was unable to pass an award within the statutory Timeline (calculated after leaving out the Covid-19 period), leading to the expiration of the mandate on 28.02.2023.

Thereupon, the Appellants filed a petition under Section 29A(6) of the Act looking for substitution of the sole arbitrator, but the High Court denied substitution and extended the time to conclude proceedings, while directing the arbitrator to charge fees strictly per the schedule. The Supreme Court (the '**Court**') quashed this order, holding that upon the expiration of the statutory Timeline, the mandate of the sole arbitrator stands terminated by operation of law and his continuation was Prohibited. Emphasizing that Section 29A aims to ensure time-bound disposal of arbitration proceedings, the Court exercised its jurisdiction under Section 29A(6) to appoint Justice Najmi Waziri (Former Judge, Delhi High Court) as the substituted sole arbitrator to continue proceedings from the stage already attained.

Arbitral awards must contain proper, intelligible & adequate reasoning; mere findings without discernible thought process vitiate the award: Delhi High Court *[M/s Traffic Media (India) vs. Delhi Metro Rail Corporation, 2025 SCC OnLine Del 9580]*

~ Kushagra Kumar

The dispute arose from a Contract Agreement between the Appellant and Respondent for advertising rights through pre-designed panels inside metro trains operating on Inderlok–Mundka Line ('**Line-5**') and Central Secretariat-Badarpur Line ('**Line-6**'). The Appellant objected when the Respondent sought to compel it to take possession of five additional trains intended for Line-6, which was not operational at the relevant time. Despite repeated objections and representations, the Respondent issued a termination notice and terminated the Contract. The Arbitrator, whilst holding that Line-6 was incomplete until January-February 2011 and that forcing Line-6 trains onto Line-5 was unreasonable, rejected both the Respondent's counter-claim for licence fees and the Appellant's claim for refund of licence fee and security deposit.

The Delhi High Court (the '**Court**') set aside the Arbitral Award under Section 34 of the Arbitration & Conciliation Act, 1996 (the '**Act**'), holding that it was patently illegal, perverse, and internally contradictory due to lack of proper reasoning. Relying on *OPG Power Generation (P) Ltd. v. Enexio Power Cooling Solutions (India) (P) Ltd. [2025 2 SCC 417] and Dyna Technologies (P) Ltd. v. Crompton Greaves Ltd. [2019 20 SCC 1]*, the Court emphasized that an arbitral award must state reasons that are proper, intelligible, and adequate. The Court observed that whilst the Arbitrator reproduced facts and submissions, there was complete absence of consideration and adjudication of contentions raised.

Arbitral proceedings commence upon respondent's receipt of Section 21 notice for Section 9(2) timeline under Arbitration & Conciliation Act, 1996 *[Regenta Hotels Private Limited vs. M/S Hotel Grand Centre Point & Ors., 2026 INSC 32]*

~Aadhya Kahyap

The dispute arose from a franchise agreement between the Appellant, a hospitality services company and the Respondent No. 1, a partnership firm owning a hotel in Srinagar. Due to

alleged interference by Respondent No. 2 in hotel operations, the Appellant approached the Trial Court under Section 9 of the Arbitration & Conciliation Act, 1996 (the '**Act**') seeking interim injunctive relief. An ad-interim injunction was granted on 17.02.2024 and subsequently, the Appellant issued a notice invoking arbitration on 11.04.2024 and later filed a petition for appointment of an arbitrator under Section 11. The Bengaluru High Court (the '**HC**') dismissed the Appellant's Appeal, holding that arbitral proceedings were not commenced within 90 days as required under Section 9(2) of the Act since the Section 11 petition was filed beyond the stipulated period.

Relying on precedents like *Sundaram Finance Ltd. v. NEPC India Ltd. (1999) 2 SCC 479* and *Arif Azim Company Limited v. Aptech Limited, (2024) 5 SCC 313*, the Supreme Court (the '**Court**') allowed the appeal, holding that arbitral proceedings "commence" on the date the notice invoking arbitration is received by the Respondent under Section 21 of the Act, 1996, and not from the date of filing a Section 11 petition. The Court further clarified that judicial proceedings cannot substitute the statutory definition of commencement and that issuance and receipt of a valid arbitration notice satisfies the mandate of Section 9(2). Accordingly, the Court set aside the impugned orders, restored the injunction and directed expeditious resolution of the pending Section 11 petition.

