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A COMPREHENSIVE EVALUATION OF INTERNATIONAL ARBITRATION AND ITS EFFECTIVENESS

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ABSTRACT

The primary goal of this experimental study is to collect views/opinions of a diverse set of stakeholders on past & future improvements & innovations to make effective International Commercial Arbitration mechanisms in India in order to develop concrete solutions for Indian commercial communities. Researcher approached external focus group comprising Academicians, Arbitrators, Counselors, In-house counsel, Law firms, LPOs, Law Students etc. of different institutions through the questionnaire. Above mentioned stakeholders provided their valuable comments on different questions. The research design for this research work is doctrinal as well as exploratory. The whole research work is based upon the analytical study of collected opinion through the questionnaire, case comments and case study, law commission reports, experts comments etc. The population for the proposed study is comprised of all the respondents of the International and National business communities, regulatory bodies and forums, Academia, who is engaged in international commercial arbitration activities. The data are collected personally using structured questionnaire. Focused interviews are also concluded to collect the data. The data are also be collected through online by electronic mails & Google docs etc. The appropriate statistical tools are used to analyze the data. Univariate and Bivariate data analyze techniques are used to analyze the data.

Keywords:- international commercial arbitration, alternative dispute resolution systems, domestic arbitration

INTRODUCTION

Human conflict grew exponentially with the development of society, as the adage goes, where there are two minds, there are three perspectives. Due to the growth of society, human conflicts are unavoidable; as a result of this undesirable scenario, it is necessary to have robust, simple, and rapid systems for resolving such disagreements. Additionally, conflicts must be settled economically and expeditiously to alleviate the judiciary's load and to ensure that such unavoidable situations do not occur.

Throughout the years, civilization has acknowledged the inherent right of each individual to seek redress through courts and tribunals. The common man's traditional understanding of "access to justice" is that it refers to access to courts of law. A court is where the average man receives justice. However, courts have become inaccessible due to a variety of impediments, including poverty, social and political backwardness, illiteracy, ignorance, and procedural formality. To obtain justice through the courts, one must navigate the complicated and expensive procedures associated with litigation, most notably in International Commercial Arbitration [1]. This prompted citizens to consider a way for resolving their disagreements amicably outside of the courts.

Conflict is an inevitable part of existence, and it's difficult to envision a human civilization without it [2]. Human conflicts inevitably result in disagreements. Keeping in mind the fundamental human behaviour and disposition, it may be claimed that disagreements are unavoidable [3]. However, disagreements must be resolved, and they must be settled prudently; indeed, such settlement is necessary for societal peace, amity, comity, and

harmony, as well as simple access to justice [4]. This demonstrates the critical importance of a sufficient and successful dispute resolution mechanism, which is a necessary condition for survival of a civilised society & welfare state. They sought a mechanism for resolving disputes, such as arbitration, mediation, conciliation, or negotiation.

Alternative Dispute Resolution, or ADR, is a term that refers to a variety of dispute resolution techniques that are often used in lieu of litigation & are generally handled with assistance of a neutral & independent third party. As the expression says, the fundamental objective of ADR is to resolve disputes outside of the regular legal system, & thus throughout process of appreciating ADR, baseline remains litigation. As a result of the emergence of ADR proceedings as distinct alternatives to courts established by state, term 'alternative' was developed[5].

Alternative dispute resolution systems enable a more expeditious and cost-effective resolution for conflicts referred for out-of-court resolution. ADR processes are done with assistance of an ADR neutral, who is an unbiased, independent & disinterested third party who assists disputant parties in resolving their issues via the use of well-established dispute resolution techniques [6]

ADR processes can be broadly classified as non-adjudicatory or adjudicatory. Non-adjudicatory ADR processes are those that fall under the umbrella of ADR and do not involve the ADR neutral making a final and binding determination of the dispute's factual or legal issues, but rather involve the parties cooperating to find a mutually acceptable solution with assistance of ADR neutral. Non-adjudicatory ADR approaches exemplify the ADR philosophy that a conflict is a problem to be solved collaboratively rather than a battle to be won [7].

