

ABOUT US

DSA Legal is a full-service Law Firm providing Legal services since about last 57 years having profound expertise in various fields of law. The firm is a mid-size legal firm operating through its 10 offices in India, 4 in Delhi and one each in Mumbai, Kolkata, Hyderabad, Chennai and Bangalore apart from having over 1750 associates presently working with us, in almost all the major cities of India. We are representing clients before the Hon'ble Supreme Court, all the High Courts & 650 Districts in the Country, apart therefrom we are also providing legal services in Singapore, UAE, Saudi Arabia, London & Vietnam.

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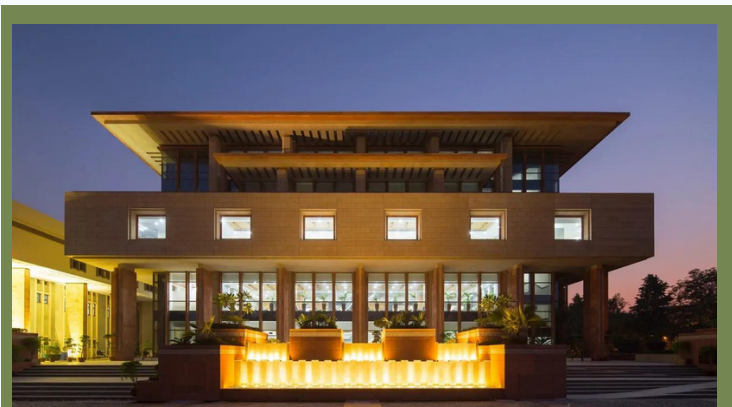
FROM DSA LEGAL'S OFFICE



Jammu & Kashmir & Ladakh High Court Held That A Consumer Is Not Just Entitled To Repair But Also To Replacement Of His Car If There Is A Manufacturing Defect

Maruti Suzuki India Ltd. v. Ramesh Chander Sharma and Anr.

The Jammu and Kashmir and Ladakh High Court made a significant ruling regarding vehicle defects, distinguishing between technical defects encountered during use and manufacturing defects. Maruti Suzuki India Ltd. had challenged an order from the State Consumer Commission, which had directed them to either replace a vehicle or refund the purchase amount with interest. The Division Bench of the High Court observed that the vehicle in question, a Maruti Car 800 CC, had a manufacturing defect from the outset. Consequently, they deemed it appropriate to replace the vehicle rather than repair it. They emphasized that repairs might be suitable for technical defects occurring during use, but not for manufacturing defects. The High Court ordered both the manufacturing company, Maruti Suzuki, and the dealer to provide a new vehicle or refund the purchase amount, which amounted to Rs. 1,94,195/-, with an interest rate of 9% per annum. As a result, the petition was dismissed in accordance with this ruling.



The Delhi High Court Has Reaffirmed The Group Of Company Doctrine By Stating That Claims Associated With The Company Can Be Subjected To Arbitration, Even If The Company Itself Is Not Signatory To The Arbitration Agreement.

M/s Opuskart Enterprises & Ors vs Kaushal Kishore Tyagi

The Delhi High Court held that disputes concerning the business activities of the partners, whether conducted through the firm or the company, are encompassed within the realm of arbitrable issues. The bench dismissed the contention that neither the firm nor the company could be included in the arbitration proceedings, as they are not signatories to the arbitration agreement.

The High Court cited the Supreme Court's ruling in Cox and Kings Ltd. v. SAP India Pvt. Ltd. and held that non-signatory affiliates can be a party to an arbitration agreement if mutual intention exists among the signatories and non-signatories. The High Court held that since the business by the partners is being conducted both through the firm and by the Company, the disputes raised would be arbitrable.

The petition was allowed by the High Court, and a sole arbitrator was appointed to oversee the dispute.

