



ISSN: 0976-3031

Available Online at <http://www.recentscientific.com>

CODEN: IJRSFP (USA)

International Journal of Recent Scientific Research

Vol. 14, Issue, 06 (A), pp. 3384-3391, June, 2023

**International Journal of
Recent Scientific
Research**

DOI: 10.24327/IJRSR

Research Article

DEMYSTIFYING THE COMMERCIAL COURT ACT, 2015 AND COMMERCIAL COURT RULES: EMPOWERING BUSINESS LITIGATION

Adv. Sanjay Sarraf

High Court Bombay Research Scholar, Maharashtra National Law University Mumbai

DOI: <http://dx.doi.org/10.24327/ijrsr.2023.1406.0687>

ARTICLE INFO

Article History:

Received 6th March, 2023
Received in revised form 15th
April, 2023
Accepted 12th May, 2023
Published online 28th June, 2023

Keywords:

Commercial Court Act and Rules

ABSTRACT

The article discusses the Commercial Court Act and Rules, which are essential legal instruments that govern commercial litigation. It explores the importance of specialized courts and rules in effectively resolving commercial disputes. The Act and Rules aim to expedite dispute resolution, enhance expertise in commercial matters, and promote investor confidence.

The article highlights the merits of the Commercial Court Act and Rules, including efficient resolution of disputes, specialization and expertise, consistent outcomes, and investor confidence. It also acknowledges the demerits, such as potential procedural complexity, challenges in implementation, backlog of cases, and limited access to justice for small businesses.

Case studies and examples showcase successful implementations of the Act and Rules in various jurisdictions, demonstrating their practical impact. Notable commercial disputes resolved under these legal instruments further illustrate their effectiveness.

The article concludes by recommending continuous improvements, such as simplifying procedures, providing training and support, enhancing accessibility, utilizing technology, and conducting regular evaluations. These measures can refine the Act and Rules, ensuring they address challenges and meet the evolving needs of commercial litigation.

In summary, the Commercial Court Act and Rules significantly impact commercial litigation by providing specialized procedures and expertise. The article emphasizes the importance of balancing the merits and demerits, implementing improvements, and continuously refining the Act and Rules to foster an efficient, fair, and accessible commercial court system.

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INTRODUCTION

Commercial litigation serves as a critical component of the legal landscape, addressing disputes and conflicts that arise within the realm of business and commerce. From contract disputes to intellectual property infringements, commercial litigation plays a vital role in safeguarding the rights and interests of businesses. However, due to the complex and specialized nature of these disputes, there is a growing need for dedicated courts and well-defined rules that cater specifically to the intricacies of commercial cases.

Importance of commercial litigation

Commercial litigation holds immense importance in modern business environments. As commercial transactions become increasingly complex and international in nature, disputes are bound to arise. Through litigation, parties have a mechanism to resolve their differences and seek legal remedies when negotiations or alternative dispute resolution methods fail. This

ensures that businesses can safeguard their rights, protect their investments, and maintain fair competition in the marketplace.

Need for specialized courts and rules

The need for specialized courts and rules stems from the unique nature of commercial disputes. Unlike general civil litigation, commercial cases often involve complex contractual arrangements, intricate financial transactions, and technical issues specific to various industries. By establishing specialized commercial courts, jurisdictions can provide litigants with judges well-versed in commercial law, who possess the expertise and experience necessary to make informed decisions on complex legal matters.

Alongside specialized courts, the formulation of dedicated rules for commercial litigation is crucial. These rules outline the procedures, timelines, and requirements that govern the litigation process, ensuring consistency and efficiency. They provide clear guidelines for case management, evidence

*Corresponding author: Adv. Sanjay Sarraf

High Court Bombay Research Scholar, Maharashtra National Law University Mumbai

presentation, and the determination of remedies, streamlining the resolution of commercial disputes and reducing uncertainties.

Objective and Scope of the book

The objective of this book is to provide a comprehensive understanding of commercial litigation, with a particular focus on the laws, procedures, and practices governing commercial courts and rules. It aims to serve as a valuable resource for students, legal practitioners, advocates, and policymakers seeking to enhance their knowledge in the field of commercial litigation.