Cooperative issue solving is a fundamental principle of ADR. The ultimate goal is to resolve the issue by the parties' participation and joint effort, aided by the ADR neutral. ADR techniques are designed to mitigate antagonistic attitudes and promote greater openness and dialogue between parties, ultimately leading to a mutually accepted resolution [8]. In that regard, alternative dispute resolution is unquestionably more cooperative & less competitive than adversarial litigation [9]. The ADR approach is aimed at eliminating the adversarial component from dispute resolution process, guiding parties to recognise their common interests, dissuading them from taking hard stances, and persuading them to reach a negotiated settlement. The parties control both process and the outcome of dispute settlement, and they are solely accountable for resolving the disagreement in an effective, practical, and acceptable manner [10]. The emphasis of ADR, which is informal & adaptable, is thus on "assisting parties in assisting themselves"[11].

The anecdote of two cooks arguing over an orange exemplifies the basic approach of ADR (non adjudicatory). The judge chooses an explanation for awarding it to the first cook. The arbitrator halves it. The mediator inquires as to why each cook desires it - discovering that the first desires the peel for marmalade & second desires the flesh for juice. The mediator provides the first the peel & second the flesh. As a result, both parties benefit. The cooks & mediator approached the problem collaboratively, rather than through the lens of rights and positions [12].

Mahatma Gandhi also pushed for and observed this technique, which serves as the foundation for ADR. "I recognised that the fundamental duty of a lawyer was to reconcile estranged parties. The lesson was so ingrained in me that for first two decades of my legal career, I spent a significant portion of my time resolving private settlements in hundreds of cases. I gained nothing in the process — not even money, and most emphatically not my soul.' [13].

ADR processes are, for the most part, non-adjudicatory, which is to be expected given that ADR is largely a substitute for litigation, which is nothing more than adjudication by a court of law. Non-adjudicatory ADR processes include mediation, conciliation, and conflict resolution through Lok Adalats, all of which get their sanctity from parties' desire to reach a mutually agreeable result amicably.

On other hand, adjudicatory ADR proceedings are those that include the ADR neutral making a final & binding judgment of the dispute's factual and legal concerns. The adjudicatory processes take their sanctity from parties' desire to have their rights assessed outside of the usual litigative process by an ADR neutral. Arbitration &

binding expert determination are both forms of adjudicatory alternative dispute resolution.

ADR is occasionally understood rigorously & hypertechnically as a process that lacks the accoutrements of arbitration and does not ultimately result in a binding decision on parties' will. However, because adjudicatory ADR processes function outside realm of state-established courts and are effectively substitutes for traditional litigative process, they are situated within ADR galleries [14].

Additionally, adjudicatory ADR processes are consensual in sense that they cannot be used unless such participants are ad idem, but once parties enter arena, they must submit to a binding ruling by ADR neutral and cannot withdraw unilaterally.

Apart from basic categorization of ADR processes as adjudicatory or non-adjudicatory, there are also hybrid ADR processes that combine the two and exhibit both adjudicatory and non-adjudicatory characteristics. Examples of hybrid ADR methods include Medi-Arb, Con-Arb, and conflict resolution through Permanent Lok Adalats.

OBJECTIVES

International arbitration is dynamic approach to resolve the cross border commercial disputes. Their feature like adaptability and party-driven approach allows a resolution system and process that may be tailored as it required. Stakeholders of Indian Commercial Arbitration have proved quest to improve the cross border arbitration mechanisms. For such purposes a comprehensive evaluation of international arbitration and its effectiveness is required for improvement. Collective feedback mechanisms, which are essential stimulants to material improvements in this systems are rare in the field of law, where confidentiality is valued and practice is both varied and discrete universally. The primary goal of this experimental study is to collect views/opinions of a diverse set of stakeholders on past & future improvements & innovations to make effective International Commercial Arbitration mechanisms in India in order to develop concrete solutions for Indian commercial communities. The poll was performed in two phases over a six-month period. In spite of various efforts at national and international level in bringing the substantial changes in the international arbitration laws for smooth functioning and promoting the international business across the country, even then there are lots of complexities in the international arbitration laws that are yet unanswered. Hence the issues related to this need to the explored and analyzed.

