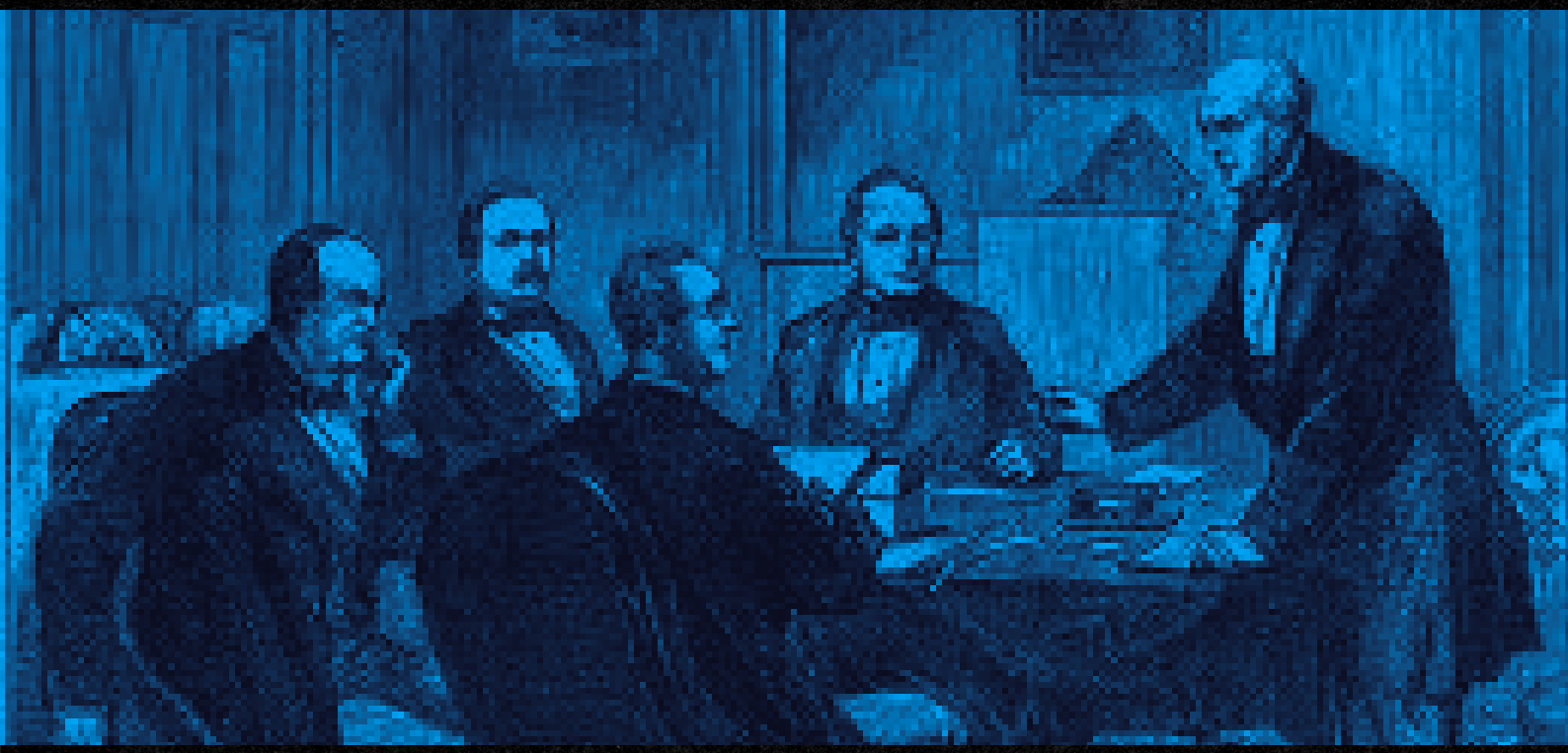
Centre for Alternative Dispute Resolution, Rajiv Gandhi National University of Law

CADRadar

CENTRE FOR ALTERNATIVE DISPUTE RESOLUTION

Quarterly Newsletter Volume VII, Issue 1



July-September 2025

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CADRadar

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About CADR

CENTRE FOR ALTERNATIVE DISPUTE RESOLUTION

The Centre for Alternative Dispute Resolution, RGNUL (CADR) is a research centre dedicated to research and capacity-building in Alternative Dispute Resolution (ADR). CADR's ultimate objective is to strengthen ADR mechanisms in the country by emerging as a platform that enables students and professionals to further their interests in the field.

In its attempt to further the objective of providing quality research and information to the ADR fraternity, the CADR team is elated to present the First Edition of the Seventh Volume of its quarterly newsletter, "The CADR Radar."

The Newsletter initiative began with the observation that there exists a lacuna in the provision of information relating to ADR to the practicing community. With an aim to lessen this gap, the Newsletter has been comprehensively covering developments in the field of ADR, both national and international.

Additionally, the newsletter documents the events at CADR and the achievements of RGNUL students in ADR competitions. The CADR Radar is a one-stop destination for all that one needs to know about the ADR world; a "quarterly dose" of ADR News.

NEWS UPDATES

Catch up on the latest developments in the fields of Domestic Arbitration, International Commercial Arbitration, and Investment Arbitration.