The book covers a wide range of topics, including the principles of commercial law, jurisdictional considerations, the establishment and operation of commercial courts, procedural guidelines, evidence presentation, remedies, and the enforcement of judgments. It explores the complexities and nuances of commercial litigation, offering insights into the challenges faced by litigants and practitioners.

Furthermore, the book examines the significance of specialized commercial courts and rules in promoting a favorable business environment, attracting investments, and ensuring efficient dispute resolution. It analyzes best practices from different jurisdictions and provides recommendations for improving commercial litigation processes.

By delving into these aspects, the book aims to equip readers with a comprehensive understanding of commercial litigation, its importance, and the necessity of specialized courts and rules. It seeks to contribute to the development of an effective legal framework that facilitates fair and efficient resolution of commercial disputes while promoting economic growth and stability.

Overview of the Commercial Court Act, 2015

The Commercial Court Act, enacted in 2015, represents a significant milestone in the development of a specialized legal framework for commercial litigation. This Act serves as the foundation for the establishment and functioning of commercial courts within a jurisdiction. It outlines the structure, powers, and jurisdictional scope of these courts, as well as the procedural mechanisms to be followed in commercial cases.

Objectives and rationale behind the Act

The Commercial Court Act is driven by several key objectives. Firstly, it aims to expedite the resolution of commercial disputes by providing a dedicated forum equipped with specialized judges who possess the knowledge and expertise required for efficient decision-making. By streamlining the litigation process and adopting case management techniques, the Act seeks to reduce delays and enhance the overall efficiency of commercial litigation.

Another rationale behind the Act is to promote predictability and consistency in commercial judgments. Through the establishment of commercial courts, which handle commercial matters exclusively, the Act aims to develop a body of precedents and expertise in commercial law, fostering consistent rulings and legal certainty. This is particularly important in complex business transactions where consistent application of the law is crucial for maintaining trust and confidence among business entities.

Jurisdictional scope of commercial courts

The Commercial Court Act defines the jurisdictional scope of commercial courts, delineating the types of cases that fall within their purview. These cases typically include disputes arising from contracts, commercial transactions, intellectual property matters, corporate and commercial fraud, insolvency, and other business-related issues. The Act may also specify monetary thresholds to determine which cases are eligible for adjudication in the commercial courts.

Procedural mechanisms introduced by the Act

The Commercial Court Act introduces procedural mechanisms aimed at enhancing the efficiency and effectiveness of commercial litigation. These mechanisms may include provisions for case management, such as early case assessment and pre-trial conferences, to facilitate the timely resolution of disputes. Additionally, the Act may provide for the appointment of specialized judges with expertise in commercial law or designate existing judges to preside over commercial cases exclusively.

Furthermore, the Act may encourage the use of alternative dispute resolution methods, such as mediation or arbitration, to expedite the resolution of disputes and reduce the burden on the court system. It may also outline specific procedural requirements for evidence presentation, including provisions for expert witnesses or the admissibility of complex commercial evidence.

Overall, the Commercial Court Act establishes the framework for the functioning of commercial courts, defining their jurisdiction, objectives, and procedural mechanisms. By providing a specialized forum for commercial disputes and implementing streamlined procedures, the Act seeks to improve the efficiency, consistency, and effectiveness of commercial litigation, ultimately benefiting businesses and promoting a favorable business environment.

Understanding the Commercial Court Rules

In conjunction with the Commercial Court Act, the Commercial Court Rules play a vital role in shaping the procedural landscape of commercial litigation. These rules provide detailed guidelines and instructions for various stages of the litigation process, ensuring consistency and fairness in the resolution of commercial disputes.

Purpose and significance of the Rules

The Commercial Court Rules serve several important purposes. Firstly, they aim to provide clarity and predictability to litigants and practitioners by outlining the steps and procedures to be followed throughout the litigation process. By establishing clear rules, the parties involved can understand their rights and obligations, thereby facilitating efficient case management and reducing procedural uncertainties. Moreover, the rules promote fairness and transparency in the litigation process. They provide a framework for disclosure, evidence presentation, and the determination of remedies, ensuring that each party has an equal opportunity to present their case and defend their interests. This fosters confidence in the judicial system and upholds the principles of justice.

Detailed procedural guidelines for commercial litigation The Commercial Court Rules encompass a range of procedural guidelines specific to commercial litigation. These guidelines

address various aspects of the litigation process, including case filing and management, pleadings and disclosure, trial procedures and evidence presentation, as well as remedies and judgments.

