

## ARBITRATION &amp; DISPUTE RESOLUTION

# India's Arbitration Hub Dream: Ambition versus *Ground Reality*

*GIFT City, the Amendment Bill of 2024, and the push from ad hoc to institutional arbitration, set against the standard of Singapore and London.*

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## Introduction

Year after year, Indian companies rank among the largest foreign users of the Singapore International Arbitration Centre (“**SIAC**”), which registered 886 new cases in 2025 with India again among its leading foreign users. They keep Indian law to govern the contract, yet prefer to seat the arbitration in Singapore or before the London Court of International Arbitration (“**LCIA**”), trusting the forum more than the result they would obtain at home. India has set out to change this through three connected reforms: a push from ad hoc towards institutional arbitration; the Draft Arbitration and Conciliation (Amendment) Bill, 2024 (“**Amendment Bill, 2024**”), the widest reform proposed since 2015; and an international arbitration centre at Gujarat International Finance Tec-City (“**GIFT City**”), the seat of India’s first International Financial Services Centre (“**IFSC**”). The question, set against SIAC and the LCIA, is how far that ambition has travelled.

## From Ad Hoc To Institutional: The Amendment Bill, 2024

Indian arbitration has long been dominated by ad hoc proceedings, run case by case, often before retired judges with little institutional case management or control over delay. The Arbitration and Conciliation Act, 1996 (“**Arbitration Act, 1996**”), modelled on the UNCITRAL Model Law, gave India a modern statute, but the practice around it was slow and heavily supervised by the courts. The policy answer has been to move parties towards institutions: the 2019 amendments created an Arbitration Council of India (“**ACI**”) to promote institutional arbitration, and the Amendment Bill,

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2024 pursues the same objects of boosting institutional arbitration, reducing court intervention and ensuring timely conclusion.

The Amendment Bill, 2024 gives emergency arbitration a statutory basis, building on *Amazon.com NV Investment Holdings LLC v. Future Retail Ltd.*; proposes an appellate arbitral tribunal for challenges to awards; clarifies seat and venue; permits partial setting aside; and renames the statute the Arbitration Act, conciliation having moved to the Mediation Act, 2023. Gaps remain. The appellate arbitral tribunal is its boldest idea and least developed, and third party funding, where an outside funder bears a claim's cost for a share of the recovery, still lacks a clear statutory footing onshore.

### **GIFT City: Why It Attracts, And The Law That Applies**

GIFT City's appeal rests above all on enforcement. An award made within the IFSC would be an award made in India, enforceable in Indian courts as a domestic award rather than through the slower route for a foreign award, while remaining enforceable abroad in more than 170 states under the New York Convention. A company thus secures direct enforcement against Indian assets together with wide enforceability abroad, which an award seated in Singapore cannot match where the assets lie in India. The enforcement advantage deserves elaboration. A party that wins at SIAC and seeks to recover against assets in India must file a separate petition under Sections 47 to 49 of the Arbitration Act, 1996, which give effect to the New York Convention; that petition opens the door to counter-applications on the grounds of public policy, invites satellite litigation in the Indian courts, and can consume years before a rupee is recovered. A GIFT City award eliminates that step entirely. Because it is made in India, it is enforced as a domestic award under Section 36 of the Arbitration Act, 1996, without the need for a recognition petition, without the New York Convention gateway, and without the delay that gateway produces. For any transaction whose assets or counterparty are rooted in India, that procedural difference is not merely technical; it is the difference between an award that is swiftly executable and one that is the beginning of a further round of proceedings. Each arbitration seated there would be treated as international whatever the parties' nationality, with a free choice of governing law, foreign counsel, third party funding, and supervision by a dedicated bench on tight timelines, within India's only operational IFSC and its tax concessions.

The framework rests on four statutes: the International Financial Services Centres Authority Act, 2019 ("**IFSCA Act, 2019**"), which establishes the regulator and carries the reform; the Special Economic Zones Act, 2005, which governs GIFT City; and the Arbitration Act, 1996 and Mediation Act, 2023, each to be amended for seats within the IFSC. The expert committee chaired by Dr. M.S.