DOMESTIC ARBITRATION

– Kanupriya Sharma & Shubhan Roy

National Conference on Institutional Arbitration Promotes India as Global Hub

The Department of Legal Affairs, Ministry of Law & Justice, organized a significant National Conference on "Institutional Arbitration: An Effective Framework for Dispute Resolution" at Bharat Mandapam, New Delhi on June 14, 2025, with effects continuing into July. Union Minister Arjun Ram Meghwal affirmed the Government's vision stating that "India will become the arbitration hub," emphasizing the push toward institutional arbitration over ad hoc mechanisms. Read More

Government Policy Push Against Ad Hoc Arbitration in Public Contracts

A critical Office Memorandum from the Department of Expenditure emphasized that all Ministries and Departments must avoid ad hoc arbitration in government contracts and adopt institutional arbitration through recognized arbitral institutions. The directive mandated that arbitration be confined to disputes valued below ₹10 crores, with institutional arbitration being the default for larger disputes.

Delhi High Court's Anti-Arbitration Injunction Against Foreign-Seated Proceedings

In Engineering Projects (India) Ltd v. MSA Global LLC (2025 SCC OnLine Del 5072), the dispute concerned a contract for supply and installation of border security systems at the Oman-Yemen border. A dispute arose over delays, leading to arbitration proceedings under ICC rules seated in Singapore. The plaintiff challenged the impartiality of a co-arbitrator due to non-disclosure of

prior associations and sought an anti-arbitration injunction on grounds of oppression and abuse of process. The Delhi High Court granted anti-arbitration injunctions against foreign-seated arbitration proceedings, establishing a "litmus test" for determining vexatious and oppressive proceedings. The Court held that Indian civil courts can intervene when foreign arbitral proceedings serve no legitimate adjudicatory purpose and constitute abuse. Read More

Supreme Court Clarification on Arbitration Agreement Requirements

In BGM & M-RPL-JMCT (JV) v. Eastern Coalfields Ltd., (2025 SCC OnLine SC 1471), the dispute involved the existence and interpretation of an arbitration clause in a contract for transportation and handling of goods. The issue was whether a clause permitting disputes to be resolved by arbitration constituted a binding arbitration agreement or merely an option. The Court examined whether the clause reflected parties' clear intention to arbitrate disputes. The Supreme Court held that using the phrase "may be sought through arbitration" does not mandate arbitration as a mode of dispute resolution. The Court clarified that such clauses are merely enabling provisions that leave the option open rather than creating binding arbitration agreements. Read More

Arbitral tribunal can grant pendente lite interest unless expressly barred

In ONGC Ltd. v. G & T Beckfield Drilling Services (P) Ltd., (2025 SCC OnLine SC 1888), Oil and Natural Gas Corporation(ONGC) hired G&T Beckfield for drilling services and withheld invoice payments under multiple bills. The arbitral tribunal awarded both principal and interest sums. The central dispute concerned whether ONGC's contract clause barring "interest on delayed payment" also prohibited the tribunal from granting pendente lite interest on the awarded

amount. It was then held by the Supreme Court that an arbitral tribunal retains the power to grant pendente lite interest unless the contract expressly or by necessary implication prohibits it. A clause merely barring interest on delayed payments does not suffice to prevent awarding pendente lite interest by the tribunal. Read more.

Supreme Court Rules Criminal Cases No Bar to Arbitration in Bihar PDS Scam

In The Managing Director Bihar State Food and Civil Supply Corporation Limited & Anr. v. Sanjay Kumar (2025 SCC OnLine SC 1604), the case involved large-scale government procurement contracts for paddy milling, followed by allegations of massive fraud, misappropriation, and criminal conspiracy by rice millers causing huge public losses. Numerous FIRs and chargesheets were filed. The Corporation invoked arbitration under agreements with rice millers despite ongoing criminal investigations. The dispute involved arbitrability of fraud-related contractual claims, interplay with criminal proceedings, and enforcement of arbitration clauses amid serious fraud allegations. The Supreme Court allowed arbitration proceedings to continue in the multi-crore (₹1,500 crore) Bihar Public Distribution System scam, ruling that mere pendency of criminal proceedings involving simple fraud does not bar disputes from arbitration. The Court emphasized that criminal proceedings do not automatically make otherwise arbitrable disputes non-arbitrable. Read More

Supreme Court Restricts Non-Signatory Participation in Arbitration

In Kamal Gupta v. L.R. Builders (P) Ltd., (2025 SCC OnLine SC 1691), the dispute arose from a family settlement dispute involving a Memorandum of Family Settlement Deed not signed by one family member, Rahul Gupta. Appointment under Section 16 of the Arbitration Act was challenged by non-signatories seeking intervention. The issue was whether non-signatories can intervene or be present in arbitration proceedings between signatories.

Examining jurisdiction and autonomy principles regarding non-party involvement, the Court definitively ruled that non-signatories to an arbitration agreement cannot participate in arbitration proceedings, as only signatories are entitled to remain present. This decision clarifies the boundaries of arbitration participation and reinforces the contractual nature of arbitration agreements. Read More

Supreme Court Clarifies Valid Service of Award on the State

In M/S. Motilal Agarwala v. State of West Bengal & Anr. (2025 SCC OnLine SC 1876), an arbitral award favored contractor Motilal Agarwala in a construction dispute with the State of West Bengal. The State challenged the award under Section 34 of the Arbitration Act, claiming limitation had not started since it received only a xerox copy through a junior engineer. The Supreme Court held that when the government is a party, service of the arbitral award must be made to an official actually connected to the proceedings, one capable of appreciating and acting on the award, and not to an unrelated officer. Read more.