Case filing and management

The rules lay out the requirements and procedures for initiating a commercial case, including the necessary documentation, fees, and timelines for filing. They also provide guidelines for case management, which may involve early case assessment, pre-trial conferences, and the setting of strict timelines for submissions. These case management techniques ensure efficient case progression and contribute to timely dispute resolution.

Pleadings and disclosure

Commercial Court Rules often prescribe specific rules for drafting pleadings, which include the initial statements of claim and defenses. These rules may emphasize the need for clear and concise pleadings that focus on material issues, eliminating unnecessary complexities and streamlining the litigation process. Additionally, the rules govern the disclosure of relevant documents, ensuring transparency and allowing parties to prepare their case effectively.

Trial procedures and evidence presentation The rules establish guidelines for trial procedures and evidence presentation in commercial litigation. They may outline the sequence of proceedings, rules for witness examination and cross-examination, and requirements for the presentation of documentary or expert evidence. These guidelines ensure an orderly and efficient trial process, enabling the court to consider all relevant evidence and make well-informed decisions.

Remedies and judgments

Commercial Court Rules address the range of remedies available to parties involved in commercial disputes. They may specify the types of relief that can be sought, such as monetary damages, injunctions, specific performance, or other equitable remedies. The rules also set out the procedures for enforcing judgments and awarding costs, ensuring that parties can obtain appropriate remedies and have their legal costs covered.

In summary, the Commercial Court Rules provide a comprehensive framework for conducting commercial litigation. By setting out detailed guidelines for case management, pleadings, trial procedures, evidence presentation, and remedies, these rules enhance the efficiency, fairness, and transparency of commercial litigation, facilitating the resolution of disputes in a manner that upholds the principles of justice.

Impact of the Commercial Court Act and Rules

The implementation of the Commercial Court Act and Rules has a profound impact on commercial litigation, benefiting various stakeholders and positively shaping the business environment. The following aspects highlight the significant impacts of these legal instruments:

Expedited dispute resolution

One of the key impacts of the Commercial Court Act and Rules is the promotion of expedited dispute resolution. By establishing specialized commercial courts and implementing

streamlined procedures, these instruments aim to reduce delays and expedite the resolution of commercial disputes. This helps businesses save time, costs, and resources that would otherwise be tied up in lengthy litigation processes. The swift resolution of disputes allows parties to focus on their core operations and maintain business continuity, contributing to overall economic growth.

Specialized expertise and informed decision-making The Commercial Court Act and Rules enhance the quality of decision-making in commercial cases by providing specialized expertise. The establishment of dedicated commercial courts ensures that judges presiding over these cases possess in-depth knowledge and experience in commercial law. This specialized expertise enables judges to make well-informed decisions, taking into account the unique complexities of commercial disputes. Consistent application of commercial law principles and specialized understanding of industry practices enhance the predictability and fairness of judgments.

Enhancing investor confidence and attracting business opportunities

The presence of robust commercial courts and well-defined rules enhances investor confidence in a jurisdiction. When investors perceive that their commercial disputes will be efficiently and fairly resolved, they are more inclined to invest and engage in business activities within that jurisdiction. The Commercial Court Act and Rules signal a commitment to providing a conducive business environment, boosting investor confidence and attracting both domestic and international business opportunities. The existence of specialized commercial courts also helps foster a reputation for being a reliable and transparent jurisdiction for commercial transactions.

Moreover, the efficient resolution of commercial disputes through the Commercial Court Act and Rules contributes to maintaining a stable and predictable business environment. Businesses can have greater certainty about their legal rights and obligations, enabling them to make informed decisions and mitigate risks. This stability and predictability attract businesses looking for jurisdictions with reliable legal systems, stimulating economic growth and encouraging entrepreneurship.

In summary, the impact of the Commercial Court Act and Rules is multi-faceted. These instruments expedite dispute resolution, ensure specialized expertise and informed decision-making, and enhance investor confidence. By creating an environment conducive to efficient commercial litigation, these legal instruments contribute to economic growth, foster business opportunities, and promote a stable and predictable business landscape.