The research design for this research work is doctrinal as well as exploratory. In doctrinal research there is an analytical and comprehensive study of Statutes, instruments, judicial pronouncements, guidelines of Treaties and Conventions etc. whereas in exploratory research, there is a wide range of field observation based upon designed questionnaire comprising of thirty five opinion based questions for making international commercial arbitration more & more effective in Indian context. The whole research work is based upon the analytical study of collected opinion through the questionnaire, case comments and case study, law commission reports, experts comments etc.

FIELD OBSERVATION IN BRIEF

Doctrinal as well as empirical both method of legal research have been adopted for this research work. In the former the researcher analyzed the previous work done by different jurists, different legislation, articles and cases laws and for the empirical part a questionnaire was formed with open ended, closed ended and rating based questions, which has sent to different stakeholders and the opinion received from the stakeholders compiled in chapter V and for the statistical analysis of the data collected through the structured questionnaire. Selected sample size was of 250, out of which reply was received from approx 200 respondents and only 150 responses were found suitable for the analysis.

NEED FOR ALTERNATIVE DISPUTE RESOLUTION SYSTEM

Any civilised society's basis & goal is justice. The pursuit of justice has been an ideal to which humanity has aspired for aeons. The world has learned that confrontational litigation is not sole way to settle problems. Congestion in courtrooms, a shortage of staff & resources, as well as delays, costs, & process, all point to need for improved alternatives, approaches, & outlets. A click on that option will take you to Alternative Dispute

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Resolution method. ADR is faster, less expensive, & more user-friendly than courts. It provides options for technique, process, pricing, representation, & location. Because it is generally faster than legal processes, it can reduce pressure on Courts. Because it is less expensive, it has potential to help to reduce upward spiral of legal expenses & legal aid expenditure, which would benefit both parties.

TABLE-1 WHETHER THE ALTERNATIVE DISPUTE RESOLUTION SYSTEM IS A NEED FOR SPEEDY JUSTICE AND AMICABLE SOLUTION

		FREQUENCY	PERCENT	VALID %	CUMULATIV %
Valid	Yes	98	65.8	65.8	65.8
	No	10	6.7	6.7	72.5
	Can't Say	24	16.1	16.1	88.6
	Don't Know	17	11.4	11.4	100.00
	Total	149	100.00	100.00	

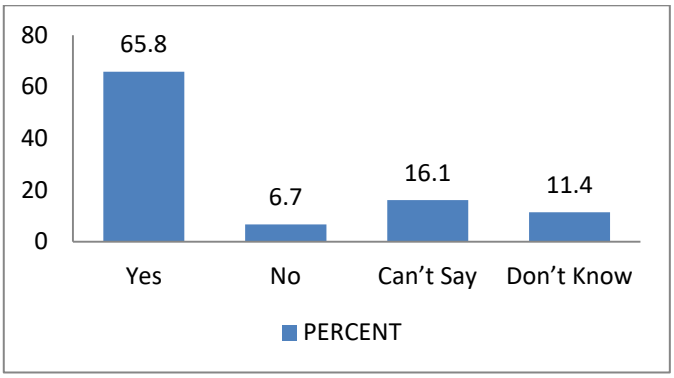

FIG. 1 RESPONDENT PERCENTAGE

INTERPRETATION

After statistical analysis of data collected through the questionnaire for the above mentioned question, there were a majority of respondents were in the positive opinion that Alternative dispute resolution system is a need for speedy justice for the disputes. Around 66 percent respondents were in the favor that, ADR is indeed a strong mechanism for assurance of speedy justice. Whereas around 7 percent respondents denied this statement as well, because of some lack of awareness or being ignorant about this system around 16 percent were in respond in the manner that they can't say whether the said system is effective for speedy justice or not whereas due to unawareness, around 11 percent respondents shows there expression that they are not fully aware about the ADR system.

