



March 2024

## In the absence of contrary indications, 'venue' is 'seat': Delhi High Court reiterates

In the recent decision of *Axalta Coating Systems v. Madhuban Motors*<sup>1</sup>, the Hon'ble High Court of Delhi ("Delhi HC") while allowing a petition under Section 11 of the Arbitration and Conciliation Act, 1996 ("Arbitration Act") reiterated that in the absence of any other contrary indicia, the 'venue' mentioned in the arbitration clause would amount to the 'seat' of the arbitral proceedings. In the facts of the case, the Delhi HC found that the provision for exclusive jurisdiction of the courts at New Delhi, coupled with the provision designating New Delhi as the venue, clearly evinced the parties' intention to anchor the arbitral proceedings in New Delhi, which would thus be the seat of arbitration.

### Brief Facts

The disputes raised by Axalta Coating Systems ("Petitioner") arose out of a supply agreement. After a demand raised by the Petitioner under the supply agreement was rejected by Madhuban Motors ("Respondent"), the Petitioner invoked arbitration under the supply agreement. Since the parties failed to agree on the appointment of the sole arbitrator, the Petitioner approached the Delhi HC under Section 11 of the Arbitration Act.

The sole issue of contention before the Delhi HC was whether it had the requisite jurisdiction to appoint the sole arbitrator.

The Petitioner argued that the Delhi HC had jurisdiction, since (a) the supply agreement provided for exclusive jurisdiction of courts at New Delhi; and (b) the arbitration clause provided that "*the venue for the arbitration proceedings shall be New Delhi, India*".

Contesting the jurisdiction of the Delhi HC, the Respondent contended that in the absence of a specifically designated 'seat', the competent court to exercise powers under Section 11 of the Arbitration Act would be the court in whose jurisdiction the cause of action had arisen. It was further contended that the Delhi HC would not have jurisdiction since no part of the cause of action arose in Delhi. Reliance was placed *inter alia* on the Hon'ble Supreme Court's decision in *Ravi Ranjan Developers v. Aditya Kumar Chatterjee*<sup>2</sup>.

In rejoinder, the Petitioner submitted that where the designation of a place as the venue had the effect of anchoring the arbitral proceedings to that place, such a venue would really be the seat of arbitration. Reliance was placed *inter alia* on *Reliance Infrastructure v. Madhyanchal Vidyut Vitran Nigam*<sup>3</sup> and *Sikka Motors v. Hyundai Motor India*<sup>4</sup>.

<sup>1</sup> 2024:DHC:1104

<sup>2</sup> 2022 SCC OnLine SC 568

<sup>3</sup> 2023 SCC OnLine Del 4894

<sup>4</sup> 2022 SCC OnLine Del 1187

## Findings

The Delhi HC found that it had the requisite jurisdiction to entertain the petition under Section 11 of the Arbitration Act and appointed a sole arbitrator for resolution of disputes.

The decision of the Delhi HC was guided by the following principles:

1. The Hon'ble Supreme Court in *BGS SGS Soma v. NHPC Ltd.*<sup>5</sup> found that in the absence of any other contrary indicia, the 'venue' mentioned in an arbitration clause would amount to the 'seat' of arbitral proceedings.
2. As per the Hon'ble Supreme Court in *Mankastu Impex v. Airvisual Ltd.*<sup>6</sup>, the determination of what the parties intended to be the 'seat' should be made "from other clauses in the agreement and the conduct of the parties".

Applying the above principles, the Delhi HC distinguished the Hon'ble Apex Court's decision in *Ravi Ranjan Developers (supra)* that the Respondent had relied upon. The Delhi HC noted that in *Ravi Ranjan Developers (supra)*, the contract merely provided that "the sitting of the said Arbitral Tribunal shall be at Kolkata", apart from which, there were no other contractual clauses to demonstrate the intention of the parties. The Delhi HC also noted that the case of *Ravi Ranjan Developers (supra)* had also been distinguished in the cases of *Reliance Infrastructure (supra)* and *Sikka Motors (supra)*, which the petitioner had relied upon.

Therefore, the Delhi HC concluded that:

1. The decision in *Ravi Ranjan Developers (supra)* proceeded on its own facts. There, the arbitration agreement was not supplemented by any other provision, which was not the case in the present matter.
2. Since the parties had agreed to subject all disputes to the exclusive jurisdiction of courts at New Delhi, and since the parties had agreed that the venue for the arbitration will be New Delhi, the parties' intention was for New Delhi to be designated not only as the place for some of the hearings (i.e., as the venue) but as "the place where the arbitration proceedings would be conducted as a whole".
3. The language used signified that the parties intended to anchor the arbitral proceedings to New Delhi, which would be the seat of arbitration.
4. There was no other significant indicia in the arbitration agreement to suggest that the 'venue' stipulated was merely a convenient place for meeting for arbitration.
5. Thus, the Delhi HC had the territorial jurisdiction to entertain and decide the Section 11 petition.

## JSA Analysis and Conclusion

Where the contract specifically provides for a seat of arbitration, it is settled that courts at the seat alone would exercise supervisory jurisdiction over the arbitration, and that the jurisdiction of courts in other places would be ousted, even if part or the whole of the cause of action arose outside the place designated as seat. However, where such an express provision is not agreed in the contract, the issue of determining the seat causes controversy.

