



**NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM**

**PROGRAMME: B.A.,LL.B. (HONS.)FYIC**

**DETAILS OF COURSE OFFERED**

**EVEN SEMESTER (VIII)– ACADEMIC YEAR .....**

<b>SL. NO</b>	<b>COURSE CODE</b>	<b>COURSE TITLE</b>	<b>L</b>	<b>T/P</b>	<b>CR</b>	<b>CH</b>
<b>1</b>	<b>BL804.8 BUSINESS LAW OPTIONAL PAPER- IV</b>	<b>FOUNDATION COURSE ON ADVANCE ARBITRATION</b>	<b>4 PER WEEK</b>	<b>1 PER WEEK</b>	<b>4</b>	

- A. CODE AND TITLE OF THE COURSE: BL804.8 ,BUSINESS LAW, OPTIONAL PAPER- IV , FOUNDATION COURSE ON ADVANCE ARBITRATION**
- B. COURSE CREDIT: 4 (TOTAL MARKS 200)**
- C. MEDIUM OF INSTRUCTION: ENGLISH**
- D. COURSE COMPILED BY: ANKUR MADHIA**
- E. COURSE EDITED BY: ANKUR MADHIA**
- F. COURSE INSTRUCTOR: ANKUR MADHIA**

## **1. COURSE OBJECTIVES:**

International Commercial Arbitration has always been recognised throughout the world as one of the most effective method to resolve commercial disputes where parties can appoint arbitrators to resolve their disputes in a confidential and impartial way. The laws related to International Commercial Arbitration is growing at a rapid pace due to the impact of globalization. The problem of enforcement of Arbitral Award is handled by radical changes in the domestic laws which are being aligned with the uniform principles laid down by UNCITRAL -United Nations Commission on International Trade Law. In India where the judiciary is already overburdened with huge pendency of cases, arbitration is an effective method to reduce this pendency as it helps in speedier disposal of complex cases. The course is designed in such a way so that the students can understand and relate International Commercial Arbitration with the Indian Arbitration Act, 1996 by studying recent cases related to Arbitration. A comparative study of Indian Arbitration Act, 1996, UNCITRAL Model Law and New York Convention is done to understand the various concepts of International Commercial Arbitration.

### **Objectives of the Course are:**

1. To understand the principles and doctrines related to International Commercial Arbitration
2. To study the recent development and amendments in Arbitration through various case laws
3. To understand the working and procedures of Arbitral Tribunal and Arbitration process
4. To understand the procedure of enforcement of Arbitral Awards
5. To understand the various recent developments in the field of International Commercial Arbitration

## **2. TEACHING METHODOLOGY:**

The teaching methodology will be mainly based on discussion of the cases on International Commercial Arbitration and Indian Arbitration followed by presentation by the students on the recent cases of International Commercial Arbitration which has brought in the amendments in the laws related to arbitration. Apart from discussion of

cases, lectures on various doctrines and principles of arbitration will be followed so that students have clarity on various concepts related to arbitration. Class discussion and student participation is encouraged so as to make learning easy and effective and students are encouraged to research and develop critical thinking on the various aspects of the subject.

### **3. COURSE LEARNING OUTCOMES**

A student will have deep understanding of various principles and doctrines of arbitration and the specific legal problems that arise in international commercial arbitration. Students will have an understanding of the various aspects of arbitration which will be introduced to them by detailed study of landmark case laws on interpretation of disputes which could be dealt in arbitration by the end of the semester.

### **4. COURSE EVALUATION METHOD:**

The Course shall be assessed for 200 marks. The Evaluation Scheme would be as follows:

Internal Assessment: 70% (140 marks)

Semester End Examination: 30% (60 marks)

Sl. No.	Marks Distribution	
1	Project Work	40 marks
2	Seminar/Group Discussion	20 marks
3	Assignment/Assessment	30 marks
4	Mid-Semester Test	40 marks
5	Attendance in class	10 marks
6	Semester End Examination	60 marks

### **5. DETAILED STRUCTURE OF THE COURSE**

#### **MODULE-I**

##### **Advance Concepts of Arbitration**

Arbitration v. Litigation, Arbitration – The Big Picture, Historical Development of International Commercial Arbitration, Geneva Protocol, Geneva Convention,

Doctrine of Double Exequatur, Subject Matter Centric Arbitration, Arbitrarily of a Dispute in India, Overview of the Legal Infrastructure of Arbitration.

## **MODULE-II**

### **International Conventions on Commercial Arbitration**

Comparison of The Indian Arbitration and Conciliation Act, 1996, UNCITRAL Model Law and New York Convention; International Agreements, Conventions and Treaties; Recent Amendments in Indian Arbitration and Conciliation Act, 1996; Laws Governing Arbitration - Two Indian Parties Choosing Foreign Seat.