INTERNATIONAL COMMERCIAL DISPUTES AND INTERNATIONAL TRADES

In fact, it has become customary to include an arbitration clause in every business contract. Arbitration has also grown in strength & popularity as a mechanism of settling disputes in international trade & business. It is hard to tell how extensively accepted arbitration is, however some observers have indicated that arbitration clauses are included in up to 90 percent of all international contracts. Rapid globalisation has resulted in an increase in number of international contracts including terms requiring international arbitration. As a result, many people consider availability & efficacy of international arbitration as a boon to cross-border trade & investment. This fascinating but increasingly difficult legal landscape provides multinational parties with a plethora of options for managing & resolving their conflicts. Business requirements will always differ depending on context, but some general guidance can be drawn from an examination of those aspects of international arbitration that have traditionally been viewed as most advantageous for international parties while minimising perceived disadvantages of international arbitration.

TABLE 2 WHETHER THE INTERNATIONAL COMMERCIAL DISPUTES ARE INEVITABLE AND OBVIOUS FOR INTERNATIONAL TRADES?

		FREQUENCY	PERCENT	VALID %	CUMULATIV %
Valid	Yes	148	99.3	99.3	99.3
	No	1	.7	.7	100.0
	Total	149	100.0	100.0	

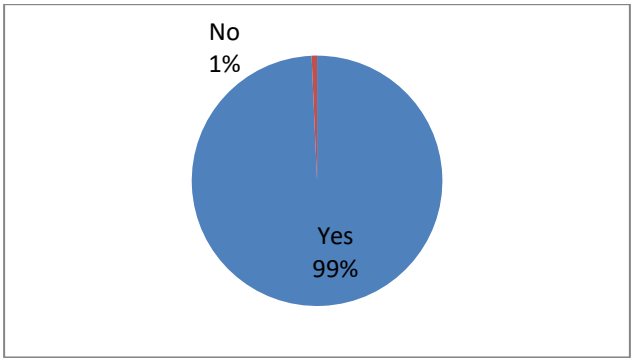

FIG 2 WHETHER THE INTERNATIONAL COMMERCIAL DISPUTES ARE INEVITABLE AND OBVIOUS FOR INTERNATIONAL TRADES?

INTERPRETATION

After statistical analysis of data collected through the questionnaire for the above mentioned question, there were a majority of respondents were in positive opinion that, International Commercial Disputes are inevitable and obvious for international trades. Around 99 percent respondents were in the favor that, due to rapid growth in cross- border commercial activities international commercial disputes are unavoidable situation for word business communities. Whereas around 1 % respondents denied this statement

INTERNATIONAL COMMERCIAL ARBITRATION IN INDIA STATUS UNDER THE ARBITRATION AND CONCILIATION ACT, 1996

The 1996 Act, which repealed 1940 Act, was enacted to provide an effective and expeditious dispute resolution framework that would inspire confidence in Indian dispute resolution system, attract foreign investments, & reassure international investors in Indian legal system's reliability in providing an expeditious dispute resolution mechanism. Part I of 1996 Act provides for any arbitration conducted in India and enforcement of judgments made thereunder. Part II deals with enforcement of foreign awards. Part I governs any arbitration held in India or enforcement of awards made thereunder (whether domestic or international), whereas Part II governs execution of any overseas award to which New York Convention or Geneva Convention apply. The 1996 Act has two novel provisions that deviate from UNCITRAL Model Law. For starters, unlike UNICITRAL Model Law, which was meant to apply primarily to international commercial arbitrations, 1996 Act applies to both international & domestic arbitrations. Second, in terms of reducing court intrusion, the 1996 Act goes above & beyond UNICITRAL Model Law.

TABLE: 3 WHETHER ENACTMENT OF ARBITRATION & CONCILIATION ACT, HAS SOLVED PROBLEMS OF INTERNATIONAL COMMERCIAL ARBITRATION IN INDIA?

