

HIGH COURT OF DELHI

17.11.2015

DIRECTIONS DATED 17.11.2015 FOR FILING OF MATTERS TO BE HEARD AND DECIDED BY THE COMMERCIAL DIVISION AND COMMERCIAL APPELLATE DIVISION

Consequent upon the establishment of 'Commercial Division' and the 'Commercial Appellate Division' in this Court in terms of the provisions of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015, the following directions are issued for information and guidance of all concerned for the purpose of filing of matters to be heard and decided by the Commercial Division and Commercial Appellate Division.

I. CATEGORIES

As per Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015, all suits and applications relating to **commercial disputes of a specified value** filed in this Court shall be heard and disposed of by the Commercial Division and as per Section 13(1), against the decision of the Commercial Division, an appeal lies to the Commercial Appellate Division.

Section 2(1)(c) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015 defines 'Commercial Dispute' as a dispute arising out of the following:

- (i) Ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;
- (ii) Export or import of merchandise or services;
- (iii) Issues relating to admiralty and maritime law;
- (iv) Transactions relating to aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;
- (v) Carriage of goods;
- (vi) Construction and infrastructure contracts, including tenders;
- (vii) Agreements relating to immovable property used exclusively in trade or commerce;
- (viii) Franchising agreements;
- (ix) Distribution and licensing agreements;
- (x) Management and consultancy agreements;
- (xi) Joint venture agreements;
- (xii) Shareholders agreements;

- (xiii) Subscription and investment agreements pertaining to the services industry including outsourcing services and financial services;
- (xiv) Mercantile agency and mercantile usage;
- (xv) Partnership agreements;
- (xvi) Technology development agreements;
- (xvii) Intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits;
- (xviii) Agreements for sale of goods or provision of services;
- (xix) Exploitation of oil and gas reserves or other natural resources including electromagnetic spectrum;
- (xx) Insurance and re-insurance;
- (xxi) Contracts of agency relating to any of the above.

As per Section 2(1)(i) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015, 'specified value' in relation to a 'commercial dispute' means the value of the subject matter in respect of a suit as determined in accordance with Section 12 which shall not be less than rupees one crore.

On a combined reading of Section 2(1)(c) and (i) and Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015, all suits and applications relating to commercial disputes i.e. disputes that fall within the definition of Section 2(1)(c) of value of more than rupees one crore shall be heard and disposed of by the Commercial Division of this Court.

Section 12 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015 provides for the manner in which the specified value of the subject matter of the commercial dispute in a suit, appeal or application has to be determined and the same reads as under:

“12. (1) The Specified Value of the subject matter of the commercial dispute in a suit, appeal or application shall be determined in the following manner:-

- (a) Where the relief sought in a suit or application is for recovery of money, the money sought to be recovered in the suit or application inclusive of interest, if any, computed up to the date of filing of the suit or application, as the case may be, shall be taken into account for determining such Specified Value;
- (b) Where the relief sought in a suit, appeal or application relates to movable property or to a right therein, the market value of the movable property as on the date of filing of the suit, appeal or

application, as the case may be, shall be taken into account for determining such Specified Value;

- (c) Where the relief sought in a suit, appeal or application relates to immovable property or to a right therein, the market value of the immovable property, as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining Specified Value;
- (d) Where the relief sought in a suit, appeal or application relates to any other intangible right, the market value of the said rights as estimated by the plaintiff shall be taken into account for determining Specified Value; and
- (e) Where the counter-claim is raised in any suit, appeal or application, the value of the subject matter of the commercial dispute in such counter-claim as on the date of the counter-claim shall be taken into account.

(2). The aggregate value of the claim and counter-claim, if any, as set out in the statement of claim and the counter-claim, if any, in an arbitration of a commercial dispute shall be the basis for determining whether such arbitration is subject to the jurisdiction of a Commercial Division, Commercial Appellate Division or Commercial Court, as the case may be.

(3). No appeal or civil revision application under Section 115 of the Code of Civil Procedure, 1908, as the case may be, shall lie from an order of a Commercial Division or Commercial Court finding that it has jurisdiction to hear a commercial dispute under this Ordinance.”

As per Section 10 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015 where the subject matter of an arbitration is a commercial dispute of a specified value, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 shall be heard and disposed of by the Commercial Appellate Division.

Section 13 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015 provides for appeals from decrees of Commercial Courts and Commercial Divisions, which reads as under:-

“13. (1) Any person aggrieved by the decision of the Commercial Court or Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of judgment or order, as the case may be:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 as amended by this Ordinance and Section 37 of the Arbitration and Conciliation Act, 1996.

(2) Notwithstanding anything contained in any other law for the time being in force or Letters Patent of a High Court, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance with the provisions of this Ordinance.”