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The Delhi High Court Held That Under Section 27 Of The Arbitration and Conciliation Act, It Is Not Within The Jurisdiction Of The Court To Ascertain The Admissibility, Relevancy, Materiality, And Weight Of Any Evidence.

(Steel Authority Of India Ltd vs Uniper Global Commodities.)

The High Court clarified its stance on Section 27 petitions, emphasizing that it generally avoids intervening in Arbitral Tribunal rulings and does not act as an appellate body. While the Tribunal is not bound by procedural regulations, it must still exercise discretion when allowing witness examination. The Court reiterated that it cannot assess the relevance or materiality of evidence initially, as its powers are non-adjudicatory. Adjudication falls within the Tribunal's jurisdiction. Section 27 aids the Court in evidence-taking, but it cannot interfere with the Tribunal's proceedings by assessing evidence admissibility. The petition was rejected, with instructions for the Tribunal to consider the evidence's relevance or materiality before seeking Court assistance.



The Delhi High Court Held That The Arbitration Clause Remains Valid Despite Offering Multiple Seat Options, And The Petition Was Allowed Under Section 11 Of The Arbitration And Conciliation Act.

(Vedanta Limited vs Shreeji Shipping.)

The High Court emphasized its limited role in a Section 11 petition, focusing on determining the prima facie existence of an arbitration agreement rather than the case's merits. It noted that despite the Respondent's denial of receiving the Purchase Order, evidence showed it was sent via email, clearly displaying the Respondent's email address. Additionally, the Respondent's invoices referenced the Purchase Order, acknowledging the Contract and its arbitration agreement. Consequently, the court concluded that an arbitration agreement existed under Section 7 of the Arbitration Act.

Regarding the applicability of Section 29 of the Indian Contract Act, 1872, the High Court clarified it did not apply to the arbitration clause. Section 29 invalidates agreements that are uncertain or impossible to ascertain. However, the arbitration clause provided clear options for the arbitration seat in Goa, Karnataka, or Delhi, making it unambiguous and falling outside the scope of Section 29. Therefore, the High Court allowed the petition under Section 11 of the Arbitration and Conciliation Act.



Allahabad High Court Held That Demand Notice Sent To Cheque Drawer Via Email/WhatsApp Is Valid under Section 138 of the Negotiable Instruments Act

(Rajendra vs. State of U.P. and Another)

The Allahabad High Court held that a demand notice sent to the drawer of a cheque via 'email or WhatsApp' under Section 138 of the Negotiable Instruments Act, pertaining to the dishonour of a cheque, is considered legally valid. Furthermore, it is deemed to have been dispatched and served on the same date, provided it meets the criteria outlined in Section 13 of the Information Technology Act.

Moreover, the Court interpreted Proviso (b) of Section 138 of the Negotiable Instruments Act, observing that while the provision requires giving notice in writing, it does not prescribe a specific mode for sending such notice. Even considering Section 94 of the NI Act, it cannot be construed that the notice must be sent exclusively by postal means.



The Delhi High Court Dismissed An Application Under Section 11(6) Of The Arbitration And Conciliation Act, Stating That Exclusive Jurisdiction Could Be Inferred From The Parties' Intention Despite The Absence Of The Term "Seat" In The Arbitration Clause.

(Sanjay Kumar Verma vs Planning And Infrastructural Development Consultants Pvt. Ltd.)

The High Court held that parties possess the autonomy to mutually determine the place of arbitration, highlighting that the designation of the seat grants exclusive jurisdiction to the Courts at that location. The provision in the Letter of Appointment clearly specified that disputes would fall under the jurisdiction of Patna, Bihar.

The High Court closely examined the wording of the arbitration clause and concluded that it clearly indicated a mutual agreement to conduct arbitration in Patna. While the term "seat" wasn't explicitly used, the Court found the parties' intention to make Patna the arbitration venue was evident. This interpretation adheres to the principle of party autonomy in Section 20 of the Arbitration Act, which emphasizes fulfilling the parties' agreed-upon procedures. Consequently, the High Court ruled that Patna served as the designated seat of arbitration, rendering Court at Delhi without jurisdiction to hear the petition.