		FREQUENCY	PERCENT	VALID %	CUMULATIV %
Valid	Yes	105	70.5	70.5	70.5
	No	8	5.7	6.7	75.8
	Can't Say	25	16.8	16.8	92.6
	Don't Know	11	7.4	7.4	100.00
	Total	149	100.00	100.00	

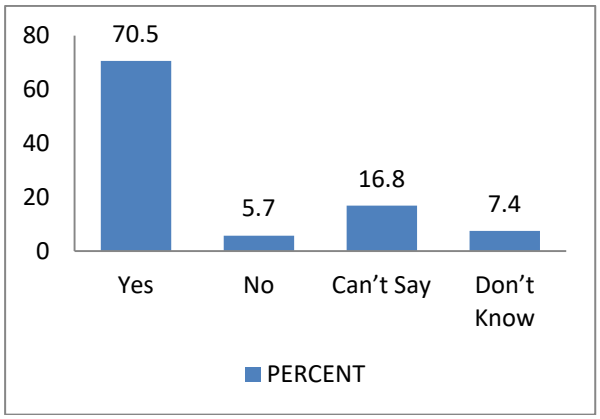

FIG 3 RESPONDENT PERCENTAGE

INTERPRETATION

After statistical analysis of data collected through the questionnaire for the above mentioned question, there were a majority of respondents were in the positive opinion that enactment of Arbitration & Conciliation Act, has solved problems of International Commercial arbitration in India. Around 71 percent respondents were in the favor that, yes the enactment of Arbitration & conciliation Act, has proved successful in solving the problems relating to International commercial arbitration in India. Whereas around 5 percent respondents denied this argument as well, because of some lack of awareness or having less faith in ADR system around 17 percent were in respond in the manner that they can't say whether the Indian arbitration is effective in solving the ICA issues or not whereas due to unawareness, around 7 percent respondents shows there expression that they are not fully aware about the Act.

DOMESTIC ARBITRATION VERSUS INTERNATIONAL COMMERCIAL ARBITRATION

Various courts have reviewed rising use of arbitration as an alternative mechanism of dispute settlement in various circumstances of Arbitration & Conciliation Act 1996. Subsection (2) of Section 2 & Provisions 8, 9, 11, & 34 are most contentious sections of Act. Dealing with Section 2(2), one of most widely interpreted clauses, which states that Part I of Act applies if site of arbitration is in India. Where does it give room for interpretation by different Courts? The clause

expressly states that Part I of Act, which is intended for "domestic arbitrations," applies to all arbitrations when "site" of arbitration is India. Even if arbitration is b/w 2 foreign firms governed by foreign law, but site of arbitration is India, Part I will apply & arbitration will be regarded "domestic." What distinguishes it from a domestic arbitration?

TABLE: 4 WHETHER LAW RELATING TO DOMESTIC ARBITRATION AND INTERNATIONAL ARBITRATION SHOULD BE SEPARATED IN TWO DIFFERENT STATUTES?

		FREQUENCY	PERCENT	VALID %	CUMULATIV %
Valid	Yes	129	89.58	89.6	89.6
	No	15	10.42	10.4	100.0
	Total	144	100.0	100.0	

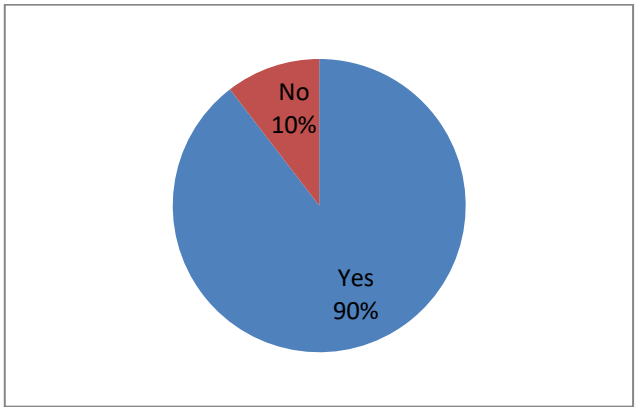

FIG. 4 RESPONDENT PERCENTAGE

INTERPRETATION

After analysis of data collected through the questionnaire for the above mentioned question, there were a majority of respondents were in positive opinion that, there should be law relating to domestic arbitration & International Arbitration should be separated in two different statutes. Around 90 percent respondents were in the favor that, due to the certain issues and most disputed issues relating to domestic as well international arbitration there should be separate law for both. Whereas around 10 percent respondents not in the favor in the division of domestic and international nature of arbitration.

