



Ayush Agarwala

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Practice Areas

Disputes

Sectors

Banking and Financial Services

Construction and Engineering

Energy: Power and Hydrocarbons

Urban Infrastructure, Smart Cities and Public Procurement

About

Ayush is a litigator with 15 years of experience in domestic and international disputes and insolvency. He regularly advises clients on domestic and cross border disputes and has represented clients across forums in arbitrations (international and domestic), the Supreme Court, High Courts, NGT, NCLT, etc. His experience has seen him involved in disputes involving various issues like shareholders disputes, infrastructure/energy disputes, tender related disputes, insurance disputes and wrongful termination of contracts. He has been involved in the following matters which have led to landmark judgments:

- Arbitrability of matters involving the issue of fraud (relating to a Singapore seated SIAC Arbitration). (*Avitel Post Studioz vs HSBC PI Holding*)
- Retrospective/prospective applicability of the amendments to the Indian Arbitration Law. (*BCCI vs Kochi Cricket*)
- Jurisdiction of a court to grant interim reliefs during the pendency of proceedings for enforcement of foreign awards. (*Trammo DMCC vs Nagarjuna Fertilizers*)
- Whether the Indian Company Law Tribunal can decide issues of fraudulent initiation of insolvency resolution process. (*Beacon Trusteeship vs Earthcon*)

- Whether government authorities can be treated as secured creditors during liquidation of a company. (*State Tax vs Rainbow Paper*)
- When are government orders mandatory and binding; can government issue orders interfering with private contracts under the Disaster Management Act. (*Polytech Trade Foundation Vs. Union of India*)
- Constitutionality of the notification notifying provisions of the insolvency code relating to insolvency of Personal Guarantors. (*Lalit Kumar vs UoI*)

Ayush has previously worked with AZB & Partners, Khatian & Co and Krishnamurthy & Co (K law).

Experience

Arbitrations and Arbitration related Litigations

1. Initiating arbitration, for a petrochem company for a claim of approx. USD 180 million as provided in the BIT between India and Egypt.
2. Injunction on invocation of bank guarantees amounting to approx. USD 100 million for a company in the offshore industry.
3. Defending claim for damages amounting to approx. USD 230 million for a public authority regarding construction of Mumbai's first metro railway line.
4. Claim, for a public authority, for refund of excess monies of approx. USD 15 million charged on ticket rates to metro passengers.
5. Defending a claim of over USD 53 million on the issue of additional debt to be infused by a shareholder into an SPV due to increase in project/construction costs.
6. Defending a relief seeking that a shareholder of an SPV infuse approx. USD 55 million into the SPV.
7. Illegal termination of an agreement for an infrastructure company.
8. Damages for delay and termination of agreement for an infrastructure company.
9. Challenge of a consent award under the India Arbitration Law for an infrastructure company.
10. Recovery of approx. USD 60 million for a PE Fund in a SIAC arbitration.
11. Enforceability of an interim award passed by an Emergency Arbitrator appointed by SIAC.
12. Enforceability of foreign award for a claim of approx. USD 1 billion, in favour of a Japanese telecom company.
13. Resisting the enforcement of a foreign award for a claim of approx. USD 14 million for a listed fertilizer company.
14. Insurance claims amounting to approx. USD 21 million, on behalf of a major steel company.
15. Intervening in an arbitration related court proceedings on behalf of non-signatory in a proceeding against India's foremost fitness company in the Bombay High Court.

