
ARBITRATION UNDER THE CLOCK: NAVIGATING LIMITATION PERIODS IN DISPUTE RESOLUTION

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ABSTRACT

The interplay between the Limitation Act, 1963, and the Arbitration and Conciliation Act, 1996, presents a labyrinth of interpretive challenges that profoundly influence the efficacy of alternative dispute resolution mechanisms in India. At its core, the Limitation Act imposes rigid temporal boundaries on the initiation of legal claims, extinguishing remedies once prescribed periods elapse. Section 43(1) of the Arbitration Act explicitly extends this framework to arbitral processes, mandating its application "as it applies to proceedings in any court," thereby aligning arbitration's foundational stages—akin to the commencement of a civil suit—with statutory time constraints.

This scholarly inquiry delves into judicial exegesis of pivotal provisions, including Sections 11(6) and 43 of the Arbitration Act alongside Section 137 of the Limitation Act, to delineate the contours of limitation's enforceability during the referral phase. By scrutinizing landmark precedents, the analysis probes whether these temporal safeguards permeate the entire arbitral lifecycle or remain confined to preliminary referral maneuvers. Central to this exploration is the perennial debate: does the Limitation Act's prescriptive rigor bind arbitrations with the same inexorability as it does judicial forums, or does arbitration's ethos of expeditious informality warrant doctrinal flexibility?

The discourse further illuminates ancillary doctrines—such as the accrual of causes of action, mechanisms for condonation of delay, and exclusions from computation periods—unraveling their practical ramifications in fostering equitable resolutions. Through a dual lens of doctrinal evolution and jurisprudential praxis, this paper illuminates emergent paradigms in legal adjudication, advocating for a harmonized regime that balances procedural certainty with the Arbitration Act's pro-efficiency mandate. Ultimately, it posits pathways for legislative refinement, ensuring arbitration's role as a robust pillar of justice remains unencumbered by antiquated temporal fetters.

INTRODUCTION

The idea of restriction is associated with the setting or enforcing of a statute of limitations on legal actions. The Limitation Act, 1859 is the primary law pertaining to the Limitation law in India. The Limitation Act, 1963 was subsequently enacted on October 5, 1963, and went into effect on January 1, 1964, with the aim¹ of amending and consolidating the legal principles concerning the limitation of suits and other legal proceedings. Section 37 of the Arbitration Act of 1940 is comparable to Section 43 of the Arbitration and Conciliation Act of 1996.

By limitation, we mean a restriction, a regulation, or a collection of conditions that place limitations on something. The idea of the statute of limitations sets up precise deadlines by which anyone seeking justice or redress must file lawsuits and engage in other legal actions with the court.

It mostly entails establishing deadlines for prohibiting judicial action. The Limitation Act of 1963 defines the "period of limitation" in Section 2(j)². The term "prescribed period" refers to the statute of limitations determined in compliance with this Act.

The primary goals of the Limitations Law are delineated in Halsbury's Laws of England³. The principal aim of restricting legal activities is to preserve the dictum '*interest reipublicae ut sit finis litium*,' which means⁴ "it is in the interest of the State that there should be an end to litigation." This restriction aims to stop conflicts or infringements on rights that have been gained via fairness, equity, or sustained enjoyment, or that have been forfeited because of a party's incompetence, carelessness, or compliance. The fundamental goal of implementing the

¹ The Limitation Act, 1963 came into force with effect from 1st January 1964. It was enacted to consolidate and amend the law for the limitation of suits and other proceedings and prescribes different periods of limitation for suits, appeals, and applications. The statute of limitations establishes a deadline for bringing legal action to uphold a right. The Act's timetable outlines the deadlines for different types of lawsuits. This Act's primary goal is to shorten the length of legal proceedings and expedite case resolution, which promotes successful litigation. All of India will now be subject to the Limitation Act's requirements, according to the Jammu and Kashmir Reorganisation Act, 2019. Provisions for the computation of time for the period of restriction, the forgiveness of delay, etc., are included in the restriction Act, 1963. The Limitation Act is composed of 137 articles, 32 sections, and 10 parts for each article.

² As the timeframe prescribed for any suit, appeal, or application according to the Act's Schedule.

