

JURISDICTION OF COMMERCIAL **COURTS**

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Constitution of Commercial Courts

- Sec.3:- Constitution of Commercial Courts:(1) The State Government, may after consultation with the concerned High Court, by notification, constitute such number of Commercial Courts at District level, as it may deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under this Act.

Appointment of Presiding Officers in Commercial Courts

- Sec.3(3):- The State Government may, with the concurrence of the Chief Justice of the High Court appoint one or more persons having experience in dealing with commercial disputes to be the Judge or Judges, of a Commercial Court either at the level of District Judge or a court below the level of a District Judge

Notification

- Vide notification dated 31st October, 2017 issued by the Government of Uttarakhand, a commercial Court has been established at Dehradun, having jurisdiction over entire State of Uttarakhand.
- The Hon'ble High Court of Uttarakhand vide notification dated 1st December, 2018 appointed Presiding Officer in the said court.

Jurisdiction of The Commercial Courts:-

- Section 6 of The Commercial Courts Act, 2015 deals with the Jurisdiction of Commercial Court. All cases and petitions of commercial disputes arising out of the full territory of the State over which it has been conferred territorial jurisdiction are resolved by the Commercial courts. The requirements of Sections 16, 17, 18, 19, and 20 of the Code of Civil Procedure 1908 apply to business disputes.

- **Sec. 6:- Jurisdiction of Commercial Court:—**The Commercial Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a ***Specified Value*** arising out of the entire territory of the State over which it has been vested territorial jurisdiction.
- **Explanation:—**For the purposes of this section, a commercial dispute shall be considered to arise out of the entire territory of the State over which a Commercial Court has been vested jurisdiction, if the suit or application relating to such commercial dispute has been instituted as per the provisions of sections 16 to 20 of the Code of Civil Procedure, 1908(5 of 1908).

12. Determination of Specified Value.—(1) The Specified Value of the subject-matter of the commercial dispute in a suit, appeal or application shall be determined in the following manner:—

- (a) where the relief sought in a suit or application is for recovery of money, the money sought to be recovered in the suit or application inclusive of interest, if any, computed up to the date of filing of the suit or application, as the case may be, shall be taken into account for determining such Specified Value;
- (b) where the relief sought in a suit, appeal or application relates to movable property or to a right therein, the market value of the movable property as on the date of filing of the suit, appeal or application,

as the case may be, shall be taken into account for determining such Specified Value;

(c) where the relief sought in a suit, appeal or application relates to immovable property or to a right therein, the market value of the immovable property, as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining Specified Value;

(d) where the relief sought in a suit, appeal or application relates to any other intangible right, the market value of the said rights as estimated by the plaintiff shall be taken into account for determining Specified Value;

S. 12(2):- The aggregate value of the claim and counterclaim, if any as set out in the statement of claim and the counterclaim, if any, in an arbitration of a commercial dispute shall be the basis for determining whether such arbitration is subject to the jurisdiction of a Commercial Division, Commercial Appellate Division or Commercial Court, as the case may be.

S. 12(3):- No appeal or civil revision application under section 115 of the Code of Civil Procedure, 1908 (5 of 1908), as the case may be, shall lie from an order of a Commercial Division or Commercial Court finding that it has jurisdiction to hear a commercial dispute under the Act.

Pecuniary Jurisdiction of Commercial Courts

- **Sec.3(1A):-** Notwithstanding anything contained in this Act, the State Government may, after consultation with the concerned High Court, by notification, specify such pecuniary value which shall **not be less than three lakh rupees or such higher value**, for whole or part of the State, as it may consider necessary.
- Sec. 3 (1A) Inserted by Amendment of 2018

Territorial Jurisdiction of Commercial Courts

- Sec. 3(2):- The State Government shall, after consultation with the concerned High Court specify, by notification, the local limits of the area to which the jurisdiction of a Commercial Court shall extend and may, from time to time, increase, reduce or alter such limits.

