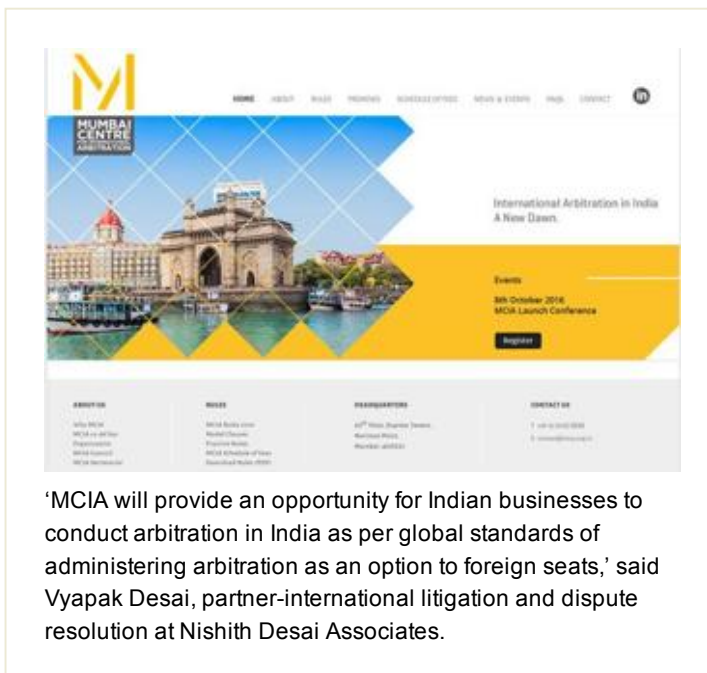


India's first commercial arbitration centre to be opened in Mumbai

The Mumbai Centre for International Arbitration— to be opened on 8 October—can act as an alternative for dispute resolution to existing facilities in Singapore, Hong Kong and London, experts say



‘MCIA will provide an opportunity for Indian businesses to conduct arbitration in India as per global standards of administering arbitration as an option to foreign seats,’ said Vyapak Desai, partner-international litigation and dispute resolution at Nishith Desai Associates.

New Delhi: The Mumbai Centre for International Arbitration (MCIA), India's first major centre for commercial arbitration, will be launched in Mumbai on 8 October.

The centre, being set up with the view of making India a hub of international commercial arbitration and helping ensure ease of doing business, is a joint venture between the Maharashtra government, industry members and the legal fraternity.

Experts see MCIA as an alternative forum that Indian businesses can approach instead of the Singapore International Arbitration Centre and the London Court of International Arbitration.

“MCIA will provide an opportunity for Indian businesses to conduct arbitration in India as per global standards of administering arbitration as an option to foreign seats. As of now, not many arbitration centres in India have been really been successful,” said Vyapak Desai, partner-international litigation and dispute resolution at Nishith Desai Associates.

Although there have been other arbitration centres in India, such as the Indian Council of Arbitration in Delhi, Indian Merchant Chamber

in Mumbai and the Madras Chamber of Commerce & Industry in Chennai, none of them have been approached for settling major international disputes.

Singapore, London and Hong Kong have been the preferred destinations for commercial arbitration for Indian parties.

Apart from being neutral venues, these cities offer the best international practices in arbitration.

“With over 2 crore cases pending and the stand-off between the government and judiciary on judicial reforms, pushing for alternative dispute resolutions seems only logical,” said a government law officer who did not wish to be identified.

The Arbitration and Conciliation Act, 1996, provides a legal framework for domestic and international arbitration and its mode of conduct and enforcement of awards. The government amended the law In August last year, making fast-track arbitrations a reality with a 12-month time frame for arbitrators to give their ruling in disputes.

Perhaps the government's push for an alternative dispute resolution mechanism is also aimed at de-stressing an overburdened judicial system along with improving ease of doing business in India.

The government is heading in the right direction on arbitration, said Anirudh Krishnan, partner at Chennai-based A.K. Law Chambers. “The amendments are by and large progressive, though there is some teething trouble on issues such as whether they are prospective or retrospective in their operation. I am sure that in one year we will all see positive results. As it is, I can see arbitrations under the new regime being conducted more efficiently with shorter gaps between hearings.”

India has long been criticized for not developing a culture of alternative dispute resolution. “There is a perception in the mind of the international business and legal community that arbitrations in India are not always entirely fair for various reasons. Institutionalizing

arbitration will help in addressing this and not legislation,” said Sarosh Zaiwalla, senior partner at Zaiwalla & Co LLP, a London-based law firm.

“The other problem with India is that retired judges have more or less monopolised the arbitration scene. These retired judges seek to conduct international arbitrations like a trial in India with countless adjournments which delays the final outcome. This, too, will need to change,” Zaiwalla added.

Finance minister Arun Jaitley last month proposed the formation of a task force to set up arbitration centres in the Brics nations—Brazil, Russia, India, China and South Africa, expressing concern that developing countries often have doubts about arbitral awards, or decisions that come from established arbitration institutions.

Whether MCIA will address India’s concerns on international arbitration remains to be seen. “The need of the hour in India is to use technology more efficiently to help expedite the arbitration process. The use of instant transcribing to record evidence and video conferencing for conducting at least procedural hearings are essential. Hopefully, with the kind of investment coming into MCIA, it will set itself apart by bringing in technology into arbitration,” Krishnan added.