Arbitration Agreement Remains Valid Even If Appointment Mechanism is Invalid

In Offshore Infrastructure v. M/s Bharat Petroleum, (2025 SCC OnLine SC 2147) Offshore Infrastructures was awarded a contract by Bharat Oman Refineries (later merged with Bharat Petroleum Corporation Limited) for refinery expansion works. Though the project was completed, BPCL deducted liquidated damages for delays an resisted arbitration, alleging the clause naming its Managing Director as arbitrator had become invalid after legal amendments. The dispute concerned whether the arbitration agreement emained enforceable despite the ineligible appointment mechanism. The Supreme Court then held that an arbitration agreement remains valid even if

the appointment mechanism becomes inoperative due to statutory amendments. Courts can appoint an independent arbitrator when the named authority is disqualified, ensuring the core intent of arbitration survives despite an invalid appointment clause. Read more.

LLP partners cannot be held personally liable under Arbitral Award

In Proteus LLP v. Archilab Designs before the Bombay High Court, Proteus Ventures LLP engaged Archilab Designs for design and construction projects under its "The Mesh" brand. Archilab claimed outstanding dues of over ₹88 lakh for completed work. The arbitral tribunal made Proteus and its partners jointly liable. The dispute before the Bombay High Court was whether LLP partners could be personally held responsible for liabilities under an arbitral award when the contract was with the LLP alone. The Court ruled that partners of an LLP cannot be held personally liable for obligations arising under an arbitral award against the firm. The Court severed the award's imposition of joint and several liability on partners, affirming the principle of limited liability central to LLPs. Read more.

Execution of Arbitral Award Not Stalled by Section 37 Appeal

In Chakardhari Sureka v. Prem Lata Sureka & Ors. the dispute involved execution of an arbitral award despite a pending Section 37 appeal against the rejection of a Section 34 challenge. The question was whether execution should be deferred without a stay.The Supreme Court clarified that the pendency of an appeal under Section 37 of the Arbitration Act does not bar the execution of an arbitral award unless there is an explicit stay order; execution proceedings may proceed while appeals are pending. Read more.

INTERNATIONAL COMMERCIAL ARBITRATION

– Kavya Jain & Shantanu Singh

Sidley Secures Rare High Court Victory in Challenge to ICC Arbitration Award

On 14 July 2025, Sidley Austin LLP won significantly in the UK High Court, successfully challenging an ICC arbitration award on jurisdictional grounds under Section 67 of the Arbitration Act 1996. This rare instance of a court overturning an international arbitral decision underscores the judiciary's willingness to scrutinize awards under specific circumstances. Read More

Saudi gas plant award set aside in London

In July 2025, the Commercial Court in London annulled an ICC arbitration award involving a Spanish construction and engineering firm and a Saudi gas plant project. The court determined that the ICC tribunal had overstepped its jurisdiction, ruling that the dispute should have been addressed through ad hoc arbitration instead. This decision underscores the importance of proper jurisdictional alignment in international commercial arbitration. Read More

Unsigned Contracts Still Bind in Foreign Arbitration

In August 2025, the Supreme Court of India in Glencore International AG v. M/s. Shree Ganesh Metals & Another held that even if a contract is not formally signed, a foreign-seated arbitration agreement may still be binding under Indian law. It applied the principles of Section 7 of the Arbitration and Conciliation Act, 1996 (which deals with what constitutes arbitration agreement "in writing") to international arbitrations under Part II of the Act. Read More

Spain ratifies the Beijing Convention on the Judicial Sale of Ships

On 25 August 2025, Spain ratified the Beijing Convention on the Judicial Sale of Ships, becoming one of the early adopters of this UNCITRAL treaty. The Convention establishes a uniform legal framework for recognizing and giving effect to judicial ship sales across borders. It enhances legal certainty for buyers and creditors in maritime commerce. Spain's ratification underscores its commitment to strengthening international maritime law. The treaty will enter into force for Spain once the required conditions are met. Read More

SIAC adds second deputy registrar

The Singapore International Arbitration Centre has appointed former Clifford Chance lawyer Matthew Brown as its second deputy registrar. This appointment strengthens SIAC's administrative capacity as the institution continues to handle an increasing caseload of complex international commercial arbitrations. The addition of a second deputy registrar reflects SIAC's institutional growth and its commitment to maintaining efficient case management standards. The appointment comes at a time when SIAC has solidified its position as one of the leading arbitration institutions in Asia and globally. Read More

Nigerian power plant dispute heads to SIAC

In September 2025, Chinese clean energy firm Jiangsu Communication Clean Energy Technology (CCETC) filed proceedings against its Nigerian partner at the Singapore International Arbitration Centre after the shutdown of their joint power plant, Ossiomo Power, amid an ownership dispute. The case underscores the growing trend of African energy disputes being resolved through international arbitration in Singapore, highlighting SIAC's rising prominence as a neutral forum for cross-border energy disputes. Read More

Citigroup's Mexican affiliate faces enforcement in New York

An asset manager linked to a former Mexican politician has petitioned a New York court to enforce a US$51 million ICC award against a Citigroup affiliate in a dispute concerning trust management fees. Axis Asset Management filed suit against Citigroup's Banamex to collect an arbitration award exceeding $53 million related to the Mexican bank's alleged failure to pay management fees on a trust backing an oil-services firm that subsequently went bankrupt. The case underscores the challenges of enforcing international arbitration awards across jurisdictions and the strategic importance of choosing enforcement-friendly venues like New York for international commercial disputes. Read More