Subject Jurisdiction of Commercial Courts

- The Commercial Courts has the jurisdiction to deal with the Commercial Disputes as defined in Sec 2(1)(c) of the Act.
- **“Commercial dispute”** means a dispute arising out of—
 - (i) Ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;
 - (ii) Export or import of merchandise or services
 - (iii) Issues relating to admiralty and maritime law;

Subject Jurisdiction of Commercial Courts

- (iv) Transactions relating to aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;
- (v) Carriage of goods;
- (vi) Construction and infrastructure contracts, including tenders;
- (vii) Agreements relating to immovable property used exclusively in trade or commerce;
- (viii) Franchising agreements;

Subject Jurisdiction of Commercial Courts

- (ix) Distribution and licensing agreements;
- (x) Management and consultancy agreements;
- (xi) Joint venture agreements;
- (xii) Shareholders agreements;
- (xiii) Subscription and investment agreements pertaining to the services industry including outsourcing services and financial services;
- (xiv) Mercantile agency and mercantile usage;
- (xv) Partnership agreements;
- (xvi) Technology development agreements;

Subject Jurisdiction of Commercial Courts

- (xvii) Intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits;
- (xviii) Agreements for sale of goods or provision of services;
- (xix) Exploitation of oil and gas reserves or other natural resources including electromagnetic spectrum;
- (xx) Insurance and re-insurance;

Subject Jurisdiction of Commercial Courts

- (xxi) Contracts of agency relating to any of the above; and
- (xxii) Such other commercial disputes as may be notified by the Central Government.

- **Explanation.—A commercial dispute shall not cease to be a commercial dispute merely because—**
- (a) It also involves action for recovery of immovable property or for realisation of money out of immovable property given as security or involves any other relief pertaining to immovable property;

Subject Jurisdiction of Commercial Courts

- (b) One of the contracting parties is the State or any of its agencies or instrumentalities, or a private body carrying out public functions;
- **Ambalal Sarabhai Enterprises Ltd. v. K.S. Infraspace**
- **Civil Appeal No. 7843 of 2019 (Arising Out of SLP (Civil) No. 9391 of 2019). D/d. 4.10.2019.**
- **Commercial Courts Act, 2015, Section [2\(1\)\(c\)\(vii\)](#) - Immovable property - Commercial dispute - Commercial dispute in relation to immovable property means dispute arising out of agreements relating to immovable property used exclusively in trade or commerce - Expression "used" must mean "actually used" or "being used" - If intention of legislature was to expand scope, in that case phraseology "likely to be used" or "to be used" would have been employed.**

Arbitration and Jurisdiction

- **Sec.10. Jurisdiction in respect of arbitration matters:**— Where the subject-matter of an arbitration is a commercial dispute of a Specified Value and—(1) If such arbitration is an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996(26 of 1996)that have been filed in a High Court, shall be heard and disposed of by the Commercial Division where such Commercial Division has been constituted in such High Court.
- (2) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996(26 of 1996)that have been filed on the original side of the High Court, shall be heard and disposed of by the Commercial Division where such Commercial Division has been constituted in such High Court.

Arbitration and Jurisdiction

- **Sec. 10 (3):-** If such arbitration is **other than an international commercial arbitration**, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996(26 of 1996) that would ordinarily lie before any principal civil court of original jurisdiction in a district (not being a High Court) shall be filed in, and heard and disposed of by the Commercial Court exercising territorial jurisdiction over such arbitration where such Commercial Court has been constituted.

Arbitration and Jurisdiction

Case Law :-

Jaycee Housing Pvt. Ltd. Vs. Registrar General Orissa High Court Civil Appeal No. 6876 of 2022. D/d. 19.10.2022.

**Arbitration and Conciliation Act, 1996, Sections [2\(1\)\(e\)](#), [9](#), [14](#) and [34](#) -
Odisha Civil Courts Act, 1984, Section 3, 9 read with Section 10 -
Commercial Courts - *Whether in exercise of powers under Section 3 of Commercial Courts Act, 2015, State Government can confer jurisdiction to hear applications under sections 9, 14 and 34 of Arbitration and Conciliation Act, 1996, upon Commercial Courts which are subordinate to rank of Principal Civil Judge in District, contrary to provisions of section 2(1)(e) of Arbitration Act? - Challenged - Held, notification issued by State of Odisha issued in consultation with High Court of Orissa to confer jurisdiction upon court of Civil Judge (Senior Division) designated as Commercial Court to decide applications or appeals arising out of arbitration under provisions of Act, 1996 cannot be said to be illegal and bad in law and on contrary, same can be said to be absolutely in consonance with Sections 3 and 10 of Act, 2015.***

Bar Of Jurisdiction

➤ Sec. 11. Bar of jurisdiction of Commercial Courts and Commercial Divisions:-

Notwithstanding anything contained in this Act, a Commercial Court or a Commercial Division shall not entertain or decide any suit, application or proceedings relating to any commercial dispute in respect of which the **jurisdiction of the civil court** is either expressly or impliedly barred under any other law for the time being in force.

Thank You..