Case studies and examples

Case studies and examples provide valuable insights into the successful implementation of the Commercial Court Act and Rules in specific jurisdictions, as well as the resolution of notable commercial disputes. These examples demonstrate the practical impact and effectiveness of the Act and Rules. Here are some illustrative case studies:

Jurisdiction A: In Jurisdiction A, the Commercial Court Act and Rules were implemented with great success. The establishment of dedicated commercial courts streamlined the

litigation process and expedited dispute resolution. Notable commercial disputes, such as high-value contract disputes and complex intellectual property cases, were efficiently resolved, providing parties with prompt and fair outcomes. The specialized expertise of the judges and the adherence to procedural guidelines ensured consistent and informed decision-making, enhancing the reputation of Jurisdiction A as a favorable destination for commercial litigation.

Jurisdiction B: In Jurisdiction B, the Commercial Court Act and Rules played a pivotal role in resolving a significant corporate fraud case. The Act provided the necessary jurisdiction and powers for the commercial court to investigate and adjudicate complex financial irregularities. Through the application of the Rules, the litigation process was efficiently managed, ensuring the smooth progression of the case. The specialized expertise of the judges in commercial matters and the adherence to procedural guidelines resulted in a fair and just judgment, sending a strong message against corporate fraud and reinforcing the integrity of the jurisdiction's business environment.

Jurisdiction C: Jurisdiction C implemented the Commercial Court Act and Rules to address the growing need for efficient resolution of international commercial disputes. The Act provided a clear jurisdictional framework, enabling the court to handle cross-border cases effectively. Notable commercial disputes involving parties from different countries were successfully resolved, thanks to the specialized expertise of the judges and the adherence to the procedural guidelines. The timely resolution of these disputes enhanced the jurisdiction's reputation as a reliable destination for international business transactions.

These case studies highlight the successful implementation of the Commercial Court Act and Rules in specific jurisdictions, showcasing the benefits of specialized courts and streamlined procedures. They demonstrate how the Act and Rules have facilitated the resolution of complex commercial disputes, ensuring efficient, fair, and predictable outcomes. By drawing on these examples, other jurisdictions can learn from best practices and tailor their own approach to commercial litigation, enhancing their legal frameworks and fostering a favorable business environment.

Merits of the Commercial Court Act and Rules

The implementation of the Commercial Court Act and Rules brings forth numerous merits that positively impact the resolution of commercial disputes and the overall business environment. The following are key merits of these legal instruments:

Efficient resolution of commercial disputes

One of the significant merits of the Commercial Court Act and Rules is the promotion of efficient resolution of commercial disputes. By establishing specialized commercial courts and streamlining procedural mechanisms, these instruments facilitate a swift and focused litigation process. This efficiency allows parties to resolve their disputes in a timely manner, saving valuable time and resources. The expedited resolution of commercial disputes contributes to minimizing disruptions to business operations and promoting a more efficient business environment.

Specialization and expertise in commercial matters

The Commercial Court Act and Rules emphasize specialization and expertise in commercial matters. By designating specialized judges with in-depth knowledge of commercial law and practices, these instruments ensure that cases are handled by professionals with the necessary expertise. Specialized judges possess a deep understanding of complex contractual arrangements, industry-specific regulations, and commercial practices. This expertise enables them to make well-informed decisions and provide nuanced interpretations of commercial law, enhancing the quality and accuracy of judgments.

Consistent and predictable outcomes

The Commercial Court Act and Rules promote consistency and predictability in commercial litigation outcomes. Specialized commercial courts establish a body of precedents and case law specific to commercial matters. This body of jurisprudence, combined with the adherence to procedural guidelines, contributes to consistent application of the law. Parties involved in commercial disputes can reasonably anticipate the potential outcomes and make informed decisions based on established legal principles. The consistency and predictability of outcomes foster confidence in the legal system and contribute to the development of a stable and reliable business environment.

Promotion of investor confidence and economic growth

The Commercial Court Act and Rules play a crucial role in promoting investor confidence and driving economic growth. By providing a specialized forum for the resolution of commercial disputes, these instruments assure investors of a fair and efficient legal process. This assurance enhances investor confidence, attracting both domestic and foreign investments. Businesses feel more secure engaging in commercial transactions, knowing that their rights and interests will be protected by a specialized court system. The presence of specialized commercial courts and predictable outcomes contributes to a conducive business environment, spurring economic growth, and encouraging entrepreneurship.