Equatorial Guinea reverses the US enforcement of the hospital award

A US appeals court has overturned a decision to enforce a Swiss award against Equatorial Guinea relating to a medical clinic, finding the lower court should not have deferred to the tribunal's finding that the claimant was not required to exhaust local remedies. The D.C. Circuit reversed enforcement of an $8.7 million arbitral award issued against Equatorial Guinea in a dispute over a failed hospital operating contract, ruling that the lower court improperly deferred to the arbitrators' determination. This decision represents a significant victory for state parties defending against arbitration awards and highlights the ongoing tension between judicial deference to arbitral tribunals and courts' independent review of jurisdictional and procedural requirements. Read More

INVESTMENT ARBITRATION

– Adamya Rawat & Kritvee Sharma

Paris Court of Appeal upholds billion-dollar Oschadbank v. Russian Federation Award

A US appeals court has overturned a decision to enforce a Swiss award against Equatorial Guinea relating to a medical clinic, finding that the lower court should not have deferred to the tribunal's finding that the claimant was not required to exhaust local remedies. The D.C. Circuit reversed enforcement of an $8.7 million arbitral award issued against Equatorial Guinea in a dispute over a failed hospital operating contract, ruling that the lower court improperly deferred to the arbitrators' determination. This decision represents a significant victory for state parties defending against arbitration awards and highlights the ongoing tension between judicial deference to arbitral tribunals and courts' independent review of jurisdictional and procedural requirements. Read More

European Commission refers Hungary to CJEU in Komstroy-intra-EU ECT dispute

On 16 July 2025, the European Commission referred Hungary to the Court of Justice of the European Union (CJEU) over its unilateral declaration rejecting the retroactive effect of the Komstroy judgment in intra-European Union (EU) Energy Charter Treaty (ECT) arbitrations. The referral accuses Hungary of breaching Article 4(3) of the Treaty on the Functioning of the European Union (TFEU) and undermining the primacy, effectiveness, and uniform application of EU law. While not an ISDS dispute per se, this matter stems from Hungary's position on cross-border intra-EU investments in the energy sector. It intensifies the EU's push to suppress intra-EU Investor-State Dispute Settlement (ISDS) mechanisms and may result in potential fines or financial penalties for non-compliance. Read more

EU launches arbitration against Algeria under EU-Algeria Association Agreement

On 16 July 2025, the European Commission initiated arbitration against Algeria under the 2005 EU-Algeria Association Agreement, alleging import bans, licensing barriers, and ownership caps that breach trade and investment obligations. Following failed consultations, the EU appointed its arbitrator, with Algeria due to respond within two months. The dispute arosen from the restrictions imposed by Algeria on European investors in the consumer goods, pharmaceuticals, and automotive sectors, affecting cross-country investment flows from EU member states into Algeria. The dispute highlights the EU's growing reliance on treaty-based arbitration outside the World Trade Organization (WTO) to secure market access for European investors. Read more

ICSID ad hoc committee rejects Spain's annulment in Eurus Energy v. Spain

On 31 July 2025, an ICSID ad hoc committee dismissed Spain's attempt to annul a €106 million Energy Charter Treaty (ECT) award in Eurus Energy v. Spain, which found breaches of fair and equitable treatment in Spain's retroactive renewable energy reforms. The non-state party, Eurus Energy Holdings Corporation (Japan), had invested in Spain's wind energy sector and claimed that regulatory rollbacks undermined the stability of its investment. The committee upheld tribunal findings under Article 52 of the ICSID Convention, reinforcing that annulment is not an appeal on the merits and strengthening enforcement momentum for ECT award creditors worldwide. Read more

U.S. Court of Appeals vacates D.D.C. ruling in Hulley v. Russian Federation

On 5 August 2025, the U.S. Court of Appeals for the D.C. Circuit vacated a District Court order in the long-running Hulley Enterprises Ltd. v. Russian Federation enforcement case, directing the lower court to independently verify "jurisdictional facts" under the FSIA arbitration exception. The dispute, arising from the expropriation of Yukos Oil Company, involves investment entities, Hulley Enterprises Limited, Yukos Universal Limited, and Veteran Petroleum Limited, controlled by former Yukos shareholders from Cyprus and the Isle of Man. The Court held that U.S. courts cannot simply defer to arbitral findings on jurisdiction, thereby heightening the evidentiary burden for award creditors and impacting ongoing Yukos enforcement proceedings worldwide. Read more

U.S. District Court enforces multiple intra-EU ICSID awards in RREEF v. Spain and others

Between 12 and 14 August 2025, the U.S. District Court for the District of Columbia (D.D.C.) confirmed several intra-European Union (EU) International Centre for Settlement of Investment Disputes (ICSID) awards against Spain over its retroactive renewable-energy reforms. In RREEF Infrastructure (Germany) v. Spain, Cube Infrastructure Fund (Luxembourg) v. Spain, and Blasket Renewable Investments (Ireland) v. Spain, the court rejected EU-law defenses and recognized the awards as U.S. judgments under provisions of 22 U.S.C. §1650a (Arbitration awards under the Convention). Each dispute arose from foreign investors' participation in Spain's solar and wind energy sectors, where regulatory changes reduced guaranteed feed-in tariffs. The rulings reinforce U.S. courts' pro-enforcement stance despite the European Commission's objections to intra-EU arbitration. Read more

Federal Court of Australia upholds enforcement of ECT ICSID awards in NextEra v. Spain and others