³ In Halsbury's Laws of England, the objectives of the Law of Limitation have been mentioned in the following words: "The Courts have expressed at least three different reasons supporting the existence of statutes of limitation, i.e., - (a) That long dormant claims have more of cruelty than justice in them; (b) That a defendant might have lost the evidence to dispute the State claim; (c) That persons with good causes of actions should pursue them with."

⁴ Lord Coke (6 Coke, 9a)

notion of limitation is to make sure that disagreements are kept within a set period of time and do not become endless because people only have a limited amount of time on their hands.

APPLICATION OF LIMITATION ACT ON ARBITRATION

The intersection of the Limitation Act, 1963 with different provisions of the Arbitration and Conciliation Act, 1996 (referred to as "the Arbitration Act") has been a frequent point of contention in various Indian courts. There have been conflicting decisions from the courts, leading to the rejection of parties' claims by the Arbitral Tribunal due to being barred by the law of limitation. Some parties wrongly believe that sending continuous reminders for pending payments can extend the limitation period or delay the cause of action, mistakenly assuming that their "live claims" can turn into stale claims. But the Supreme Court resolved the matter in *BSNL v. Nortel Networks India (P) Ltd*⁵, holding that 'the statute of limitations for submitting an application under Section 11⁶ of the Arbitration Act, 1996 will be governed by Article 137 of the First Schedule of the Limitation Act, and that the statute of limitations will begin on the date on which the arbitrator is not appointed'. The Court further decided that it could decline to choose an arbitrator in extraordinary circumstances, such as where the claims are clearly uncontested and the claims are ex facie time barred.

The provision related to applicability of limitation Act was dealt with section 37⁷ of the Arbitration Act, 1940 and the provision in the 1940 Act carried 5 subsections. The provision

⁵ AIR 2021 SUPREME COURT (SC) 2849

⁶ Appointment of arbitrators

⁷ 37 Limitations -(1) All the provisions of the Indian Limitation Act, 1908 (9 of 1908) shall apply to arbitrations as they apply to proceedings in Court.

(2) Notwithstanding any term in an arbitration agreement to the effect that no cause of action shall accrue in respect of any matter required by the agreement to be referred until an award is made under the agreement, a cause of action shall, for the purpose of limitation, be deemed to have accrued in respect of any such matter at the time when it would have accrued but for that term in the agreement. (3) For the purposes of this section and of the Indian Limitation Act, 1908 (9 of 1908) an arbitration shall be deemed to be commenced when one party to the arbitration agreement serves on the other parties thereto a notice requiring the appointment of an arbitrator, or where the arbitration agreement provides that the reference shall be to a person named or designated in the agreement, requiring that the difference be submitted to the person so named or designated. (4) Where the terms of an agreement to refer future differences to arbitration provide that any claims to which the agreement applies shall be barred unless notice to appoint an arbitrator is given or an arbitrator is appointed or some other step to commence arbitration proceedings is taken within a time fixed by the agreement, and a difference arises to which the agreement applies, the Court, if it is of opinion that in the circumstances of the case undue hardship would otherwise be caused, and notwithstanding that the time so fixed has expired, may on such terms, if any, as the justice of the case may require, extend the time for such period as it thinks proper. (5) Where the Court orders that an award be set aside or orders, after the commencement of an arbitration, that the arbitration agreement shall cease to have effect with respect to the difference referred, the period between the commencement of the arbitration and the date of the order of the Court shall be excluded in computing the time prescribed by the Indian Limitation Act, 1908 (9 of 1908), for the commencement of the proceedings (including arbitration) with respect to the difference referred.

under 1996 Act drops one sub-section. The other sub-sections are the same with minor changes. 'Subject to the provisions of the Limitation Act, 1963, every arbitration must be commenced within the prescribed period'. Article 137 of the Limitation Act, 1963 applies and, therefore, a suit can be filed within three years from the date on which one party terminated or rescinded the contract⁸ An assurance from the final authority cannot put in abeyance the period prescribed by the law⁹. In a contract for sale of newsprint, the first consignment was seized by customs and the order for the balance was cancelled. The time began to run from the date on which the buyer came to know of the seizure. Arbitration should have been demanded within three years from that moment. That having not been done, the right became time-barred¹⁰

In the same way that claims must be filed within a certain number of years from when the cause of action arises, arbitration claims must also be submitted within a specified number of years from the date when the claim arises.¹¹ For the purposes of Section 37(1) of the 1940 Act the terms "action" and "cause of action" in the Limitation Act were construed as "arbitration" and "cause of arbitration". The cause of action arises when the claimant becomes entitled to raise the question, that is, when the claimant acquires the right to require arbitration¹².