The ‘filing code’ is indicated for the following categories to be heard and decided by the ‘Commercial Division’ and ‘Commercial Appellate Division’:

II. Suits to be heard and decided by the ‘Commercial Division’

S.NO.	SUBJECT	CODE
(i)	ORDINARY TRANSACTIONS OF MERCHANTS, BANKERS, FINANCIERS AND TRADERS SUCH AS THOSE RELATING TO MERCANTILE DOCUMENTS, INCLUDING ENFORCEMENT AND INTERPRETATION OF SUCH DOCUMENTS	36001
(ii)	EXPORT OR IMPORT OF MERCHANDISE OR SERVICES	36002
(iii)	ISSUES RELATING TO ADMIRALTY AND MARITIME LAW	36003
(iv)	TRANSACTIONS RELATING TO AIRCRAFT, AIRCRAFT ENGINES AIRCRAFT EQUIPMENT AND HELICOPTERS, INCLUDING SALES, LEASING AND FINANCING OF THE SAME	36004
(v)	CARRIAGE OF GOODS	36005
(vi)	CONSTRUCTION AND INFRASTRUCTURE CONTRACTS, INCLUDING TENDERS	36006
(vii)	AGREEMENTS RELATING TO IMMOVABLE PROPERTY USED EXCLUSIVELY IN TRADE OR COMMERCE	36007
(viii)	FRANCHISING AGREEMENTS	36008
(ix)	DISTRIBUTION AND LICENSING AGREEMENTS	36009
(x)	MANAGEMENT AND CONSULTANCY AGREEMENTS	36010
(xi)	JOINT VENTURE AGREEMENTS	36011
(xii)	SHAREHOLDERS AGREEMENTS	36012
(xiii)	SUBSCRIPTION AND INVESTMENT AGREEMENTS PERTAINING TO THE SERVICES INDUSTRY INCLUDING OUTSOURCING SERVICES AND FINANCIAL SERVICES	36013
(xiv)	MERCANTILE AGENCY AND MERCANTILE USAGE	36014
(xv)	PARTNERSHIP AGREEMENTS	36015
(xvi)	TECHNOLOGY DEVELOPMENT AGREEMENTS	36016
(xvii)	INTELLECTUAL PROPERTY RIGHTS RELATING TO: a) REGISTERED AND UNREGISTERED TRADEMARKS; b) COPYRIGHT; c) PATENT; d) DESIGN; e) DOMAIN NAMES; f) GEOGRAPHICAL INDICATIONS; AND g) SEMICONDUCTOR INTEGRATED CIRCUITS	36017 36017.01 36017.02 36017.03 36017.04 36017.05 36017.06

(xviii)	AGREEMENTS FOR SALE OF GOODS OR PROVISION OF SERVICES	36018
(xix)	EXPLOITATION OF OIL AND GAS RESERVES OR OTHER NATURAL RESOURCES INCLUDING ELECTROMAGNETIC SPECTRUM	36019
(xx)	INSURANCE AND RE-INSURANCE	36020
(xxi)	CONTRACTS OF AGENCY RELATING TO ANY OF THE ABOVE	36021

III. Appeal to be heard and decided by the ‘Commercial Appellate Division’
– Main Code (5500)

S.NO.	SUBJECT	SUB-CODE
(i)	ORDINARY TRANSACTIONS OF MERCHANTS, BANKERS, FINANCIERS AND TRADERS SUCH AS THOSE RELATING TO MERCANTILE DOCUMENTS, INCLUDING ENFORCEMENT AND INTERPRETATION OF SUCH DOCUMENTS	5500.01
(ii)	EXPORT OR IMPORT OF MERCHANDISE OR SERVICES	5500.02
(iii)	ISSUES RELATING TO ADMIRALTY AND MARITIME LAW	5500.03
(iv)	TRANSACTIONS RELATING TO AIRCRAFT, AIRCRAFT ENGINES AIRCRAFT EQUIPMENT AND HELICOPTERS, INCLUDING SALES, LEASING AND FINANCING OF THE SAME	5500.04
(v)	CARRIAGE OF GOODS	5500.05
(vi)	CONSTRUCTION AND INFRASTRUCTURE CONTRACTS, INCLUDING TENDERS	5500.06
(vii)	AGREEMENTS RELATING TO IMMOVABLE PROPERTY USED EXCLUSIVELY IN TRADE OR COMMERCE	5500.07
(viii)	FRANCHISING AGREEMENTS	5500.08
(ix)	DISTRIBUTION AND LICENSING AGREEMENTS	5500.09
(x)	MANAGEMENT AND CONSULTANCY AGREEMENTS	5500.10
(xi)	JOINT VENTURE AGREEMENTS	5500.11
(xii)	SHAREHOLDERS AGREEMENTS	5500.12
(xiii)	SUBSCRIPTION AND INVESTMENT AGREEMENTS PERTAINING TO THE SERVICES INDUSTRY INCLUDING OUTSOURCING SERVICES AND FINANCIAL SERVICES	5500.13
(xiv)	MERCANTILE AGENCY AND MERCANTILE USAGE	5500.14
(xv)	PARTNERSHIP AGREEMENTS	5500.15
(xvi)	TECHNOLOGY DEVELOPMENT AGREEMENTS	5500.16
(xvii)	INTELLECTUAL PROPERTY RIGHTS RELATING TO: a) REGISTERED AND UNREGISTERED TRADEMARKS; b) COPYRIGHT; c) PATENT;	5500.17 5500.18 5500.19