INVESTOR'S PROTECTION IN INDIA, SPECIALLY FROM TRADE RELATING LEGAL ISSUES

Investor grievance redressal mechanisms & foreign investor protection go hand in hand. If there is a transparent, time-bound, easier, & simpler grievance redressal mechanism in place for foreign investors, their protection will be automatically ensured, & they will be able to park their investments in Indian capital markets, contributing to economic development by channelling their savings into investments & facilitating capital formation in economy. The grievances of foreign investors, their redressal under Indian arbitration law always been as challenges for foreign investors. Basically issues relating to enforcement of an foreign award.

Foreign investing is not same as regular commerce. Trading is often defined as one-time exchange of products & money. Investing in a foreign nation, on other hand, is predicated on a long-term connection b/w investor & country where investment is made ("host state").

TABLE: 5 DO YOU AGREE THAT ARBITRATION & CONCILIATION ACT, 1996 HAS FAILED TO FULFILL ITS ONE OF THE MAIN OBJECTS TO ATTRACT THE FOREIGN INVESTORS TO SETTLE THEIR DISPUTE IN INDIA?

		FREQUENCY	PERCENT	VALID %	CUMULATIV %
Valid	Yes	126	84.6	84.6	84.6
	No	11	7.4	7.4	91.9
	Can't Say	12	8.1	8.1	100
	Total	149	100	100	

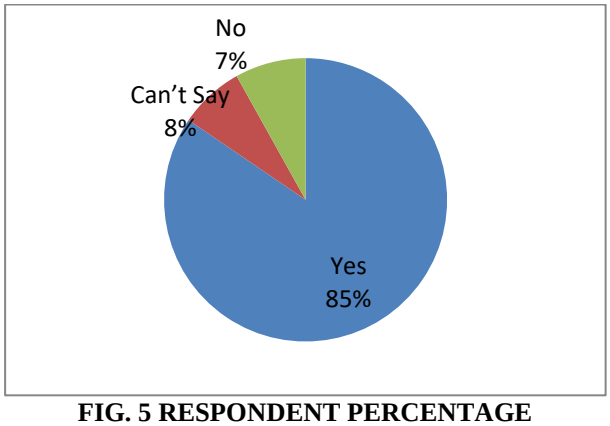

FIG. 5 RESPONDENT PERCENTAGE

INTERPRETATION

After statistical analysis of data collected through the questionnaire for the above mentioned question, there were a majority of respondents were in the positive opinion that that Arbitration & Conciliation Act, 1996 has failed to fulfill its one of the main objects to attract the foreign investors to settle their disputes in India. Around 85 percent respondents were in the favor that, after the major amendments in new arbitration law an effort has

been made to solve the legal issues relating to cross border investment. Whereas around 7 percent respondents denied this argument as well, because of some lack of awareness or having less faith in ADR system around 8 percent were in the opinions that they can‘t predict the future effectiveness of new arbitration law for foreign investors in India.

INDIA AS A HUB FOR INTERNATIONAL COMMERCIAL ARBITRATION

To make arbitration in India even less likely, certain well-known global arbitral institutions, such as International Chamber of Commerce (ICC) Paris, London Court of International Arbitration, and Singapore International Arbitration Centre, are aggressively setting up offices in India & offering their services locally. The size of business dispute pie in India is so large that every international arbitral institution wants a piece of it and is more than prepared to go additional mile to woo Indian enterprises.

To make India centre of international commercial arbitration, government, legal profession, & corporate India must work together. Foreign corporations would choose India as their preferred location only if atmosphere for conducting international commercial1 arbitration in India is conducive to commerce. Despite efforts to have the necessary adjustments to arbitration legislation authorised by legislature, government will be unable to do so on its own. Full support from enterprises and the legal community is required, which can only be accomplished on basis of simply commercial and realistic factors, rather than nationalism, patriotism, or protectionism.

