

Court Corner

May 06, 2019

NDA SUCCEEDS IN GETTING A FAVOURABLE RULING ON SUPERVISORY COURT'S JURISDICTION EVEN FOR ENFORCEMENT OF AN ARBITRAL AWARD REGARDLESS OF THE LOCATION OF DEBTORS' ASSETS

On April 26, 2019, Justice G.S. Patel of the High Court of Bombay pronounced a landmark judgment in relation to its territorial jurisdiction as the supervisory court of arbitration with respect to enforcement of a Mumbai seated arbitral award.

We, at [Nishith Desai Associates](#), represented Global Asia Venture Company i.e. the Decree Holder in the enforcement proceedings, obtaining a favourable judgment, and bringing our client a step closer to the realization of the awarded amount.

The recent Supreme Court ruling in *Sundaram Finance vs Abdul Samad & Ors*¹ allowed a decree holder to seek enforcement directly at the place where the assets of the judgment debtor are located instead of first seeking a precept from the supervisory court. Judgment debtors were using this to argue that if assets are located outside the territorial limits of the supervisory court, decree holders ought to seek enforcement only where the assets are located and not before the supervisory court, which in this case was the High Court of Bombay.

We argued that *Sundaram Finance* was only an enabling judgment giving decree holders the option of going directly where the debtor assets are located. However, in no way was it taking away the right of a decree holder to pursue enforcement in the supervisory court.

The Court, having heard parties at length and after considering several precedents, dismissed the jurisdictional objections to *inter alia* reaffirm that there was an explicit linkage between the 2(1)(e) Court's jurisdiction under the Arbitration & Conciliation Act, 1996 and the seat of arbitration. It held that the said Act transcends territorial boundaries and that therefore, it, being the supervisory court, does indeed have the jurisdiction to entertain enforcement proceedings regardless of the location of the assets of the judgment debtors.

To access the judgment dated April 26, 2019, please click [here](#).

– [Siddharth Ratho](#) & [Vyapak Desai](#)

You can direct your queries or comments to the authors

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

M&A In The Indian Technology Sector

February 19, 2025

Unlocking Capital

February 11, 2025

Fintech

January 28, 2025

Research Articles

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Key changes to Model Concession Agreements in the Road Sector

January 03, 2025

Audio

CCI's Deal Value Test

February 22, 2025

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

[Click here to view Hotline archives.](#)

Video

Arbitration Amendment Bill 2024: A Few Suggestions | Legally Speaking With Tarun Nangia | NewsX

February 12, 2025

**What India’s Transition to New Data
Protection Law Means for Global
Businesses**

January 23, 2025

**India 2025: The Emerging
Powerhouse for Private Equity and
M&A Deals**

January 16, 2025