## **MODULE-III**

### **Appointment of Arbitrators and Role of Judiciary in Arbitration**

The Appointment of Arbitrators – Nationality of Arbitrators, Judicial Assistance/Intervention in International Commercial Arbitration, Establishment & Organization of Arbitral Tribunals; Applicability of Arbitral Award, Multiparty Arbitration, Recognition and Enforcement of Arbitral Awards.

## **MODULE-IV**

### **Arbitral Award and Grounds of its Refusal**

Awards- Types of Awards, Recognition and Enforcement of Award (Domestic and Foreign Award) – Patent Illegality, Grounds for Refusal of Enforcement of Awards under New York Convention, International Investment Arbitration.

## **6. PRESCRIBED READINGS:**

1. Redfern and m. Hunter, Law and Practice of International Commercial Arbitration (student edition, Sweet and Maxwell, London, 2003).
2. Acharya N.K; Law Relating To Arbitration And ADR; Asia Law House
3. Avtar Singh: Law of Arbitration and Conciliation.
4. B.S. Patil: The Law of Arbitration and Conciliation
5. Basu N.D.: Arbitration and Conciliation Act
6. Born, International Arbitration: Law And Practice
7. David St. John Sutton, Russell on arbitration, 21st ed., 1996, Sweet & Maxwell, London
8. G.K. Kwatra, The Arbitration and Conciliation Law of India
9. Hartley, International Commercial Litigation , 2009
10. Johari : Commentary On Arbitration And Conciliation Act 1996

11. Justice Dr. B.P. Saraf and Justice S.M. Jhunjhunwala, Law of Arbitration and Conciliation, 4th ed., 2006.
12. Krishnamurthys: Law of Arbitration and Conciliation.
13. Kwatra G.K. : New Arbitration And Conciliation Law Of India Comparative Study Of Old And New
14. Mackie, miles, Marsh and Allen, The ADR Guide: Commercial Dispute Resolution, 2nd ed., 2000.
15. Malhotra O.P., Law and Practice of Arbitration And Conciliation 1st ed., 2002, Lexis Nexis Butterworths Wadhwa, Nagpur (India)
16. Malik, S.B; Commentary On Arbitration And Conciliation Act; Universal Publication
17. Markanda. P.C; Law Relation to Arbitration and Conciliation; Wadhwa Publication
18. Mathur G.C.: Arbitration and Conciliation Act, 1996
19. Moses, The Principles and Practice of International Commercial Arbitration (2nd ed., cup 2012)
20. Mustill and Boyd, Commercial Arbitration, 2nd ed., (companion volume), 2001
21. Narayana P.S.: Arbitration and Conciliation Act
22. Redfern Alan And Hunter Martin, Law and Practice of International Commercial Arbitration, 4th ed., 2004,
23. Roy Chaudhari: Arbitration and Conciliation Act
24. S.D. Singh: The Law of Arbitration
25. Saharay H.K., Law of Arbitration and Conciliation, Eastern Law House, New Delhi, 2001
26. Surendra Malik, Supreme Court on Arbitration (Eastern Book Co, Lucknow, 2003).
27. Tewari O.P.: Arbitration and Conciliation Act.
28. William, Gerald R.; The New Arbitration and Conciliation Law of India; Indian Council of Arbitration.
29. Harsh Sethi and Arpan Kr Gupta, International Commercial Arbitration and its Indian Perspective, Universal Publication, 2014