On 29 August 2025, the Federal Court of Australia upheld four ICSID awards against Spain under the Energy Charter Treaty (ECT), including NextEra Energy Global Holdings (United States) v. Spain and 9REN Holding S.A. (Italy) v. Spain, rejecting EU-law and sovereign immunity defenses. The disputes involved investments by U.S. and Italian renewable-energy companies in Spain's photovoltaic and wind energy projects, adversely affected by Spain's withdrawal of renewable incentives. The court emphasized Australia's obligations under the ICSID Convention, making it a major non-EU enforcement forum. The judgment, already cited in U.S. proceedings, underscores convergence among non-EU courts toward literal enforcement of ICSID awards under Article 54. Read more

First ICSID arbitration filed against the United Kingdom in West Cumbria Mining v. United Kingdom

On 8 August 2025, West Cumbria Mining Limited (United Kingdom) filed an ICSID arbitration against the United Kingdom (U.K.), challenging regulatory barriers that halted the Whitehaven coking-coal project. The claim, brought under the United Kingdom-Singapore Bilateral Investment Treaty (BIT), reportedly involves Singaporean equity investors participating in the U.K.-based mining company—thereby constituting a cross-country investment. The claim alleges unfair and inequitable treatment and indirect expropriation tied to climate-policy reversals. This marks the U.K.'s first appearance as a respondent in an ICSID arbitration, testing the balance between environmental regulation and investment protection obligations. Read more

European Union approves inter se agreement declaring ECT Article 26 inapplicable in intra-EU disputes

On 19 September 2025, the European Union (EU) formally approved an inter se agreement among EU Member States declaring that Article 26 of the Energy Charter Treaty (ECT) "cannot and never could" provide a basis for intra-EU Investor-State Dispute Settlement (ISDS). The measure, signed by all but one Member State, consolidates the Achmea and Komstroy jurisprudence and will guide national courts in resisting enforcement of intra-EU ECT awards. This agreement directly affects cross-country energy investments made within the EU, particularly by investors in renewable and infrastructure projects who have relied on ECT protections. It further accelerates the EU's coordinated withdrawal from the ECT and widens the rift with extra-EU enforcement forums such as the United States (U.S.), United Kingdom (U.K.), and Australia. Read more

U.S. District Court confirms ICSID/ECT award in Watkins v. Kingdom of Spain

On 12 September 2025, the U.S. District Court for the District of Columbia (D.D.C.) confirmed an International Centre for Settlement of Investment Disputes (ICSID) award under the Energy Charter Treaty (ECT) in Watkins Holdings S.à r.l. (Luxembourg) v. Kingdom of Spain, valued at approximately €77-79 million. The dispute concerned Watkins's investment in Spain's solar photovoltaic energy sector, which suffered losses following Spain's retroactive withdrawal of renewable-energy incentives. The court rejected Spain's intra-EU objections and applied "full faith and credit" under provisions of 22 U.S.C. §1650a. The ruling continues the D.D.C.'s pro-enforcement approach to ICSID awards against EU states, reaffirming that EU-law defenses cannot obstruct recognition absent an ICSID stay. Read more

Tel Aviv District Court declines enforcement of ICSID/ECT award in Sun-Flower and Redmill v. Kingdom of Spain

In September 2025, the Tel Aviv District Court rejected enforcement of an ICSID award under the Energy Charter Treaty (ECT) in Sun-Flower and Redmill Holdings Limited (Cyprus) v. Kingdom of Spain. The dispute arose from Cypriot investors' participation in Spain's renewable energy projects, which they claimed were adversely affected by Spain's regulatory rollbacks in the solar energy sector. The court cited forum non conveniens and insufficient nexus to Israel, referencing the ongoing intra-EU ECT controversy. This marks Israel's first ICSID enforcement refusal, diverging from pro-enforcement rulings in the U.S., U.K., and Australia, and signaling growing jurisdictional fragmentation in ECT award recognition. Read more

ICSID ad hoc committee rejects Georgia's annulment in Gardabani Holdings B.V. & Silk Road Holdings B.V. v. Georgia

On 21 August 2025, an ICSID ad hoc committee dismissed Georgia's application to partially annul the ICSID award in Gardabani Holdings B.V. & Silk Road Holdings B.V. (both incorporated in the Netherlands) v. Georgia, leaving intact roughly US$76 million in compensation for tariff-related breaches. The dispute involved foreign investment in Georgia's energy sector, specifically the development and operation of natural gas-fired power plants under public-private partnership frameworks. The committee rejected Georgia's manifest-excess-of-power and duplicative-claims arguments, narrowing annulment prospects and strengthening award-finality principles in Investor-State Disputes (ISDS). Read more

ADR Sectoral Spotlight

This Issue's sector in focus is

REAL ESTATE

ADR SECTORAL SPOTLIGHT

REAL ESTATE

– Nandini Garg & Piyush Singla

Odisha RERA Introduces CDR Cell to Resolve Real Estate Disputes Through Mediation and Conciliation

In September 2025, the Odisha Real Estate Regulatory Authority (ORERA) launched a Conciliation and Dispute Resolution (CDR) Cell with formal guidelines to settle disputes between homebuyers, promoters, and agents through mediation and conciliation. The cell allows parties to voluntarily resolve issues within two months, and any agreement reached becomes binding. This initiative aims to provide a faster, cost-effective, and amicable alternative to formal RERA proceedings, marking a major step in integrating ADR (Alternative Dispute Resolution) mechanisms into the real estate regulatory framework in Odisha. Read More

Calcutta HC Upholds Compulsory Reference of Property Disputes

In the case of M/s Mahavir Prasad Gupta & Sons v. Government of NCT of Delhi (FAO (COMM) 170/2023) the dispute arose from a construction contract for Road No. 58, where the appellant challenged the unilateral appointment of a sole arbitrator by the respondent, alleging non-compliance with Section 12(5) of the Arbitration and Conciliation Act, 1996. The appellant contended that the appointment was invalid and sought judicial intervention. The Delhi High Court observed that the unilateral appointment violated the Act. Further, since the contract contained a prima facie valid arbitration clause, the Court held that the dispute must be referred to arbitration under Section 8.