Non-issuance of separate Section 21 notice is not fatal if disputes are arbitrable and already part of arbitration reference under the Arbitration & Conciliation Act, 1996 [*Bhagheeratha Engineering Ltd. v. State of Kerala, 2026 SCC OnLine SC 5]*

~ Revant Sharma

The dispute arose from road rehabilitation and maintenance contracts awarded by the State of Kerala to the Appellant contractor, Bhagheeratha Engineering Ltd., under the Kerala State Transport Project. The contracts contained a multi-tier dispute resolution mechanism requiring disputes to first be decided by the Engineer, then by an Adjudicator, and thereafter through arbitration if a party was dissatisfied. During the execution of the works, several disputes arose relating to price adjustments for bitumen and fuel, escalation payments during the extended contract period, the benchmark price of bitumen for variation calculations and interest on delayed payments. The Adjudicator partly allowed the contractor's claims. Dissatisfied with the outcome, the disputes were referred to arbitration and the arbitral tribunal ultimately passed an award in favour of the contractor. However, the District Court set aside the award and restored the Adjudicator's decision, holding that the tribunal lacked jurisdiction over certain disputes. The Kerala High Court affirmed this view due to the absence of separate notices invoking arbitration under Section 21 of the Arbitration and Conciliation Act, 1996 (the '**Act**').

The Supreme Court (the '**Court**') allowed the appeal and held that Section 21 of the Act merely determines the commencement of arbitral proceedings and its purpose is procedural. The Court observed that the absence of a separate notice invoking arbitration for certain disputes does not automatically invalidate the arbitral proceedings if the disputes were otherwise arbitrable and were already part of the reference before the tribunal. It further clarified that technical objections regarding the form of notice should not defeat substantive claims once arbitration has been validly initiated. Accordingly, the Court set aside the Kerela High Court's judgment and upheld the arbitral award.

Jurisdiction to Extend Time Under Section 29A Lies Exclusively With the 'Court' Defined Under Section 2(1)(e), Not the Referral Court Under Section 11 *[Jagdeep Chowgule vs. Sheela Chowgule & Ors., 2026 INSC 92]*

~ Amisha

The dispute arose from a family settlement agreement between the Appellant and the Respondents, which led to arbitration. Due to delays in wrapping up the arbitration, the appellant approached the Commercial Court under Section 29A (4) of the Arbitration and Conciliation Act, 1996 (the '**Act**'), asking for more time to deliver the award. While that application was pending, the presiding arbitrator stepped down, and the High Court appointed a replacement under Section 11. The Commercial Court went ahead and extended the timeline anyway, but the other side challenged this in the High Court, arguing it had no jurisdiction since the High Court had appointed the arbitrator.

The Supreme Court (the '**Court**') held that applications for extension of time under Section 29A of the Arbitration & Conciliation Act 1996 lie exclusively before the "Court" as defined under Section 2(1)(e), namely the Principal Civil Court of original jurisdiction or the Commercial Court, irrespective of the authority which appointed the arbitrator. The Court stressed that the jurisdiction exercised under Section 11 is limited to the appointment of arbitrators and once the tribunal is in place, the appointing/referral court is functus officio with no residual supervisory or controlling power over arbitral proceedings. It further held that Section 42 of the Act does not apply to applications under Section 11, as the referral court is not a "Court" within the meaning of Section 2(1)(e). Accordingly, the Supreme Court overturned the High Court's order and upheld the Commercial Court's decision extending the arbitral tribunal's mandate.

Section 37 jurisdiction is circumscribed & cannot interfere with plausible arbitral interpretations of contracts *[Jan De Nul Dredging India Pvt. Ltd. v. Tuticorin Port Trust, 2026 INSC 34]*

~ Priya Dutt

The Appellant executed a dredging project for the Respondent under a license agreement. Following early completion, a dispute arose regarding Claim No. 7 for idling charges of a "Backhoe Dredger" ('**BHD**'). The Respondent contended that Clause 38 only allowed idle time for "major dredgers", a category they argued excluded the BHD. The Arbitral Tribunal, however, interpreted the contract conjointly, reading Clause 38 with Clause 51.1 to hold that compensation was admissible for any equipment idled by port failures. A single judge bench of the Madras High Court upheld this premise as a plausible interpretation under Section 34 of the Arbitration and Conciliation Act, 1996 (the '**Act**'), but the Division Bench reversed it in a Section 37 appeal, substituting its own interpretation of "major" versus "minor" equipment.