**List of Cases:**

- Bhatia International v. Bulk Trading S.A., AIR 2002 SC 1432
- Centrotech Minerals and Metal Inc. vs. Hindustan Copper Ltd. (2006) 11 SCC 245
- Channel Tunnel Group Ltd. vs. Balfour Beatty Construction Ltd. (1993) AC 334  
Citation Infowares Limited v. Equinox Corporation, 2009(6) SCALE 430 161
- Dalmia Dairy Industries Ltd. v. National Bank of Pakistan, [1978] 2 Lloyd's Rep. 223
- Datar Switchgears Ltd. v. Tata Finance Ltd., 2000 (3) Arb. LR 44 (SC) 134
- Eco Swiss China Time Ltd. v. Benetton Int N.V. (1999) 2 All ER 44(Comm.), (1999) Year Book of Comm. Arb. XXIII 180
- Gas Authority of India Ltd. vs. Spie Capag, S.A. and others, AIR1994 Delhi 75 3
- Harbour vs. Kansa (1993) 3 All ER 897
- Haresh Dayaram Thakur v. State of Maharashtra, AIR 2000 SC 2281
- Indian Organic Chemical Ltd. v. Subsidiary 1(US) Subsidiary 2 (US) and Chemtex Fibres Inc. (1979) IVYB Commr. Arb. 271
- Krishna Bhagya Jala Nigam Ltd. v. G. Arisandra Reddy (2007) 2 SCC 720 168
- M.M.T.C. Limited v. Sterlite Industries (India) Ltd., (1996) 6 SCC 716 126
- M.V. Baltic v. State Trading Corp. (2001) 7 SCC 474
- MARC Rich & Co vs. Societa Italiana Impainti Pa (The "Atlantic Emperor") (1992)1Lloyd's Rep. 342
- Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc., 473 U.S. 614 (1985)
- N T P C v. The Singer Company, AIR 1993 SC 998
- Narayan Prasad Lohia v. Nikunj Kumar Lohia, AIR 2002 SC 1139 129
- National Agricultural Coop. Marketing Federation Ltd. v. Gains trading Ltd. (2007) 5 SCC 692
- New India Civil Erectors (P) Ltd. v. ONGC, (1997) 11 SCC 75 181
- OAO Northern Shipping Co v. Remolcadores De Marin SL 'Remar' (2007) EWHC 182
- Oil & Natural Gas Corporation Ltd. v. Saw Pipes Ltd., 2003 (4) SCALE 92
- ONGC Ltd. v. Saw Pipes Ltd. (2003) 5 SCC 705
- Prima Paint Corp. v. Flood and Conklin Mfg. Co. 388 U.S. 395 (1967)
- R.M. Investment Trading V. Boeing Co AIR 1994 SC11
- Renu Sagar Power Co v General Electric Co. [1984 (4) SCC 679]

- SBP & Co v. Patel Engineering Ltd. (2005) 8 SCC 618
- Shin-Etsu Chemical Co. Ltd. v. Aksh Optifibre Ltd., (2005) 7 SCC 234
- Smita Construction v. Euro Alloys Ltd. (2001)7 SCC 728]
- Star Shipping vs. China National Foreign Trade (1993) 2 Lloyd's Rep 445
- State of Orissa v. Klockner and Co. 1996 (1) Arb. LR 591
- TDM Infrastructure Pvt. Ltd vs. UE Development Pvt. Ltd. [2008 (2) ARBLR439(SC)]
- Thyssen Canada Ltd. v. Mariana Maritime SA and another (2005) EWHC 219
- Union of India v. G.S. Atwal & Co., AIR 1996 SC 2965 176
- Union of India v. Popular Construction Co (2001) 8 SCC 470. 172
- Union of India vs. McDonnell Douglas Corp. (1993) 2 Lloyd's Rep 48
- Venture Global Engineering v. Satyam Computer Services Ltd. (2008) 4 SCC 190
- Wellington Associates v. Kirit Mehetha [(2004) 4 SCC 272]
- Booz Allen and Hamilton Inc v. SBI Home Finance AIR 2011 SC 2507
- N Radhakrishnan v. Maestro Engineers and Ors (2010) 1 SCC 72
- Sukanya Holdings v. Jayesh H Pandya (2003) 5 SCC 531
- Sundaram Finance v NEPC AIR 1999 SC 565
- Chloro Control(I) P. Ltd vs Severn Trent Water Purification Inc. & Ors, (2013) 1 SCC 641

**List of relevant print and online resources:**

- [http://www.uncitral.org/uncitral/en/uncitral\\_texts/arbitration/1985Model\\_arbitration.html](http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/1985Model_arbitration.html)
- <http://www.nishithdesai.com/>

**Links for Study Material -**

- International Commercial Arbitration by Nishith Desai Associates:  
[https://www.nishithdesai.com/fileadmin/user\\_upload/pdfs/Research\\_Papers/2021-04\\_International\\_Commercial\\_Arbitration.pdf](https://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research_Papers/2021-04_International_Commercial_Arbitration.pdf)
- Enforcement of Arbitral Awards and Decrees in India:  
[http://www.nishithdesai.com/fileadmin/user\\_upload/pdfs/Research%20Papers/Enforcement\\_of\\_Arbitral\\_Awards.pdf](http://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research%20Papers/Enforcement_of_Arbitral_Awards.pdf)

- New York Convention 1958 Overview: [https://www.arbitration-icca.org/media/0/12125884227980/new\\_york\\_convention\\_of\\_1958\\_overview.pdf](https://www.arbitration-icca.org/media/0/12125884227980/new_york_convention_of_1958_overview.pdf)
- Bilateral Investment Treaty Arbitration in India: [https://www.nishithdesai.com/fileadmin/user\\_upload/pdfs/Research\\_Papers/Bilateral\\_Investment\\_Treaty\\_Arbitration\\_and\\_India-PRINT-2.pdf](https://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research_Papers/Bilateral_Investment_Treaty_Arbitration_and_India-PRINT-2.pdf)