TABLE: 6 WHETHER ESTABLISHMENT OF INTERNATIONAL CENTRE FOR DISPUTES RESOLUTION BY GOVERNMENT OF INDIA TURNED INTO A HUB FOR INTERNATIONAL COMMERCIAL ARBITRATION?

		FREQUENCY	PERCENT	VALID %	CUMULATIV %
Valid	Yes	97	65.1	65.1	65.1
	No	17	11.4	11.4	76.5
	Can’t Say	35	23.5	23.5	100.0
	Total	149	100.0	100.0	

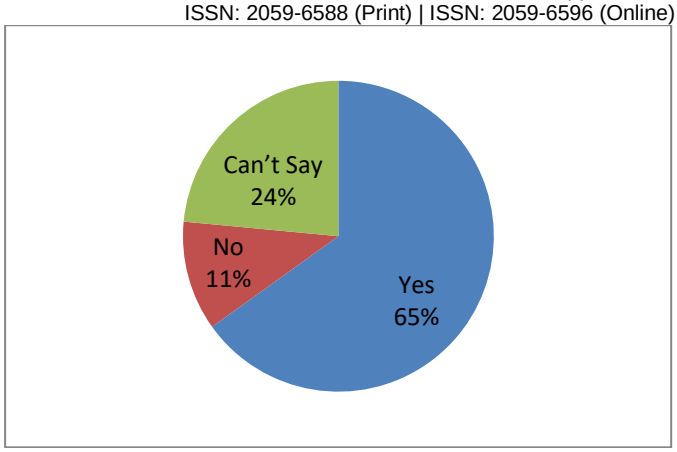

FIG. 6 RESPONDENT PERCENTAGE

INTERPRETATION

After critical analysis of data collected through the questionnaire for the above mentioned question, there were a majority of respondents were in positive opinion that that establishment of International Centre for disputes resolution by Government of India turned into a hub for International Commercial arbitration. Around 65 percent respondents were in the favor that, after the establishment of International Centre for disputes resolution by Government of India turned into a hub for International Commercial arbitration. Whereas around 11 percent respondents denied this argument as well, because of some lack of awareness or having less faith in Indian arbitration system around 24 percent were in the opinions that they can‘t predict the future effectiveness of ICA in India.

THE BALCO JUDGMENT A NEW HOPE FOR ICA IN INDIA

The Arbitration and Conciliation Act of 1996 (the "Act") is broken into four sections. 1 The first section of Act ("Part I") deals with arbitrations held in India and enforcement of such1awards; second section ("Part II") deals with enforcement of1foreign arbitral1awards. The subject of whether provisions of Part I of Act apply to international arbitrations held outside India has been considered several times by the Supreme Court of India ("Supreme Court") and different High Courts.

The Supreme Court ruled in Bhatia International vs Bulk Trading SA ("Bhatia International") that provisions of Part I of Act apply to all arbitrations, including international commercial arbitrations performed outside India, unless parties expressly or tacitly restrict their application. However, in case of Bharat Aluminium

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Co. v. Kaiser Aluminium Technical Services Inc ("BALCO"), the Supreme Court's constitution bench dismissed Bhatia International & determined that requirements of Part I of Act would only apply to arbitrations held in India.

Bhatia International has been heavily chastised for judicial overreach & for causing substantial doubt & delay in arbitrations held outside of India. As a result, when BALCO appeared before a two-judge Supreme Court bench, they referred case to Constitution bench in order to rectify harm created by Bhatia International. The five-judge panel resolved the law on application of Part I of Act's provisions to arbitrations held outside India by declaring Part I inapplicable to international arbitrations. The following are Supreme Court's important conclusions in BALCO:

- In respect of territorial concept, legislature has enacted that Part I of Act applies to arbitrations with their place/seat in India.
- The deletion of term "only" from Section 2(2) of Act has no effect on section's text, which limits applicability of Part I of Act to arbitrations with a place/seat in India. It would not apply to arbitrations held outside of India.
- According to interpretation of Section 2(1)(e), two courts have jurisdiction to adjudicate a dispute, namely court whose jurisdiction cause of action is located and courts where arbitration takes place.
- When seat of arbitration is located outside of India, Indian courts do not have authority to award interim relief.
- Foreign arbitral awards would be susceptible to Indian court jurisdiction only if they were sought to be enforced in India in conformity with requirements of Part II of the Act.