The Supreme Court (the '**Court**') set aside the Division Bench's judgment, ruling that Section 37 jurisdiction is more circumscribed than Section 34. The Court held that if an arbitrator construes a contract term in a reasonable manner, the award cannot be set aside merely because an alternative view exists. It clarified that patent illegality requires a violation of the fundamental policy of Indian law or basic notions of justice, neither of

which was established. Since the Tribunal's view was plausible and approved under Section 34, the Appellate Court lacked the authority to reappraise evidence or sit as a court of ordinary appeal. Consequently, the Court restored the award, emphasising the mandate for minimal judicial intervention under Section 5 of the Act.

London as the juridical seat excludes Part I of the Arbitration & Conciliation Act, 1996 **[***Delhi Airport Metro Express Pvt. Ltd. vs. Construcciones Y Auxiliar De Ferrocarriles, 2025 SCC OnLine Del 10072]*

~ Anupama Rani

The dispute arose from contracts for execution of a Rolling Stock Supply Contract and a Maintenance Services Agreement ('**MSA**') in 2008 between the Appellant and the Respondents, both containing arbitration clauses under International Chamber of Commerce ('**ICC**') Rules with London as the seat. The MSA expressly excluded Part I of the Arbitration and Conciliation Act, 1996 (the '**Act**'), while the Supply Contract did not. Alleged defects in the rolling stock and invocation of a performance bank guarantee, led to an ICC arbitration in London. The Tribunal rejected the Appellant's jurisdictional objections, awarded costs against it, and ultimately directed a refund of €4.76 million encashed under the guarantee. The Appellant challenged the awards under Section 34 of the Act before the Delhi High Court (the '**Court**"). The Single Judge dismissed the petition, holding that London was the juridical seat and Part I of the Act stood excluded, relying on BALCO, Roger Shashoua, and Bhatia International. It was emphasized that Part I applies to foreign-seated arbitrations only absent express or implied exclusion, which was evident here.

On appeal under Section 37(1)(c), the Division Bench upheld the Single Judge's findings. It reiterated that London was the juridical seat, ICC Rules governed procedure, and Indian law governed the substantive contracts. Since Part I was excluded, Indian courts lacked jurisdiction to entertain a Section 34 challenge. The appeal was dismissed, affirming that supervisory jurisdiction lay exclusively with English courts. The Court confirmed that in foreign-seated ICC arbitrations, express exclusion of Part I of the Act bars Indian courts from setting aside awards, reinforcing the principle that the juridical seat determines supervisory jurisdiction.

Mandate of Arbitral Tribunal to Fix Fees Is Subject to Consensus; Termination of Proceedings Extinguishes Authority *[Harshbir Singh Pannu & Anr. vs Jaswinder Singh, 2025 INSC 1400]*

~ Ankita Kumari

The Appellants and Respondent entered into a partnership for healthcare services, induction of a new partner in 2014, and subsequent induction of a new partner. Disputes arose in 2017 regarding capital contributions and management. The High Court of Punjab and Haryana (the '**HC**') appointed a Sole Arbitrator and directed that fees be determined per the Fourth Schedule of the Arbitration and Conciliation Act, 1996 (the '**Act**') or by mutual agreement. The Appellants filed a claim for ₹13.65 Crores, and the Respondent filed a counter-claim for ₹82.78 Crores. The Arbitrator revised the fees to ₹37,50,000 based on the total sum in dispute without explicit fresh consent from the parties for the revision. After the Appellants expressed financial inability and the Respondent refused to pay the

Appellants' share, the Arbitrator terminated the proceedings under Section 38(2) of the Act. The Appellants' subsequent petition for a fresh arbitrator was rejected by the HC, leading to this appeal.

The Supreme Court (the '**Court**') clarified that Section 32 of the Act is the sole provision under which arbitral proceedings can be formally terminated by an order, and other sections like 25, 30, or 38 merely provide the circumstances for such termination. Any termination of proceedings inevitably results in the termination of the mandate of the tribunal, divesting it of authority. Critically, the Court reiterated the *Afcons Case [(2010) 8 SCC 24]* principle: an arbitral tribunal cannot unilaterally fix or revise fees; any determination of fees, even under the Fourth Schedule, requires the consent of the parties. The Court held that while the Arbitrator's unilateral revision of fees lacked explicit consent, the Appellants' failure to pay any share of the initial agreed fees and their non-participation justified the termination. However, noting the uncertainty in the law regarding remedies against such termination, the Court exercised its discretion to allow one last opportunity for adjudication. The appeal was partly allowed, and the HC was directed to appoint a substitute arbitrator to hear the claims and counter-claims *de novo.*

Arbitral awards cannot be set aside under Sections 34 and 37 merely for errors of law or misappreciation of evidence on the ground of patent illegality: Supreme Court [*Ramesh Kumar Jain v. Bharat Aluminium Company Limited (BALCO), 2025 INSC 1457***]**

~ Shalini Singh

The respondent and the appellant entered into an agreement for mining and transporting of Bauxite for a period of 18 months. After completion of supply of the agreed quantity, the respondent requested the appellant to continue the work and the rate of extra work was to be decided later on. Subsequently, dispute arose between the parties regarding the payment of extra work performed by the appellant resulting in invocation of the arbitration clause. The sole arbitrator passed the arbitral award in favour of the appellant. The commercial court affirmed the arbitral award. However, the respondent approached the high court under section 37 of the Arbitration and Conciliation Act, 1996 (the **'Act'**) for setting aside the order.

