

## 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*<sup>1</sup> 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

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