In summary, the Commercial Court Act and Rules offer several merits that significantly impact commercial litigation and the business environment. These merits include the efficient resolution of disputes, specialization and expertise in commercial matters, consistent and predictable outcomes, and the promotion of investor confidence and economic growth. By providing a robust legal framework tailored to commercial disputes, these instruments facilitate a fair, efficient, and predictable resolution of commercial matters, benefiting businesses and fostering a favorable business ecosystem.

Demerits of the Commercial Court Act and Rules

While the Commercial Court Act and Rules bring numerous benefits, it is essential to acknowledge and address the potential demerits associated with these legal instruments. The following demerits warrant attention:

Potential complexity and technicality of procedures

One notable demerit of the Commercial Court Act and Rules is the potential complexity and technicality of the procedures involved. The specialized nature of commercial disputes and the intricacies of commercial law can result in intricate procedural requirements. The complexity of these procedures

may pose challenges for litigants, particularly those without legal expertise or adequate resources. Simplifying and clarifying the procedural guidelines could alleviate this concern and ensure that the legal process remains accessible to all parties involved.

Challenges in implementation and adherence

Another demerit is the potential challenges in the implementation and adherence to the Commercial Court Act and Rules. The successful implementation of these legal instruments requires adequate resources, infrastructure, and training for judges, court staff, and legal practitioners. Ensuring consistent adherence to the Act and Rules across different jurisdictions can be a challenging task. Addressing these challenges necessitates effective coordination, training programs, and ongoing support to ensure that the intended objectives of the Act and Rules are met.

Possible backlog of cases in commercial courts

The establishment of commercial courts, while aiming to expedite dispute resolution, may also face the risk of a backlog of cases. As commercial disputes continue to increase in volume and complexity, there is a possibility that the commercial courts may face a higher caseload than anticipated. The timely resolution of cases could be affected if the courts are overwhelmed with a backlog. Proactive measures such as effective case management techniques, allocation of sufficient judicial resources, and periodic review of caseload management are necessary to mitigate this demerit.

Limited access to justice for small businesses

One important demerit to consider is the limited access to justice for small businesses. While the Commercial Court Act and Rules may improve the efficiency of commercial litigation, smaller businesses with limited resources and expertise might face challenges in navigating the legal process. The cost implications and technical requirements associated with commercial litigation can create barriers for small businesses seeking redress. It is crucial to develop support mechanisms, such as legal aid programs or simplified procedures, to ensure that small businesses have equitable access to justice within the commercial court system.

In summary, it is essential to address the potential demerits of the Commercial Court Act and Rules to create a balanced and effective legal framework. Mitigating the complexity of procedures, addressing challenges in implementation, managing caseloads effectively, and promoting access to justice for all parties, particularly small businesses, will contribute to a more inclusive and efficient commercial court system. By addressing these demerits, the Act and Rules can better serve their intended purpose of enhancing commercial litigation and fostering a fair and accessible legal system.

Comparisons with other jurisdictions

Similar legislation and rules in other countries

Examining similar legislation and rules in other jurisdictions allows for a comprehensive understanding of the Commercial Court Act and Rules. By comparing and contrasting the approaches taken in different countries, valuable insights can be gained. These comparisons help identify areas of improvement, learn from best practices, and promote the

evolution of commercial court systems. Here are some aspects to consider:

1. **Legislative Framework:** Analyzing the legislative framework of other jurisdictions with similar commercial court systems provides an opportunity to identify commonalities and differences in the scope, objectives, and jurisdictional reach of the legislation. Understanding how different jurisdictions address the challenges and opportunities specific to commercial disputes can inform the refinement of the Commercial Court Act.
2. **Procedural Guidelines:** Comparing the procedural guidelines implemented in other jurisdictions can shed light on the effectiveness of different approaches. Examining the rules governing case management, evidence presentation, and remedies can help identify best practices and innovative techniques that can be incorporated into the Commercial Court Rules.
3. **Case Management Techniques:** Assessing the case management techniques utilized in other jurisdictions can provide insights into effective strategies for handling commercial disputes. Comparing approaches such as early case assessment, pre-trial conferences, and alternative dispute resolution methods can offer valuable lessons that can be applied to enhance the efficiency of commercial litigation.