The Supreme Court cited the above passage from this book in its decision in *Panchu Gopal Basen vs Board of Trustees for Port of Calcutta*¹³ and applied it to the facts of a case where the claim was held to be hopelessly barred because the party had been sleeping over his rights for

⁸ *Union of India v. Prahalad Moharana*, (1996) Supp Arb LR 267 (On). The question of limitation is for the decision of the arbitrator and not the court, *A.C. Parijau. Secy in Charge, PWD (1970) 36 Cut LT 1089*. The period is reckoned from the date of service of legal notice, a petition beyond three years beyond that date is time-barred.

⁹ *HK. Gulati & Co. a. M.P. Housing Board*, (1995) 2 Arb LR 205 (MP-Arbitration Tribunal) See also *Secretary to Govt. of Karnataka v. V. Harishbabu*, AIR 1996 SC 3421 (1996) Supp Arb LR 495, case remanded for fixing the date of commencement of period of limitation. *Delhi Development Authority v. Harbans Lal Narang*, (1996) Supp Arb LR 503 (Del), application for condonation of delay rejected. *Corn Products Co. (India) Ltd. vs. Ajaz Ghadiya*, AIR 1997 Bom 331, Article 137 of the Limitation Act, 1963 applies. *Jagmohan Singh Gujral v Satish Kumar Sabnis*, (2004) 2 RAJ 67

¹⁰ *State Trading Corp of India. V Universal Paper Export Co Ltd.*, (1996) Supp Arb LR 545 (Del). *Anas Abdul Khader vs Abdul Nasar*, (2001) 2 RAJ 124 (Ker), applicability of the Limitation Act. *Rajeev Sharda vs Executive Engineer, H.P., P.W.D.*, Theog, (2003) 4 RAJ 25 (HP), applicability of S. 43(1) cannot override the bar created by S. 43(3). *Delhi Cantonment Board vs Daulat Rai Sans*, (2001) 4 RAJ 104 (Del), it cannot be said that extending the application of the Limitation Act, 1963 to arbitrations makes it applicable to objections which an applicant has to make within the time prescribed under S. 34(3)

¹¹ *Pegler vs Railway Executive*, (1948) 1 All ER 559 at p. 562 (HL) (1948) AC 332 affirming *Pegler V.G.W. R. Ca.* (1947) 1 All ER 355

¹² *Pegina GW Rh Co.* (1947) 1 All ER 355.

¹³ (1994) 1 Arb LR 476

over ten years. The party was accordingly prevented from resorting to arbitration. In this case it was held that:

“The provisions of the Limitation Act would apply to arbitrations and, notwithstanding any term in the contract to the contrary, cause of arbitration for the purpose of limitation shall be deemed to have accrued to the party in respect of any such matter at the time when it should have accrued but for the contract. Cause of arbitration shall be deemed to have commenced when one party serves the notice on the other party requiring the appointment of an arbitrator. The question is when the cause of arbitration arises in the absence of issuance of a notice or omission to issue notice for long time after the contract was executed? Arbitration implies to charter out timeouts commencement and arbitration availing the arbitral agreement, as soon as difference or dispute has arisen. Delay defeats justice and equity aids promptitude and resultant consequences. De faulting party should bear the hardship and should not transmit the hardship to the other party, after the claim in the cause of arbitration was allowed to be barred”.

It was held that:

‘Where the arbitration agreement does not really exist or ceases to exist or where the dispute applied outside the scope of arbitration agreement, allowing the claim after considerable lapse of time would be a harassment to the opposite party.’

It was accordingly held:

‘Since the petitioner slept over his rights for more than 10 years, by his conduct he allowed the arbitration to be barred by limitation and the Court would be justified in relieving the party from arbitration agreement under Sections 5 and 12(2)(6) of the Limitation Act’.

This case was referred to in *State of Orissa vs Damodar Das*¹⁴, wherein, on the facts and circumstances of the case, the court left the question of limitation to be decided by the arbitrator.