	d) DESIGN; e) DOMAIN NAMES; f) GEOGRAPHICAL INDICATIONS; AND g) SEMICONDUCTOR INTEGRATED CIRCUITS	5500.20 5500.21 5500.22 5500.23
(xviii)	AGREEMENTS FOR SALE OF GOODS OR PROVISION OF SERVICES	5500.24
(xix)	EXPLOITATION OF OIL AND GAS RESERVES OR OTHER NATURAL RESOURCES INCLUDING ELECTROMAGNETIC SPECTRUM	5500.25
(xx)	INSURANCE AND RE-INSURANCE	5500.26
(xxi)	CONTRACTS OF AGENCY RELATING TO ANY OF THE ABOVE	5500.27

IV. Commercial Arbitration Matters to be heard and decided by the Division Bench – Main Code (5600)

S.NO.	SUBJECT	SUB-CODE
(i)	COMMERCIAL ARBITRATION U/S 9 OF ARBITRATION AND CONCILIATION ACT, 1996	5600.01
(ii)	COMMERCIAL ARBITRATION U/S 14 OF ARBITRATION AND CONCILIATION ACT, 1996	5600.02
(iii)	COMMERCIAL ARBITRATION U/S 15 OF ARBITRATION AND CONCILIATION ACT, 1996	5600.03
(iv)	COMMERCIAL ARBITRATION U/S 16 OF ARBITRATION AND CONCILIATION ACT, 1996	5600.04
(v)	COMMERCIAL ARBITRATION U/S 27 OF ARBITRATION AND CONCILIATION ACT, 1996	5600.05
(vi)	COMMERCIAL ARBITRATION U/S 34 OF ARBITRATION AND CONCILIATION ACT, 1996	5600.06
(vii)	COMMERCIAL ARBITRATION U/S 37(2) OF ARBITRATION AND CONCILIATION ACT, 1996	5600.07

Note: Filing Advocate to specify the code at the time of the initial filing itself.

V. NOMENCLATURE OF COMMERCIAL SUITS

The nomenclature of the Suits relating to “Commercial Dispute” of specified value filed in this Court will be as follows:

CS(COMM) – CIVIL SUIT (COMMERCIAL)

VI. NOMENCLATURE OF APPEALS

The nomenclature of the Appeals filed against the decision of the Commercial Division will be as follows:

FAO (COMM) – FIRST APPEAL FROM ORDERS (COMMERCIAL)

RFA (COMM) – REGULAR FIRST APPEALS (COMMERCIAL)

EFA (COMM) – EXECUTION FIRST APPEALS (COMMERCIAL)

VII. NOMENCLATURE OF COMMERCIAL ARBITRATION MATTERS

The nomenclature of the Commercial Arbitration Matters, to be listed before the Division Bench, will be as follows:

OMP (I) (COMM.) –	COMMERCIAL ARBITRATION U/S 9
OMP (T) (COMM.) –	COMMERCIAL ARBITRATION U/S 14 & 15
OMP (J) (COMM.) –	COMMERCIAL ARBITRATION U/S 16
OMP (E) (COMM.) –	COMMERCIAL ARBITRATION U/S 27
OMP (COMM.) –	COMMERCIAL ARBITRATION U/S 34
ARB.A. (COMM.) –	COMMERCIAL ARBITRATION U/S 37(2)

VIII. ALLOCATION

- (i) Allocation of cases amongst the Judges in the 'Commercial Division' shall be done by the Senior Most Judge of Commercial Division.
- (ii) Allocation of Appeals amongst the Division Benches in the 'Commercial Appellate Division' shall be done by Hon'ble the Chief Justice.
- (iii) Allocation of Commercial Arbitration Matters amongst the Division Benches in the 'Commercial Arbitration Division' shall be done by Hon'ble the Chief Justice.
- (iv) Hon'ble the Chief Justice may assign any case of any category to the 'Commercial Division' & 'Commercial Appellate Division', as the case may be.

IX. INSCRIPTION TO BE MADE IN THE PLAINT

A specific averment before the para of the plaint dealing with pecuniary jurisdiction to the effect that the subject matter of the Suit is a 'commercial dispute' as defined in Section 2(1)(c) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015.

By Order
Sd/-
(Vinod Goel)
Registrar General