Consequently, commercial disputes related to construction or urban housing ventures are bound to proceed before the agreed arbitral forum, and any award rendered by an invalidly appointed arbitrator would be set aside. Read More

Supreme Court Clarifies Scope of Limitation in MSMED Conciliation and Arbitration

In the case of Sonali Power Equipments Pvt. Ltd. v. Chairman, Maharashtra State Electricity Board & Ors. (2025 INSC 864), The dispute involved the recovery of dues by a real estate dealer registered under the MSMED Act. The appellant sought to initiate conciliation proceedings under Section 18(2) of the Act, despite the claims being time-barred under the Limitation Act. The Supreme Court ruled that while the Limitation Act does not apply to conciliation proceedings under Section 18(2) of the MSMED Act, time-barred claims can still be referred to conciliation. However, for arbitration proceedings under Section 18(3), the Limitation Act applies, and such claims cannot be arbitrated. The Court emphasized that the Limitation Act bars the remedy, not the underlying right, allowing time-barred debts to be settled through conciliation but not through arbitration. Read More

UK Arbitration Act 2025: Streamlining Real Estate and Construction Dispute Resolution

The UK Arbitration Act 2025, introduces key reforms to enhance the role of arbitration in resolving real estate and construction disputes. Notably, it empowers tribunals with a summary dismissal mechanism for claims lacking merit, streamlining proceedings and reducing costs. A new default rule establishes that, in the absence of an express choice, the law of the arbitration seat governs the arbitration agreement, providing greater legal certainty. Additionally, the Act codifies arbitrators' duty of disclosure, ensuring impartiality and transparency. These reforms aim to bolster London's position as a leading hub for international arbitration. Read More

Delhi High Court Allows Dual Relief Route

In Harmeet Singh Kapoor v. M/S Neo Developers Pvt. Ltd, [2025] (CM APPL. 53583/2025), the petitioners, Dr. Harmeet Singh Kapoor and Dr. Satvinder Kapoor, sought an interim injunction under Section 9 of the Arbitration and Conciliation Act, 1996, to restrain M/S Neo Developers Pvt. Ltd. from leasing or creating third-party interests in their commercial unit at Neo Square, Gurugram. The dispute arose from alleged breaches of the builder-buyer agreement and MOU, including failure to deliver assured returns and complete construction. The Delhi High Court in the case of Harmeet Singh Kapoor & Ors. v. M/s Neo Developers Pvt. Ltd., held that purchasers of commercial units are not barred from seeking arbitration remedies even after approaching the Haryana Real Estate Regulatory Authority (HARERA), provided petitions arise from changed circumstances, such as the issuance of completion certificates. In the Neo Square Mall dispute, it found that proceedings before HARERA and Section 9 petitions under the Arbitration Act stemmed from distinct causes of action, directing M/s Neo Developers Pvt. Ltd. to deposit lease rentals and appointing a Local Commissioner to inspect the premises. Read More

Housing Societies Bound by Arbitration Clauses in Flat Owners' Sale Agreements

In Shivranjan Towers Sahakari Griha Rachana Sanstha v. Bhujbal Constructions & Ors. [2025] (Writ Petition No. 11281 Of 2025), The dispute involved a cooperative housing society formed by individual flat owners, challenging the applicability of arbitration clauses in their original sale agreements with the builder. The society sought to enforce rights under the agreements, raising the question of whether it could bypass arbitration. The Court held that a cooperative housing society formed by individual flat owners cannot evade arbitration by claiming it was not a signatory to the original sale agreements. In Shivranjan Towers Sahakari Griha Rachana v. Bhujbal Constructions,

Justice N.J. Jamadar ruled that such societies derive their rights from members' agreements and are thus bound by the arbitration clause, emphasising that the absence of such a clause in the deemed conveyance deed does not nullify its effect. Read More

CASE COMMENT

Electrosteel Steel Ltd. v. Ispat Carrier (P) Ltd.
The Primacy of IBC over Arbitration and MSME Proceedings

– Anjali & Navya Rathi

Introduction

In Electrosteel Steel Ltd. v. Ispat Carrier (P) Ltd. the Supreme Court dealt with a conflict of laws between the IBC and the MSME Act. The issue before the Court was whether the award could be enforced, despite the claim being extinguished under the IBC. The Court held that approved resolution plans are supreme over all laws; once a claim is settled at nil, the claim is extinguished chronically, and parallel arbitration to revive the claim before a tribunal is not possible. The Court reinforced the "clean slate" principle, which is critical to the insolvency regime and corporate rehabilitation in India.