The Calcutta High Court Overturned The Order Of The West Bengal State Commission, Stating That The Consumer Forum Cannot Assume Jurisdiction When A Special Statute Prescribes Arbitration

(The Secretary, E & NF Railway Junior Co-operative Credit Society Limited, Eastern Railway vs Sri Jyotish Chandra Sarkar & Anr.)

The High Court invoked Section 84 of the Multi-State Co-operative Societies Act, 2002, ruling that the dispute between the Petitioner Co-operative society and the Complainant should have been arbitrated as per the Act. It criticized both the District Forum and State Commission for neglecting statutory provisions, especially jurisdictional constraints outlined in the Act. The Court emphasized that a special law takes precedence over a general one, thus asserting that consumer forums lack jurisdiction when a special law designates a specific forum for adjudication. It noted the State Commission's failure to consider the arbitration clause's jurisdictional aspect outlined in the Act and granted the revisional application due to identified irregularities in the State Commission's order. The Calcutta High Court affirmed that consumer forums lack jurisdiction when arbitration is mandated by a special statute, highlighting the supremacy of special legislation over general laws.



The Hon'ble Supreme Court Held That Stay Orders on Civil & Criminal Trials Not Automatically Vacated, Overturning 'Asian Resurfacing' Judgment

(High Court Bar Association Allahabad v. State Of Uttar Pradesh & Ors.)

Recently, a constitution bench of the Supreme Court overturned a 2018 ruling that limited the duration of interim stay orders issued by courts to six months in civil and criminal cases. Chief Justice DY Chandrachud and other Justices ruled against the automatic expiration of stay orders after six months, a provision established in the 2018 case of Asian Resurfacing Of Road Agency v. Central Bureau Of Investigation. The Court disagreed with the previous verdict, asserting that stay orders should not expire automatically. In its latest ruling, the Court emphasized that case backlogs vary in each court, and prioritization should be left to the court's discretion. The bench stressed the importance of careful decision-making and rectifying errors, including directions resembling judicial legislation, as seen in the Asian Resurfacing case. While High Courts cannot prioritize cases with stay orders over others, applications to lift interim reliefs cannot be indefinitely delayed. The apex court clarified that trials resulting from the automatic vacation of stay orders will remain valid.

The Gujarat High Court Has Permitted Application Under Section 11 Of Arbitration & Conciliation Act, 1996 Affirming That The Issuance Of A 'No Claim Certificate' Does Not Inherently Render A Dispute Non-Arbitrable.

(Poll Cont Associates vs Narmada Clean Tech Ltd.)

The Gujarat High Court rejected the Respondent's argument that the disputes had become non-arbitrable due to their "stale" nature. In this context, the High Court cited the "Eye of the Needle" principle articulated by the Supreme Court in NTPC Limited vs SPML Infra Limited. This principle underscores the narrow scope of the Courts' jurisdiction under Section 11(6) of the Arbitration Act, limiting their inquiry to two primary considerations. Firstly, the Courts must ascertain the existence of an arbitration agreement between the parties, encompassing the examination of privity of contract.

Secondly, they must assess the arbitrability of the dispute. While acknowledging that the arbitrability of the dispute generally falls within the purview of the arbitrator, the High Court clarified that the referring court may reject claims that are evidently and indisputably non-arbitrable. The High Court ruled that simply issuing a "No Claim Certificate" does not automatically make a dispute outdated ("stale") and ineligible for arbitration. They also clarified that the petitioner file.



The Delhi High Court Has Allowed An Application Under Section 11 Of The Arbitration and Conciliation Act, Affirming That The Arbitration Clause Remains Valid Beyond Contract Termination, Emphasizing Its Status As An Independent Agreement.