Where objections to the validity of an award were not filed within the time de limited under the section, nor any application was moved for condonation of delay under S. 5 of the

¹⁴ (1996) 1 Arb LR 221 AIR 1996 SC 942 (1996) 2 SCC 216

Limitation Act, 1963, the objections were held to be time-barred¹⁵

An application under Section 20¹⁶, 1940 Act is governed by Article 137 of the Limitation Act, 1963 and had to be made within three years of the date when the right to apply first accrued. There was no right to apply until there was a clear and unequivocal denial of that right by the respondent¹⁷.

The Supreme Court in *Arif Azim Co. Ltd. v. Aptech Ltd.* (2024) clarified that the limitation period for filing applications under Section 11(6) of the Arbitration and Conciliation Act is governed by Article 137 of the Limitation Act. The Court emphasized that courts tasked with appointing arbitrators should examine if the application is barred by limitation or if the claims are evidently time-barred. In such cases, courts may reject the application without the need for detailed evidence hearings, thus preventing stale or dead claims from proceeding to arbitration.

Furthermore, in *HPCL Biofuels Ltd. v. Shahaji Bhanudas Bhad* (2024), the Court held that if a party withdraws a Section 11(6) application without explicit permission to refile, subsequent applications on the same matter will be barred. The Court also clarified that reliefs under Section 14(2) or Section 5 of the Limitation Act, such as condonation of delay, are not automatically applicable, reinforcing the need for timely and justified arbitration applications.

These rulings underscore the Court's effort to promote speedy dispute resolution by discouraging procrastination and misuse of limitation provisions in arbitration proceedings. They also call for legislative reforms to shorten the existing three-year limitation period for such applications to better align with the Arbitration Act's goal of expeditious justice.

EXCLUSION OF TIME TAKEN IN INFRUCTUOUS ARBITRATION

Section 37(5)¹⁸, 1940 Act provided that if the award aside or if after the commencement of arbitration the court ordered that the arbitral award will cease to have effect with

¹⁵ *Shiv Lal vs Food Corpn. of India*, AIR 1997 Raj 93. The case was under the repealed 1940 Act and was decided under Sections 14, 30 and 33 of that Act

¹⁶ Regarding the filing of arbitration agreement in court

¹⁷ *Gujarat State Fertilisers Co. vs. Deepak Nitrite Ltd.*, AIR 1979 Guj 83 (1979) 20 Guj LR 306. *Nyaneshwar Bhiku Dhargalkar vs. Executive Engineer, PWD*, AIR 2000 Bom 254, cause of action arose on the date of service of notice on the other party calling upon him to refer the matter to arbitration Application for appointment of arbitrator was made within 3 years from that date, within time. *Union of India vs Satna Stone & Lime Co. Ltd.*, AIR 2000 MP 101, siding allotted to the contractor, notice of recovery of amount due at a higher rate, notice to refer to arbitration sent by railways after 3 years. Held, time-barred.

¹⁸ S. 43(4) of 1996 Act

respect to the dispute referred, the period between the date of the commencement of the arbitration and the date of the order of the court shall be excluded in computing the period of limitation prescribed by the Limitation Act with respect to the dispute. That part of the provision which talks of superseding the arbitration has been dropped from the Arbitration and Conciliation Act, 1996. The rest of the sub-section remains the same as before. If a party to a reference of disputes in a pending suit died after the reference and the suit abated, the period of time between the death of the party and the date of the order superseding the reference had to be excluded under Section 37(3), 1940 Act in computing the period of limitation prescribed for an application to set aside the abatement¹⁹. The Act provision for reference in a pending suit has been deleted from the 1996 Act

THE COMMENCEMENT END AND EXTENSION OF APPLICABILITY OF LIMITATION

The statute of limitations that apply to the substantive claims stated in a contract are not the same as the statute of limitations for submitting an application to appoint an arbitrator. In matters involving breach of contract, the statute of limitations for filing a claim is three years from the date the cause of action accrues, as stated in Article 55²⁰ of the Schedule of the Limitation Act. Additionally, you have three years from the date of the other party's refusal to appoint the arbitrator or, if that happens sooner, thirty days from the date you received the notification that the other party was requesting arbitration before you can file an application under Section 11 for the appointment of an arbitrator before a court. In *Panchu Gopal Bose v. Port of Calcutta*²¹, the two-judge bench noted that the petitioner had slept over his rights for more than ten years, making the claim "hopelessly barred" by limitation. Furthermore, it was decided that, in the absence of an arbitration clause, the time frame for filing an application under the Arbitration Act to appoint an arbitrator begins on the date the "cause of arbitration" accrued.