Facts of the Case

In the case of Electrosteel Steel Ltd. v. Ispat Carrier (P) Ltd., Ispat Carrier (P) Ltd. (the respondent), an operational creditor, had submitted claims amounting to nearly Rs. 1.59 crore before the West Bengal MSME Facilitation Council against Electrosteel Steel Ltd. (the appellant) under the MSME Act, following the latter's refusal to settle equipment hire dues. Conciliation did not work, and arbitration began in 2017; however, a short while later, Electrosteel's financial creditors filed for insolvency under Section 7 of the Insolvency and Bankruptcy Code (IBC), leading to a moratorium that froze the arbitration. The resolution expert partially accepted Ispat's claim, but the resolution plan, finally ratified by the NCLT in April 2018, settled all operational creditors' claims, including those of Ispat Carrier, at nil amount; no appeal was made by Ispat Carrier against this decision. Notwithstanding this, after the lifting of the moratorium, the Facilitation Council reinstated arbitration and decreed an award in favour of Ispat Carrier, ordering Electrosteel to pay the amount claimed along with interest. Upon seeking enforcement of the award, Electrosteel raised objections to the effect that the claim was vitiated by the NCLT-approved resolution plan, which later culminated in the Supreme Court's decision on the finality and binding nature of resolution plans under the IBC.

Issues

Electrosteel Steel Ltd. was facing insolvency, in which case Ispat Carrier (P) Ltd., a functional creditor, had its claim settled for nil value in terms of an NCLT-approved resolution plan. Yet, after the moratorium period, Ispat obtained an arbitral award on the identical claim, which was challenged by Electrosteel at the enforcement stage. The Supreme Court pondered:
(1) whether Ispat's claim continued to be extinguished by the resolution plan,
(2) whether the arbitral award became non-executable on account, and
(3) whether the award could be challenged on the ground that it was void under Section 47 of the CPC at the time of execution, even without a prior challenge under Section 34 of the Arbitration Act.

Laws Applicable

The dispute involves Insolvency and Bankruptcy Code, 2016, in particular its sections regulating resolution plans, and their binding nature. Section 31 of the IBC is the key statutory provision, stating that after a resolution plan is approved by the National Company Law Tribunal, it is binding on all stakeholders, including creditors whose claims were not specifically dealt with in the plan. The Court also took on Section 34 of the Arbitration and Conciliation Act, 1996, which gives the statutory right to challenge arbitral awards, and at the same time, Section 47 of the Civil Procedure Code for objections at execution proceedings. The Micro, Small and Medium Enterprises Development Act, 2006, under which the original arbitration was conducted, added an additional dimension to this intricate legal web. The interaction of these laws posed basic questions about jurisdiction, finality of insolvency proceedings, and how far-flung parallel adjudicatory processes can go once a corporate debtor enters the insolvency resolution process.

The Court's challenge was to reconcile these legislative schemes while prioritizing the IBC's goal of affording corporate debtors the plan creates a comprehensive settlement binding on all stakeholders, extinguishing unresolved operational creditor claims not included. upon emerging from insolvency.

There existed a trilemma of CIRP Proceedings under Section 9 of IBC, Section 18 of the MSME Act, and Section 34 and 36 of the Arbitration Act. The question in the present dispute was regarding the finality of the insolvency proceedings and whether parallel proceedings can be continued once the corporate debtor enters the insolvency proceedings. The court had the challenge to harmonise these three acts and enable the corporate debtor to come to a comprehensive settlement binding on all shareholders and thus extinguishing any unresolved operational creditors' claim.

The court came to the conclusion that the Facilitation Council lacked jurisdiction to proceed with the arbitration once the resolution plan was approved and Ispat Carrier's claim was settled at nil. This made the subsequent arbitral award a "nullity," or void from its inception. It also stated that the lifting of the moratorium under the IBC does not revive claims that were extinguished by the approval of a resolution plan.

Analysis

The court's ruling was directed to bring equilibrium and uphold the supremacy of legislative intent behind the Insolvency Code. It reinforced the "clean slate" principle under Section 31 of the IBC, and held that once an NCLT-approved resolution plan comes into effect, all prior claims not included in the plan stand extinguished. The Court also further clarified that an objection to an award's execution on the grounds of it being a nullity can be raised under Section 47 of the CPC, independent of the provisions of Section 34 of the Arbitration Act. This distinction is critical because a challenge under Section 34 of the Arbitration Act is a substantive process to set aside an award based on its merits, which is forbidden by the moratorium under Section 14 of the IBC.

An objection under CPC Section 47, on the other hand, is a procedural challenge to the executability of a decree that can be filed on the narrow basis that the award, and thus the decree, is null and void due to the statutory extinguishment of the underlying debt under the IBC.
Drawing from its precedents in Ghanshyam Mishra and Essar Steel, it stressed the fact that pre-resolution claims that are not admitted in the CIRP proceedings cannot be permitted to go parallel, as it brings uncertainty to the creditors and defeats the very purpose of resolution that the IBC aims to bring. The court acknowledged the fact that while the operational creditors had filed their claim before the moratorium proceedings, their claims were extinguished after the initiation of the proceedings.
The judgment provided that creditors must participate in the CIRP to protect their claims. They cannot rely on parallel arbitration proceedings to secure payments for claims that are not part of the approved resolution plan.