Insolvency

1. Representing and advising the liquidator in the liquidation process (including the disputes arising therein) of a company involved in the manufacturing of derivatives of castor oil. This led to the landmark judgement passed by the Supreme Court on the issue of whether government authorities should be treated as secured creditors under IBC.
2. Representing a NBFC in its challenge to the initiation of the corporate insolvency resolution process (“CIRP”) on the ground that the same was initiated fraudulently. This led to the landmark judgement passed by the Supreme Court on the issue of whether the NCLT can decide on issues of fraudulent initiation of CIRP.
3. Represented an international NBFC in personal insolvency proceedings initiated against promoters of Cox & Kings Limited. This matter formed a part of the group of petitions which led to the landmark Supreme Court judgment ruling on the constitutional validity of the notification giving effect to the provisions of IBC relating to personal guarantors.
4. Represented one of the largest private sector banks against the Resolution Professional of a leading infrastructure company in an application challenging the decision of the RP and the CoC to carry out a group insolvency of the infrastructure company and its group companies before National Company Law Tribunal, Delhi. This involved distinguishing the judgment passed in Videocon permitting group insolvency. This mandate also included advising the concerned bank during the insolvency process.
5. Advised a consortium of banks with a leading private sector bank as the lead bank, on the recovery/dispute resolution mechanisms (including insolvency proceedings) under the financing documents, in relation to a company involved in construction, operation and maintenance of a national highway.
6. Representing and advising the Resolution Professional in the CIRP of a textile manufacturing company.
7. Represented an international financial institution in its challenge to the decision of the Resolution Professional to reject its claims against the corporate debtor.
8. Representing and advising various Banks and Financial Institutions (including certain large international funds) in insolvency petitions against:
 - a) India’s foremost health and fitness company;
 - b) Two group companies of Cox & Kings Limited;
 - c) Five group companies of Ranbaxy Laboratories;
 - d) A leading EPC company in India;
 - e) Construction companies being guarantors for the financing of a highway project;
 - f) A textile company.
 - g) A leading pharmaceutical company, Unimark Remedies Limited; and
 - h) An infrastructure developer.
9. Representing and advising the Committee of Creditors in the CIRP of (these mandates included the representing the CoC members in related disputes that arose during the CIRP):

- a) Unimark Remedies Limited;
- b) Five group companies of Ranbaxy Laboratories;
- c) A company involved in the jewellery business;
- d) A company involved in construction, operation and maintenance of a national highway.

Other Litigation in various courts, tribunals and forums including the Supreme Court

1. Representing bondholders in their dispute with India's Central Bank for the unilateral write off of bonds issued by a leading Indian bank.
2. Representing the acquiring bank in challenges to the amalgamation of a large cooperative bank as notified by India's Central Bank.
3. A much-publicized petition in the Supreme Court on behalf of an association of importers against the government, shipping lines and container freight stations.
4. Successfully having achieved an injunction on invocation of USD 55 million worth of pledged REIT units on behalf of a real estate developer.
5. Representing one of India's most prominent businessmen in a deposition conducted through the Hague convention.
6. Representing the plaintiff's (in a US class action for data breach against the worlds largest hospitality group) in seeking deposition of witnesses located in India.
7. Challenging, on behalf of a public authority, the increase in fares of the metro in Mumbai, India.
8. Defending challenges to environmental approvals granted for various public projects like (i) the construction of sea-links in Mumbai and (ii) the deepening and widening of rivers in the Mumbai.
9. Defending challenges to tenders granted for various infrastructure projects in the city of Mumbai.
10. Copyright infringement suits on behalf of leading production and distribution houses including Reliance Jio.

Awards and Recognition

Recommended Lawyer – Restructuring and Insolvency by IFLR1000

Future Star – Commercial and Transaction Disputes by Benchmark Litigation - Asia Pacific.

Top 40 Disputes Lawyers in India by ALB.

Recommended Lawyer – Restructuring & Insolvency by Legal500.

One of the 'Top 50 Legal Falcons' by LexTalk World

Memberships

Bar Council of Maharashtra & Goa

Chartered Institute of Arbitrators

Publications

Jurisdiction Of A Court To Decide An Application Under Section 9 of the Arbitration Act During the Pendency of Proceedings To Enforce A Foreign Award – [Click here](#)

COVID-19: Financing Transactions, Defaults In Debt Repayments – Where Does the Judiciary’s Sentiment Lie? – [Click here](#)

Fraudulent Initiation of Insolvency Resolution Process – [Click here](#)

Emergency Arbitrations – An Indian Perspective – [Click here](#)

First-step analysis: the essentials of class actions in India – [Click here](#)

Education

BSL LLB, ILS Law College – 2009

Candidate for the Advanced LLM in Energy Law offered by the North Sea Energy Law Partnership, 2023 – 2025

Languages Spoken

English

Hindi

Tamil