The decision in *Axalta Coating Systems (supra)* follows a spate of decisions holding that in the absence of a specifically prescribed 'seat' of arbitration, the place agreed as the 'venue' would also be the 'seat', even if the contract confers exclusive jurisdiction to courts at a different place<sup>7</sup> (though in *Axalta Coating Systems (supra)*, there was no conflict between the exclusive jurisdiction clause and the designation of venue). However, another line of decisions endorses

---

<sup>5</sup> 2020 4 SCC 234

<sup>6</sup> 2020 5 SCC 399

<sup>7</sup> *Raman Deep Singh v. Crown Realtech*, 2017 SCC OnLine Del 11966; *Global Credit Capital v. Krrish Realty*, 2018 SCC OnLine Del 9178; *Cinopolis India v. Celebration City Project*, 2020 SCC OnLine Del 301; *Mayank Agrawal v. Jaiprakash Associates*, 2021 SCC OnLine Del 4445; *Reliance Infrastructure v. Madhyanchal Vidyut Vitran Nigam*, 2023 SCC OnLine Del 4894; *Vasudev Garg v. Embassy Commercial Projects*, 2023 SCC OnLine Del 6977; *Damodar Valley Corpn. v. BLA Projects*, 2023 SCC OnLine Cal 3769; *Balapreetham Guest House v. Mypreferred Transformation and Hospitality*, 2021 SCC OnLine Mad 1126.

the diametrically opposite view, holding that the designation of venue would be controlled and superseded by the exclusive jurisdiction clause.<sup>8</sup>

In view of the seemingly endless divergence of opinion on the issue, in spite of jurisprudence and scholarship on the topic being ubiquitous, it would be apposite for the Hon'ble Supreme Court to once again intervene and settle the law on the point. We feel that a clarification on what constitutes “*significant contrary indicia*” under the tests laid down by *BGS SGS Soma (supra)* would be decisive in clearing much, if not all, of the existing confusion.

## Disputes Practice

With domain experts and strong team of dedicated litigators across the country, JSA has perhaps the widest and deepest commercial and regulatory disputes capacity in the field of complex multi-jurisdictional, multi-disciplinary dispute resolution. Availing of the wide network of JSA offices, affiliates and associates in major cities across the country and abroad, the team is uniquely placed to handle work seamlessly both nationally and worldwide.

The Firm has a wide domestic and international client base with a mix of companies, international and national development agencies, governments and individuals, and acts and appears in diverse forums including regulatory authorities, tribunals, the High Courts, and the Supreme Court of India. The Firm has immense experience in international as well as domestic arbitration. The Firm acts in numerous arbitration proceedings in diverse areas of infrastructure development, corporate disputes, and contracts in the area of construction and engineering, information technology, and domestic and cross-border investments.

The Firm has significant experience in national and international institutional arbitrations under numerous rules such as UNCITRAL, ICC, LCIA, SIAC and other specialist institutions. The Firm regularly advises and acts in international law disputes concerning, amongst others, Bilateral Investor Treaty (BIT) issues and proceedings.

The other areas and categories of dispute resolution expertise includes; banking litigation, white collar criminal investigations, constitutional and administrative, construction and engineering, corporate commercial, healthcare, international trade defense, etc.

**This Prism has been prepared by:**








**Divyam Agarwal**  
Partner



**Aniket Aggarwal**  
Associate

<sup>8</sup> *Virgo Softech v. National Institute for Electronics*, 2018 SCC OnLine Del 12722; *Spentex Industries v. Louis Dreyfus Commodities*, (2019) 258 DLT 138; *Kush Raj Bhatia v. DLF Power*, 2022 SCC OnLine Del 3309; *Cravants Media v. Jharkhand State Cooperative Milk Producers Federation*, 2021 SCC OnLine Del 5350; *Meenakshi Nehra v. Wave Megacity*, 2022 SCC OnLine Del 3744; *Homevists Décor v. Connect Residuary*, 2023 SCC OnLine Cal 1405; *Aseem Watts v. Union of India*, 2023 SCC OnLine Raj 1462.

		
<p>18 Practices and 25 Ranked Lawyers</p>	<p>13 Practices and 38 Ranked Lawyers</p>	<p>Recognised in World's 100 best competition practices of 2024</p>
		
<p>19 Practices and 19 Ranked Lawyers</p>	<p>12 Practices and 42 Ranked Partners <b>IFLR1000 APAC Rankings 2023</b> ----- Banking &amp; Finance Team of the Year ----- Fintech Team of the Year ----- Restructuring &amp; Insolvency Team of the Year</p>	<p>Among Top 7 Best Overall Law Firms in India and 9 Ranked Practices ----- 11 winning Deals in IBLJ Deals of the Year ----- 12 A List Lawyers in IBLJ Top 100 Lawyer List</p>
		
<p>Innovative Technologies Law Firm of the Year 2023 ----- Banking &amp; Financial Services Law Firm of the Year 2022 ----- Dispute Resolution Law Firm of the Year 2022 ----- Equity Market Deal of the Year (Premium) 2022 ----- Energy Law Firm of the Year 2021 ----- Employer of Choice 2021</p>	<p>7 Ranked Practices, 16 Ranked Lawyers ----- Elite – Band 1 - Corporate/ M&amp;A Practice ----- 3 Band 1 Practices ----- 4 Band 1 Lawyers, 1 Eminent Practitioner</p>	<p><b>Ranked #1</b> <b>The Vahura Best Law Firms to Work Report, 2022</b> ----- Top 10 Best Law Firms for Women in 2022</p>  <p>7 Practices and 2 Ranked Lawyers</p>

For more details, please contact [km@jsalaw.com](mailto:km@jsalaw.com)

[www.jsalaw.com](http://www.jsalaw.com)



Ahmedabad | Bengaluru | Chennai | Gurugram | Hyderabad | Mumbai | New Delhi



This prism is not an advertisement or any form of solicitation and should not be construed as such. This prism has been prepared for general information purposes only. Nothing in this prism constitutes professional advice or a legal opinion. You should obtain appropriate professional advice before making any business, legal or other decisions. JSA and the authors of this prism disclaim all and any liability to any person who takes any decision based on this publication.