(M/S.S.K Agencies vs M/S DFM Foods)

The Delhi High Court rejected the idea that termination of a contract voids the arbitration clause, stating that the clause operates independently. It stressed that unless a dispute is clearly outside arbitration's scope, it should be referred to arbitration. The Court affirmed that the arbitration agreement persists after contract termination, citing the Arbitration Act. It dismissed the argument that contract termination nullifies arbitration. Additionally, it ruled that failure to categorize disputes in a notice doesn't prevent arbitration if arbitration intention is clear. As a result, the application under Section 11 was approved.

Delhi High Court Restricts MSME Facilitation Council's Power To Refer Arbitration For Pre-Registration Contracts, Upholding Principle Of Non-Retropective Benefits Under MSME Act.

(JKG Infratech Private Limited vs Larsen and Toubro Limited)

The Delhi High Court stressed that registration under the MSME Act is necessary to enjoy its benefits, which cannot be applied retroactively to contracts made before registration. It ruled that the Micro and Small Enterprises Facilitation Council lacks authority to adjudicate disputes under Section 18 of the MSME Act for claims arising before registration, thus cannot refer parties to arbitration in such cases. Citing the Supreme Court decision in Vaishno Enterprises vs. Hamilton Medical AG and Anr., it reiterated that parties not registered under the MSME Act at the time of contract execution cannot claim its benefits. As the appellant registered as an MSME only after contract execution, the High Court concluded that the MSME Act did not apply, and the dispute fell under the laws prevailing at the time of contract execution. Considering the MSME Act provisions and registration timing, the High Court affirmed that the Act did not govern the dispute. Consequently, it held that the Micro and Small Enterprises Facilitation Council lacked jurisdiction under Section 18 of the MSME Act to entertain the dispute, leading to the dismissal of the appeal.



The Delhi High Court Held That The Seat Of Arbitration Can Be Determined By Contractual Clauses And The Conduct Of The Parties, With The Venue Considered As The Seat In The Absence Of Other Indications

(M/S Axalta Coating Systems India Pvt. Ltd. Vs M/S Madhuban Motors Pvt. Ltd.)

The Delhi High Court ruled that merely mentioning a 'place of arbitration' in an agreement does not automatically designate it as the seat of arbitration. The determination of the seat should be inferred from other clauses in the agreement and the conduct of the parties involved. In a specific case, the court found Delhi to be the seat of arbitration based on clauses designating New Delhi as the venue for arbitral proceedings and granting exclusive jurisdiction to Delhi courts for disputes arising from the agreement. The court referred to a Supreme Court ruling emphasizing that the inclusion of a location in an arbitration clause doesn't necessarily make it the seat of arbitration. Parties have the autonomy to choose a court for dispute resolution but must adhere to relevant provisions of the Arbitration Act. The court highlighted that unless there are contradictory indications, the venue specified in the arbitration clause is considered the seat of arbitral proceedings. It distinguished between the place of arbitration and the seat of arbitration, clarifying that the former doesn't inherently signify the latter. As a result, the petition was allowed.



ABOUT US

OUR MISSION

DSA Legal is noted for its commitment to client service and its ability to solve the most complex and demanding legal & business challenges worldwide in a very cost-effective manner. Over the years we have helped shape and been involved in many ground-breaking developments in the legal field. Our constant endeavour is to safe guard our client's interest effectively & efficiently on a consistent basis.

OUR VISION

We have highly skilled and experienced leaders from this field to lead a dedicated team comprising of CA's, Company Secretary, lawyers & MBA's. We are a "Single Window Service" and provide all services on "Concept to Completion" basis in time and cost-efficient manner with high quality standards.

OUR STORY

Established in the year 1967, the firm embarked on its journey, steadily growing over the decades. Expanding its footprint beyond Delhi, the firm has established a strong foothold with individual offices in prominent metropolitan centers, including Mumbai, Kolkata, Hyderabad, Chennai, and Bangalore.

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