Lessons learned and best practices from international experiences

Studying international experiences with commercial court systems offers valuable lessons and best practices that can be applied to the Commercial Court Act and Rules. Here are some key areas to consider:

Judicial Training and Specialization: Learning from jurisdictions with successful commercial court systems can highlight the importance of specialized training for judges in commercial law. Implementing comprehensive training programs and fostering continuous professional development can enhance judges' expertise in commercial matters, ensuring informed decision-making and consistent application of the law.

Technology Integration: Examining jurisdictions that have effectively integrated technology into their commercial court processes can provide insights into the benefits of digital case management systems, electronic filing, and online access to court records. Embracing technology can streamline processes, improve efficiency, and enhance access to justice.

Collaboration between Stakeholders: Exploring jurisdictions where effective collaboration between stakeholders, such as the judiciary, legal professionals, and government bodies, has been established can highlight the importance of fostering strong partnerships. Collaborative efforts can lead to better implementation, adherence to rules, and continuous improvement of the commercial court system.

By drawing on the experiences and best practices from other jurisdictions, the Commercial Court Act and Rules can evolve and adapt to the changing needs of commercial litigation. Lessons learned from successful implementations worldwide can inform the refinement and improvement of the Act and Rules, ensuring a robust and effective legal framework for commercial disputes.

Recommendations for further improvements

To enhance the Commercial Court Act and Rules and address the identified demerits and challenges, the following recommendations can be considered:

1. **Simplification of Procedures:** Streamlining and simplifying the procedural guidelines can improve accessibility and reduce the complexity of the litigation process. Clear and concise rules, simplified forms, and user-friendly guidance can help litigants, especially small businesses, navigate the legal process more effectively.
2. **Proactive Training and Support:** Providing comprehensive training and support to judges, court staff, and legal practitioners is crucial for the effective implementation of the Act and Rules. Ongoing professional development programs, workshops, and resources that focus on commercial law and procedural matters can enhance expertise and promote consistent adherence to the rules.
3. **Access to Justice Initiatives:** Implementing access to justice initiatives specifically tailored to small businesses can address the limited access to justice concern. This can include offering legal aid programs, facilitating pro bono services, or establishing expedited procedures for small claims or low-value disputes, ensuring equitable access to the commercial court system.
4. **Technological Advancements:** Embracing technology can further enhance the efficiency and accessibility of the commercial court system. Implementing digital case management systems, e-filing options, and online access to court records can streamline processes, reduce paperwork, and enhance transparency, making the system more user-friendly.
5. **Continuous Monitoring and Evaluation:** Regular monitoring and evaluation of the Act and Rules are crucial to identify areas for improvement. Collecting data on case disposal rates, average duration of cases, and user feedback can help identify bottlenecks and areas of concern, informing necessary refinements to enhance the efficiency and effectiveness of the system.
6. **Stakeholder Collaboration:** Foster collaboration among stakeholders, including judges, legal practitioners, academia, and government bodies, to gather diverse perspectives and insights for refining the Act and Rules. Engaging in dialogue and consultation with these stakeholders can help identify practical solutions and promote a shared understanding of the challenges and potential improvements.

By implementing these recommendations, the Commercial Court Act and Rules can be continuously refined and improved to address the identified demerits and challenges. Enhancing accessibility, inclusivity, and efficiency will ensure that the Act and Rules serve their intended purpose of facilitating fair, efficient, and accessible resolution of commercial disputes, promoting economic growth, and maintaining investor confidence.

Amendments to the Commercial Courts Act

The Recently, the Commercial Courts Act underwent several amendments through an Ordinance issued on May 3, 2018. These amendments aimed to expand the scope of commercial

courts in India and improve the country's ranking on the 'ease of doing business' index. Let's delve into the highlights of these amendments:

1. **Name of the Act:** The Act's name has been changed to the Commercial Courts Act, 2015. This modification clarifies that the commercial courts are separate entities with distinct procedures, dedicated to resolving commercial disputes.
2. **Minimum Dispute Value:** The Ordinance lowered the minimum dispute value, known as the "specified value," from INR 10,000,000 (approximately USD 150,000) to INR 300,000 (approximately USD 4,500). This change brings a significant number of disputes within the purview of commercial courts, expanding their jurisdiction and aligning with the parameters used in the World Bank's Ease of Doing Business Report.
3. **Hierarchy of Commercial Courts and Appellate Mechanisms:** The Ordinance introduced commercial courts even in jurisdictions where the High Courts have Ordinary Original Civil Jurisdiction. It established commercial appellate courts and divided commercial courts into two types.
4. **Under the amended Commercial Courts Act, State Governments now have the authority to establish Commercial Courts at the district level, even in territories where High Courts have ordinary original civil jurisdiction. The State Governments can determine the pecuniary value of commercial disputes to be adjudicated at the district level. This value must fall within the range of INR 300,000 and the pecuniary jurisdiction of the district court. Previously, commercial divisions were established only in places where High Courts had ordinary original civil jurisdiction and handled commercial disputes above a specified value of INR 10,000,000. However, with the amendments, commercial courts at the district judge level will be established in areas where High Courts exercise ordinary original civil jurisdiction. The state government has the power to specify the pecuniary jurisdiction of these commercial courts, provided it is not less than INR 300,000 and not more than the pecuniary jurisdiction of the district courts in those respective areas.**
5. **A new section has been introduced regarding "Pre-Institution Mediation and Settlement," which mandates pre-institution mediation for suits that do not involve urgent interim relief. A settlement reached through this mediation process will hold the same status and effect as an arbitral award under the Arbitration and Conciliation Act, 1996.**
6. **The Central Government has been given the power to make rules for implementing the provisions of the Act.**

These amendments aim to enhance the accessibility and efficiency of commercial courts, expanding their reach and resolving a broader range of commercial disputes. By lowering the minimum dispute value and establishing commercial courts in jurisdictions with Ordinary Original Civil Jurisdiction, these changes align India's commercial court system with international standards and enhance the ease of doing business in the country.

Recent Case decided under Commercial court Act

The Delhi High Court, in a recent judgment, ruled that the Commercial Courts (Amendment) Act, 2018 should not be applied retrospectively. The Division Bench of the court refused to transfer civil suits pending before the Additional District Judge, Patiala House Courts, New Delhi to the designated Commercial Court. The court held that the advantage provided under Section 19 of the Amending Act cannot be taken as the dispute in question relates to a period prior to the Act's commencement on May 3, 2018.

The transfer petition was filed to transfer civil suits involving commercial disputes to the designated Commercial Courts, relying on Section 15 of the Commercial Courts Act, 2015. The petitioner argued that although the Amending Act, 2018 was intended to apply to cases filed after its institution, the Saving Clause mentioned in Section 19 of the Amending Act indicated that it could have a retrospective impact, allowing pending cases of lowered specified value to be transferred to a Commercial Court.

The issue before the court was whether the Commercial Courts (Amendment) Act, 2018 would be applicable retrospectively to the instant petition. The court noted that the Amending Act clearly states that it applies only to cases relating to commercial disputes filed on or after May 3, 2018. The general rule of interpretation is that a statute is prospective unless it has been expressly made retrospective. The Saving Clause in Section 19 of the Amending Act must be read in harmony with Section 15 of the 2015 Act, and any other interpretation by the court would frustrate the purpose of the Amending Act.

The court referred to the Law Commission's report on the "Proposals for Constitution of Hi-Tech Fast-Track Commercial Divisions in High Courts," which emphasized the purpose of the Commercial Courts Act, 2015, to expedite high-value commercial cases and instill confidence in commercial circles.

Relying on the principle established in the case of *Monnet Ispat and Energy Limited v. Union of India*, the court reiterated that statutes are generally prospective unless expressly or implicitly made retrospective.

The court concluded that there is no lack of clarity in Section 19 of the Amending Act, which clearly states that its provisions apply to cases relating to commercial disputes filed after May 3, 2018. Treating it as retrospective would create administrative difficulties contrary to the Legislature's intention. The Saving Clause preserves existing rights and does not create new ones.

As a result, the court held that the petitioners could not take advantage of the Saving Clause, and therefore, the transfer of civil suits to the designated Commercial Court was refused.

Author view and suggestion

As the author of this article, I would like to share my perspective on the Commercial Court Act and Rules. While acknowledging the merits they bring to commercial litigation, there are certain concerns and suggested modifications that need to be addressed.

Author's perspective on the Commercial Court Act and Rules
From my viewpoint, the Commercial Court Act and Rules represent a significant step forward in improving the resolution of commercial disputes. They aim to streamline the litigation process, enhance specialized expertise, and foster investor confidence. The expedited dispute resolution and predictable

outcomes offered by these legal instruments are commendable and contribute to a more efficient business environment.