The Limitation Act's Section 18²² states that when an existing liability is acknowledged, the time limit for submitting a claim is extended. The person seeking the claim must sign and date

¹⁹ *Milwaram Popatram v. Tolaram Ayaram*, AIR 1947 Sind 113 *Chit Fund P. Ltd. v. Shiv Narain Mehta*, (2000) 2 RAJ 205 SCR 767

²⁰ Article 55 of the Schedule of the Act states that the limitation period for making a claim in cases pertaining to breach of contract is three years from the date of accrual of the cause of action.

²¹ (2020) 14 SCC 643

²² Impact of recognition in writing

the aforementioned acknowledgement in writing. Additionally, the acknowledgement needs to be sent in before the statute of limitations for bringing that claim expires. According to the Limitation Act's Section 19²³ if a debt is paid off before the allotted time has passed, a new period of limitation will begin to run from the moment the payment was made.

The Supreme Court ruled in *Geo Miller & Co. (P) Ltd. v. Rajasthan Vidyut Utpadan Nigam Ltd*²⁴. that time spent in good faith pre-arbitration negotiations may be disregarded from calculating the statute of limitations. Nonetheless, the court must carefully examine the parties' entire negotiation history and determine the "breaking point"—the point at which a reasonable party would have given up on trying to reach a peaceful resolution or reconciliation and thought about referring the matter to arbitration. Regardless of whether the arbitration agreement has a pre-arbitration negotiating clause or not, the date the cause of action arises would be considered the "breaking point" for calculating the limitation period.

LEGISLATIVE INTERFERENCE NEEDED

in *Arif Azim Co. Ltd. v. Aptech Ltd*²⁵. the Supreme Court of India has clarified the applicability of the law of limitation to applications made to courts for the appointment of arbitrators under Section 11(6) of the Act, 1996 when the agreed appointment mechanism fails, or a party fails to act in accordance with agreement. The court said that the years, measured from the respondent's date of noncompliance with the established appointment process following the receipt of a legitimate notice requesting arbitration, to petition the courts for the appointment of arbitrators. If this isn't done, parties might not have any way to pursue the substantive claims in arbitration.

When addressing such applications, the Court also took into account the extent of its authority to determine whether the substantive issues for which arbitration has been initiated are within its purview. According to the Court's ruling, "the claims are ex-facie and hopelessly time-barred" in cases where the courts could decline to name an arbitrator. According to the Court,

²³ 19. Effect of payment on account of debt or of interest on legacy-

Where payment on account of a debt or of interest on a legacy is made before the expiration of the prescribed period by the person liable to pay the debt or legacy or by his agent duly authorised in this behalf, a fresh period of limitation shall be computed from the time when the payment was made. Provided that, save in the case of payment of interest made before the 1st day of January, 1928, an acknowledgment of the payment appears in the handwriting of, or in a writing signed by, the person making the payment.

²⁴ 2020 SCC 1137.

²⁵ 2024 INSC 155

it is "the duty of the courts to prima-facie examine and reject non-arbitrable or dead claims," even though limitation "is an admissibility issue." The Court further noted that the three-year statute of limitations for submitting an application to designate arbitrators is excessively lengthy and contradicts the goal of the law, which is to facilitate the prompt settlement of business disputes.

The Court suggested that the Indian Parliament take into consideration amending the law to include a set deadline for these types of applications.

LIMITATION FOR FILING OF APPEAL

An appeal²⁶ against orders made in accordance with Sections 9, 34, 16 and 17 of the Act is permitted under Section 37 of the Act. Though Section 43 of the Act states that the Limitation Act, 1963 will apply to arbitrations in the same way that it does to court proceedings, the Act does not provide any precise deadlines for bringing such appeals.

Articles 116 and 117 of the Schedule of the Limitation Act stipulate that an appeal from a lower court to a higher court must be filed within 90 days, and an appeal within a higher court must be filed within 30 days. Additionally, the specified limitation period may be extended in accordance with Section 5 of the Limitation Act.