The court went on to clarify that agreeing to have Indian Laws regulate arbitration laws does not make Part I applicable to case. Even if the substantive law of arbitration is Indian Law, but arbitration takes place outside of India, Indian courts will be barred from hearing the case.

As a result, it prospectively overturned Bhatia International & Venture Global, holding that legislation established in Bhatia International and Venture Global will only apply to agreements entered into prior to September 6, 2012.

TABLE 7 WHETHER JUDGMENT IN BHARAT ALUMINUM CO. LTD. V. KAISER ALUMINUM TECHNICAL SERVICE INC (BALCO), (2012) 9 SCC 649, HAS REMOVED AMBIGUITY RELATING TO APPLICATION FOR PART I & FOR PART II OF THE ARBITRATION AND CONCILIATION ACT, 1996?

		FREQUENCY	PERCENT	VALID %	CUMULATIV %
Valid	Yes	99	66.4	66.4	66.4
	No	7	4.7	4.7	71.1
	Can't Say	38	25.5	25.5	96.6
	Don't Know	5	3.4	3.4	100
	Total	149	100	100	

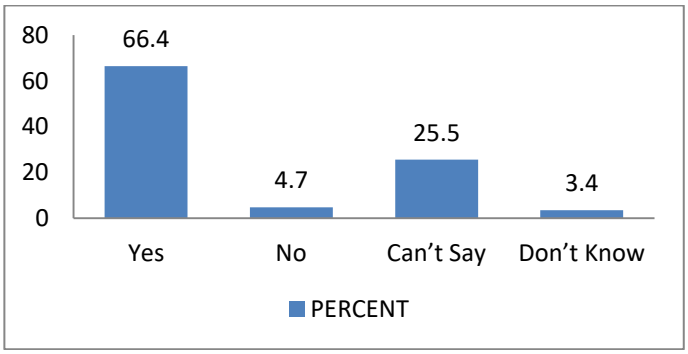

FIG.5.8 REPONDENT PERCENTAGE

INTERPRETATION

After the analysis of response collected through the questionnaire for the above mentioned question, there were a majority of respondents were in positive opinion that judgment of BALCO case is really a remarkable step to remove the ambiguity relating to application of part I and application of part II in certain cases Around 66 percent respondents were in the opinion that, after this judgment the issue relating to applicability of Part I in international commercial disputes may remove and clear. On the same hand around 5 percent respondents were not satisfy with this statement. Whereas, because of some lack of awareness or having less faith in Indian arbitration system around 26 percent were in the opinions that they can't say about the future prospect of the said decision as well 3 percent respondents were unaware about this decision.

CONCLUSIONS

After the detail analysis of assumption that Present setup of International commercial arbitration in India, do not sufficient to develop India as a hub for International Commercial, it is evident that there are lots of deficiencies in existing

Indian arbitration law', especially the ambiguities relating to application of provisions of Part I Arbitration and conciliation Act, 1996, for foreign awards in the absence of any mutual agreement for such purposes. That's way the major reform in the light of present International commercial environment, are so required, so that India can be develop as a hub for International commercial arbitration.

The analytical research was primarily concerned with the guidelines of the BALCO ruling and the recent revisions to the Arbitration & Conciliation (Amendments) Act, 2015. The former requires certain tangible adjustments to current laws, and even after this amendment, the laws are not capable of resolving these concerns when the latter is comprehensively altered. As a result, it has been determined that there should be robust and codified legislation in place to control matters involving international commercial arbitration in India.

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14. Gandhi's book 'My Experiments with Truth' referred the dispute to mediation Luke R. Nottage, "Is (International) Commercial Arbitration ADR?", 20 The Arbitrator and Mediator 83 (2002) available at: http://papers.ssrn.com (last visited on 18.01.2022).