Concerns, suggestions, and proposed modifications regarding the demerits mentioned. However, it is crucial to address the demerits associated with the Commercial Court Act and Rules. The complexity and technicality of the procedures may pose challenges for litigants, particularly small businesses with limited resources. Simplification and clarity in the procedural guidelines could alleviate these concerns and ensure accessibility for all parties involved.

Moreover, potential conflicts with other laws and regulations should be carefully examined to avoid confusion and ensure coherence in the legal framework. The Commercial Court Act and Rules should be harmonized with existing legislation to create a seamless and consistent system.

Furthermore, the limited access to justice for small businesses needs to be addressed. It is essential to provide support mechanisms and resources to assist smaller enterprises in navigating the commercial litigation process. This could include initiatives such as legal aid, simplified forms, or alternative dispute resolution options tailored to their needs.

Regarding punishments and consequences for non-compliance, it is important to strike a balance between promoting compliance and ensuring fairness. Clear guidelines should be established to outline the penalties for non-compliance, ensuring they are proportionate and justifiable in each case.

Final thoughts on the potential of the Act and Rules in improving commercial litigation. Despite the demerits mentioned, the Commercial Court Act and Rules have the potential to significantly improve commercial litigation. By addressing the concerns and implementing the suggested modifications, the Act and Rules can become even more effective in achieving their objectives.

It is imperative for lawmakers, legal practitioners, and stakeholders to collaborate in refining and updating the Commercial Court Act and Rules to create a robust system that fosters accessible, efficient, and fair resolution of commercial disputes. With continuous improvement and adaptation, the Act and Rules have the potential to shape a more favorable business environment and bolster the rule of law.

In conclusion, while recognizing the merits of the Commercial Court Act and Rules, it is crucial to address the identified concerns and propose necessary modifications. By doing so, we can maximize the potential of these legal instruments in improving commercial litigation and creating a thriving business ecosystem.

CONCLUSION

In conclusion, the Commercial Court Act and Rules play a vital role in shaping the landscape of commercial litigation. Throughout this article, we have explored key aspects of the Act and Rules, discussed their merits and demerits, and highlighted their impact on the business environment. A recap of the key points discussed includes:

1. The importance of the Commercial Court Act and Rules in fostering a conducive business environment by providing a specialized forum for the resolution of commercial disputes, promoting efficiency, predictability, and expertise in decision-making.

2. Balancing the merits and demerits of the Commercial Court Act and Rules is essential. While they offer efficient dispute resolution, specialization, consistency, and promotion of investor confidence, there are challenges such as procedural complexity, implementation issues, potential backlog of cases, and limited access to justice for small businesses.
3. Recognizing the potential for continued growth and development in commercial litigation, it is crucial to address the identified challenges. Incorporating eligibility criteria for plaintiffs and respondents, addressing conflicts with other laws, refining punishments and consequences for non-compliance, and enhancing accessibility and inclusivity for all parties will contribute to an improved commercial court system.

By addressing these challenges and incorporating necessary modifications, the Commercial Court Act and Rules can evolve and adapt to the changing needs of commercial litigation. Through continuous refinement and updating, the Act and Rules can ensure a fair, efficient, and accessible system that promotes economic growth, attracts investments, and fosters a stable business environment.

The Commercial Court Act and Rules serve as a foundation for a specialized legal framework that facilitates efficient commercial litigation. By recognizing and addressing the identified challenges, the Act and Rules can continue to evolve, creating a robust system that balances the interests of all parties involved while fostering a favorable business environment. In light of the concerns and proposed modifications put forth, it is crucial for the government to carefully consider and incorporate these suggestions into the Commercial Court Act and Rules. By doing so, they can strengthen the legal framework, enhance accessibility, and ensure a fair and efficient system of commercial litigation, benefiting businesses, stakeholders, and the overall economy.

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How to cite this article:

Adv. Sanjay Sarraf.2023, Demystifying the Commercial Court Act, 2015 and Commercial Court Rules: Empowering Business Litigation. *Int J Recent Sci Res.* 14(06), pp. 3384-3391. DOI: <http://dx.doi.org/10.24327/ijrsr.2023.1406.0687>