Conclusion

The Supreme Court's decision in Electrosteel Steel Ltd. v. Ispat Carrier Pvt. Ltd. represents a definitive resolution of the jurisdictional conflict between the IBC, the MSME Development Act, and the Arbitration Act, firmly establishing the supremacy and finality of approved resolution plans. During the moratorium period, all the proceedings, including arbitration proceedings, are stayed. After the approval of the resolution plan, all the other claims that are not in it are extinguished. Once NCLT decides on how a claim is treated, the decision is final. MSME Council cannot override what NCLT has approved. This means that it cannot be further challenged under Arbitration Act either. Furthermore, Arbitral awards cannot contradict resolution plans. Hence, even after the approval and lifting of the moratorium, the claims which were extinguished are nullified.

This judgment resolved the tripartite jurisdictional conflict between the IBC, MSME Development Act, and Arbitration Act. It established that the IBC and the insolvency process holds supremacy over the other two laws, fulfilling its objective of time-bound resolution of insolvency and asset maximisation.

Exclusion of the claims after the plan leads to asset maximisation and provides security to the debtor. This judgment thus places the IBC as the supreme framework for resolving insolvency, ensuring that approved resolution plans provide actual finality and a genuine fresh start to corporate debtors. Through an end to fragmented post-approval litigation through arbitration, the Court has enhanced the integrity of India's insolvency framework and protected the legitimate expectations of resolution applicants.

CADR Spotlight

Stay updated on the latest events and developments from CADR, RGNUL!

UPCOMING EVENTS

5th RGNUL National Negotiation Competition, 2025

The Centre for Alternative Dispute Resolution (CADR) is all set to host one of its flagship events, the 5th National Negotiation Competition, 2025. Following the conclusion of final registrations on October 14, the competition is scheduled to be held from 07-09 November, 2025. The event will be held entirely in online mode, with participants from various prestigious law colleges across India.

This prestigious competition is being organized in collaboration with a distinguished panel of partners. We are proud to be associated with Shardul Amarchand Mangaldas & Co. as our Principal Knowledge Partner, Markanda Advocates as Knowledge Partner, and the Justice Kuldip Bhandari Foundation as our Chief Advisory Partner. The event is further supported by the Centre for Trade and Investment Law (CTIL) as Expert Partner, SCC Times Online as Media Partner, and the Kovise Foundation Conflict Resolution International (KFCRI) as Supporting Partner.

We look forward to a stimulating weekend of high-level negotiations.

ONGOING EVENTS

Online Certificate Course in Mediation

The "Online Certificate Course in Mediation," is organized by the Centre for Alternative Dispute Resolution (CADR) at RGNUL in collaboration with the Dr. P.C. Markanda Chair on ADR. It is a comprehensive three-month course, designed to equip participants with a solid foundation in mediation theory, legal frameworks, and practical skills. Classes are conducted on Saturdays and Sundays except in cases of exceptional circumstances. These classes are conducted by distinguished resource persons, all of whom are esteemed legal professionals in the field of ADR. The course is overarching covering both the indian provisions including the newly enacted Mediation Act, 2023 and global frameworks like the UNCITRAL Model Law and the Singapore Convention. Additionally, participants will gain insights in the mediation ethics and skill-building, to apply their learning in real or simulated scenarios.

ONGOING EVENTS

6th Surana & Surana and RGNUL International Arbitral Award Writing Competition 2025

Centre for Alternative Dispute Resolution, RGNUL is collaborating with Surana & Surana International Attorneys, headquartered in Chennai, India to organize the sixth edition of the Surana & Surana and RGNUL International Arbitral Award Writing Competition, 2025. No fees will be charged at any stage of the competition. The Competition is open to students pursuing B.A. LL.B., LL.M, Ph.D, M.Phil, at any university across the world as on the date of the release of the competition problem.

For the Competition Brochure, click here.
For the Registration and Submission form, click here.
For submitting Clarifications, click here.
For the Competition Rulebook, click here.
For the Competition Problem, click here.

COMPLETED EVENTS

RGNUL Intra Client Counselling Competition 2025

The Centre for Alternative Dispute Resolution (CADR) at RGNUL recently held the Intra Client Counselling Competition 2025 from 10th September 2025 to 12th September 2025. This is an annual event conducted by the centre and provides RGNUL students, an opportunity to engage in simulated client interactions, sharpen skills like problem-solving, rapport-building and communication. Around 200 students participated in the competition. Participants handled realistic scenarios, offering professional and empathetic legal advice, all within a collaborative and competitive environment. This experience helped further CADR's mission of instilling the best ADR practices and know-how in the students.

COMPLETED EVENTS

Orientation for Batch of 2030

The Centre for Alternative Dispute Resolution (CADR) at RGNUL conducted an Orientation session to welcome the batch of 2030. It was initially scheduled to take place from 2-3 September 2025 in the Seminar Hall of the University but due to heavy rains, the first day of the orientation was conducted online in order to introduce students to the concept of Alternative Dispute Resolution (ADR) and the role CADR plays in advancing these processes. The second day was scheduled for the mock mediation and client counselling rounds to provide practical exposure to the students, especially to aid them for the upcoming Intra Client Counselling Competition 2025. It was then conducted offline on 9th September 2025 where the students gained hands-on experience on the ways to tackle real-world challenges

ACHIEVEMENTS

2nd International Client Counselling Competition | Manipal University, Jaipur

A team comprising Saloni Ghanghas (Batch of '27) and Sateyam (Batch of '27) emerged as the winners in the 2nd International Client Counselling Competition, organised by Manipal University, Jaipur . We wish them the best of luck for future endeavours!

CADRadar

CENTRE FOR ALTERNATIVE DISPUTE RESOLUTION

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