The high court set aside the award on the ground that increasing the rate on the basis of quantum meruit amounted to contract rewriting and the damages were based on guesswork & insufficient evidence. The Supreme court (the **'Court'**) set aside the impugned judgement and held that the high court exceeded its limited jurisdiction under section 37 by reappreciating the facts and evidence rather than observing the narrow grounds permissible under section 34 of the Act. Referring to *Associate Builders v. Delhi Development Authority*, [2014 SCC OnLine SC 937] & *Ssangyong Engg. & Construction Co. Ltd. v. NHAI,* [(2019) 15 SCC 13], the court also reiterated that error in law, different interpretation of contract or possible alternative views on evidence are not enough to set aside an award on the ground of patent illegality. Moreover, the use of quantum meruit by the arbitrator is the power exercised under section 31(7)(a) to fulfill the gap on the basis of equity. The court restored the order of the commercial court upholding the award.

INTERNATIONAL CASES

Mandatory requirement to comply with procedural conditions precedent to initiating international arbitration serves as a fundamental condition of the State's consent to jurisdiction under the BIT and the ICSID Convention. *[Hela Schwarz GmbH vs. People's Republic of China, ICSID Case No. ARB/17/19]*

~ Priyasha Priyadarshini

The dispute originated from the expropriation of property and the recovery of land-use rights held by Jinan Hela Schwarz Food Co., Ltd. (**'JHSF'**), a wholly-owned subsidiary of the German claimant, Hela Schwarz GmbH, in Jinan, China. The Jinan Municipal Government initiated expropriation proceedings between 2014 and 2016 for the Huashan Area Reconstruction Project, culminating in the demolition of JHSF's production facility in December 2017. Prior to the arbitration, JHSF challenged the legality of the expropriation through administrative review and subsequent litigation in Chinese courts, including appeals to the Shandong Higher People's Court. JHSF's judicial challenge was dismissed at first instance and on final appeal on the ground that the legality of that decision had already been affirmed in a prior binding judgment involving other expropriated parties. JHSF did not seek withdrawal of its court complaint. In 2018, JHSF did not seek administrative review of the cancellation of its food production license by a new municipal regulation. The Claimant initiated ICSID arbitration under the Germany–PRC BIT (2003), alleging unlawful direct and indirect expropriation, denial of justice, and breach of fair and equitable treatment. The Tribunal upheld the Respondent's jurisdictional objection under Ad Article 9(c) of the BIT Protocol, a qualified fork-in-the-road provision. It held that JHSF had brought the "issue" of the Expropriation Decision's legality to the Chinese courts and litigated it to a final, unwithdrawn judgment. Therefore, the Claimant was precluded from pursuing the same issue in arbitration. The Tribunal dismissed the Claimant's denial of justice claim, observing that such a claim has a "high hurdle to surmount" and requires clear evidence of a manifest and egregious violation of due process that strikes at the core of the judicial process.

The Tribunal further upheld the Respondent's objection under Ad Article 9(a) regarding the food production licence, finding that the Claimant was required to, but did not, seek administrative review of that specific measure before arbitrating its claims. The Tribunal held that the direct expropriation claim fell with the denial of justice claim and the indirect expropriation and FET claims, shorn of the food licence complaint, were not materially distinguishable from the failed direct expropriation claim and were likewise dismissed. All claims were rejected, and the Tribunal declined to find any breach of the BIT, reserving costs to a confidential codicil.

Interpreting North Carolina law to regulate out-of-state car title loans involving significant in-state contacts does not violate the Commerce Clause or Due Process: JAMS *[Daniel Gilpin vs. TitleMax of South Carolina, Inc., JAMS Arb. REF #5440001752]*

~ Anurag Kumar

The Claimant, a North Carolina resident, came into different motor vehicle title loan agreements with the Respondent in South Carolina between 2018 and 2021. Although the agreements composed a South Carolina choice-of-law provision, the Claimant claimed that the Respondent breached the North Carolina Consumer Finance Act ('**CFA**') and the Unfair and Deceptive Trade Practices Act ('**UDTPA**') by charging grasping interest rates surpassing 160%. The Respondent disputed that South Carolina law should apply and that applying North Carolina law would be unconstitutional under the Due Process and Commerce Clauses.