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Sahoo, reporting in July 2024, recommended gathering these changes in a new schedule to the IFSCA Act, 2019, producing a self-contained regime distinct from the law in the rest of India. Its advantage is predictability; its cost is a two track system, new and untested, and a limit statute cannot cure: in *Delhi Metro Rail Corporation Ltd. v. Delhi Airport Metro Express Pvt. Ltd.*, the Supreme Court used its curative power under Article 142 of the Constitution to set aside an award of about eight thousand crore rupees, showing that the last word on any award made in India can still rest with the Supreme Court, however the seat is labelled.

### **The Challenge And Appeal Of An Award: Where The Gap Is Widest**

The clearest difference lies in what happens after the award. Singapore, London and Hong Kong deliver swift finality by restraint, not by elaborate appeals: one specialist forum, narrow grounds excluding the merits, a short time limit, and finality soon after. Singapore sets aside only on the Article 34 Model Law grounds and the limited additions in its International Arbitration Act, before the Singapore High Court or the Singapore International Commercial Court; Hong Kong does likewise under Section 81 of its Arbitration Ordinance, with a three month limit and no appeal on fact or law; England permits challenge for jurisdiction or serious irregularity and a limited, excludable appeal on law, heard quickly by the Commercial Court. A GIFT City award would follow this model, the Sahoo Committee recommending a designated bench of the Gujarat High Court, then a dedicated IFSC International Court as both first instance and appeal, with onward recourse to the Supreme Court only by special leave.

Outside that enclave the system is the opposite. An award seated in India may be challenged under Section 34, often over several years, then appealed under Section 37, carried to the Supreme Court by special leave under Article 136, and in rare cases reopened under the curative jurisdiction of Article 142. Each layer adds years, so the award meant to be final becomes the start of fresh litigation. The Amendment Bill, 2024 reaches for the solution through a proposed appellate arbitral tribunal under Section 34A, by which an institution may provide a tribunal to hear set aside applications instead of the court. The idea is right but incomplete: it is an option not a rule, covers only institutional arbitration, leaves the Section 36 enforcement stay with the court, hands the tribunal's procedure to the ACI, and fixes no limitation period. It offers the shape of a solution without its substance.

### **Where India Stands, And What Remains**

The gap in scale is large but narrowing. SIAC registered 886 cases in 2025 worth about 14.53

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billion United States dollars; the LCIA received 362 referrals in 2024, almost all international. India's institutions handle a fraction of this, and credibility on that scale is earned over decades, not announced. Two obstacles compound the problem. The centre is not yet operational, and the Amendment Bill, 2024, built on the report of the committee chaired by Dr. T.K. Viswanathan, remains a draft as of mid 2026. And government policy pulls both ways: while inviting the world to arbitrate in India, the Ministry of Finance's June 2024 guidelines discourage arbitration in large public procurement disputes, steering those above ten crore rupees towards courts or committees.

### **Conclusion: The Way Forward**

India's case for an arbitration hub is no longer a question of intention or of law on paper. The direction is right, the Amendment Bill, 2024 is a serious reform, and the GIFT City design is excellent on its own terms, offering what neither Singapore nor London can match for a transaction connected to India: easy enforcement at home with wide enforceability abroad. What is missing is not vision but proof. The way forward is practical. The Amendment Bill, 2024 should be enacted, and its appellate arbitral tribunal made the exclusive, time bound route for challenges rather than an option, so that finality comes as swiftly in India as in Singapore. The tension between an offshore seat and the residual jurisdiction of the constitutional courts should be faced honestly, the government should stop promoting arbitration with one hand while discouraging it with the other, and the centre must open and decide real cases. Singapore and London built their standing over decades; India has set itself the same goal in less time. The foundation is sound; what remains is the patient work of turning a careful design into a trusted institution, proven one award at a time.

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