The Arbitrator held that the South Carolina choice-of-law provision was not applicable as it infringed North Carolina's Basic public policy to protect its residents from predatory lending. Basing on *TitleMax of Delaware vs. Weissman* [24 F.4th 230], the Arbitrator decided that the Respondent's action was not "wholly outside" North Carolina because it received payments from within the state and maintained liens on vehicles located there. The Arbitrator further found that the Respondent engaged in "contractual activities" and "solicitations" in North Carolina by discussing loan details with the Claimant over the phone while he was in-state and motivated him to refinance. The Arbitrator concluded that the loans were illegal under the CFA, Hence, the Respondent had no right to collect or retain any principal or interest.

Irregular constitution of arbitral tribunal due to non-compliance with parties' agreed appointment procedure under UNCITRAL Rules *[Russian Federation v. Rinat Akhmetov & Investio LLC, Paris Court of Appeal, Judgment dated 15 January 2026]*

~ Revant Sharma

On February 25, 2019, Akhmetov and Investio filed arbitration proceedings against the Russian Federation under the 1998 Russia–Ukraine Bilateral Investment Treaty ('BIT'), claiming that their investments had been unlawfully expropriated. The Permanent Court of Arbitration ('PCA') in Paris oversaw the proceedings, which were carried out in accordance with the UNCITRAL Arbitration Rules.The parties had agreed in writing during the arbitral tribunal's formation on a particular process for selecting the presiding arbitrator, which called for the co-arbitrators to submit a list of candidates and the parties to rank them. But in the end, the tribunal used a different procedure to name Professor Siegfried H. Elsing as presiding arbitrator. The tribunal rejected the Russian Federation's objections and upheld its jurisdiction over the dispute in a partial award on jurisdiction issued on August 16, 2022. The Russian Federation then submitted an application for annulment under Article 1520 of the French Code of Civil Procedure to the Paris Court of Appeal, arguing that the tribunal lacked independence and impartiality and had been improperly constituted.

The Court looked at whether the appointment process followed the protocol that the parties had agreed upon and whether the allegations made by Russia raised plausible questions about the arbitrators' independence and impartiality. It concluded that the parties' written agreement to amend the UNCITRAL Rules' appointment process was legally binding and could not be ignored.

According to Article 1520 of the French Code of Civil Procedure, the Court determined that the arbitral tribunal's constitution was irregular because the presiding arbitrator was not appointed in accordance with the agreed procedure. As a result, the Court rejected the accusations of lack of independence and impartiality while granting the plea for annulment on this basis.

Venture Global Calcasieu Pass LLC (Venture Global) v. Repsol LNG Holding SA, ICC, January 21, 2026

~ Shalini Singh

The dispute between the parties centered on a long term liquefied natural gas ('LNG') sales and purchase agreement ('SPA') for the Calcasieu Pass Project in Louisiana. The Calcasieu Pass Facility began producing LNG in early 2022 but Venture Global maintained that the facility was not technically 'complete' due to issues with its on-site power plant and delayed the commercial operation date (the'COD') until April 15, 2025. However, during this phase, Venture Global sold these cargoes on the spot market at premium prices. The respondent claimed breach of the SPA to capitalize on rising spot market prices.

The International Chamber of Commerce (the 'ICC') tribunal found that Venture Global did not act in bad faith or willful misconduct and held that Venture Global complied with the SPA as a reasonable and prudent operator in delaying the COD. The tribunal also observed that the technical challenges cited by Venture Global were legitimate which justified the delay and spot sales. By ruling in favor of Venture Global, ICC has significantly expanded the definition of what constitutes a valid operational delay.

SAMVAAD

DECEMEBER 2025- JANUARY 2026

EDITED BY

Yash Singh
Ayush Bijalwan
Shivam Madhur
Anushka Rashmi
Ankita Kumari
Priyanshu Lucky
Tanya Raj

DESIGNED BY

Sumedha Singh

CONTACT DETAILS

YASH SINGH (EDITOR-IN-CHIEF)
+91 6388608840
AYUSH BIJALWAN (CONVENOR)
+91 8433188578
ANKITA KUMARI (CO-CONVENOR)
+91 9304685878
ARPITA CHAUDHARY (CO-CONVENOR)
+91 8797805652