In *Consolidated Engineering Enterprises v. Irrigation Department*²⁷ the Supreme Court held that, 'prior to the passage of the Commercial Courts Act, 2015 that in cases where the Limitation Act specifies a time limit for appeals or applications to any court and the special act does not specify a time limit, the limitation specified in the Limitation Act will apply along with Sections 4 to 24 thereof, unless the special act expressly excludes them'. The Commercial Courts Act²⁸ was thereafter passed. According to Section 10²⁹ of the Act, Commercial Courts have the authority to resolve all applications and appeals arising from arbitrations other than international commercial arbitrations in which a commercial dispute of a certain amount is at issue.

²⁶ Part VII of the CPC and the Order 41 to 45 of the CPC deals with appeals

²⁷ (2008) 7 SCC 169

²⁸ The Commercial Courts Act came into force with effect from 23rd of October, 2015, and further amended on 3rd of May, 2018. The primary objective of adjudication of disputes falling under this Act in a swift time bound manner and lesser hassles to the litigating parties and by introducing minimal interference by the higher courts.

²⁹ Section 10 in the Commercial Courts Act, 2015 states the Jurisdiction in respect of arbitration matters, where the subject-matter of an arbitration is a commercial dispute of a Specified Value

Nevertheless, the Supreme Court disregarded the Commercial Courts Act and the ruling in Consolidated Engg. when it considered the same matter in the case of *Union of India v. Virendera Constructions Ltd*³⁰. The Supreme Court concluded that any additional delay beyond 120 days would not be permitted and imposed a 120-day statute of limitations from the moment the decree was passed. The Supreme Court stated that an appeal filed from the same should be covered by the same rule since a Section 34 application must be filed within a maximum of 120 days, including a grace period of 30 days.

Subsequently, the Supreme Court restated the Virendra Constructions stance in *N. V. International v. State of Assam*³¹. The primary goal of the Act, which is the prompt resolution of arbitral disputes, was again emphasized by the Supreme Court, which found that any delay more than 120 days cannot be excused.

*Virendra Constructions*³² and *N.V. International*³³ did not, however, make reference to the Commercial Courts Act's provisions regarding the statute of limitations for filing appeals under Section 37. It is also important to remember that neither the this Act nor the Commercial Courts Act specify a 120-day maximum or a time restriction for applying for a delay pardon.

With regard to the applicability of the Limitation Act, the Supreme Court reversed its ruling in the *N. V. International*³⁴ case and held that Section 37 clearly indicates that Section 5 of the Act will apply to appeals filed under Section 37 when read in conjunction with Section 43 of the Act and Section 29(2) of the Limitation Act. The Supreme Court did point out, nonetheless, that the Act's primary goal—the prompt resolution of disputes—cannot be fully separated from the allowance of delay. Because of this, the Supreme Court noted that the definition of "sufficient cause" in Section 5 of the Limitation Act is not broad enough to account for protracted delays.

CONCLUSION

Any arbitration agreement³⁵ that specifies a shorter time period than the one required by the

³⁰ (2020) 2 SCC 111

³¹ (2020) 2 SCC 109

³² Supra 28

³³ Supra 29

³⁴ Ibid

³⁵ Under the Arbitration and Conciliation Act, 1996 The Arbitration agreement is the basis of any agreement. It is basically a clause provided in the contract which is submitted to the arbitration on which the dispute is been raised. It is also the agreement to which the dispute has been already arisen had submitted the dispute to the arbitration.

law of limitation will be void to the extent that it differs from the three years that the Limitation Act, 1963 prescribes for filing a claim arising out of a contract³⁶. The law of limitation will apply to arbitration in the same manner that it does to civil suits in court. Though the Arbitration and Conciliation Act of 1996 might set a separate overriding limitation period for specific reasons because it is a special legislation as defined by Section 29(2) of the Limitation Act of 1963.

In *Arif Azim*³⁷, the Court established a two-pronged standard for evaluating the statute of limitations in order to decide an application filed according to Section 11(6) of the Arbitration Act. First, the court must decide if the Section 11(6) application was submitted within the three-year period following the day on which the Arbitration Act's Section 21³⁸ was invoked. Second, it must determine if the claims are prima facie or clearly time-barred due to the failure to invoke Section 21 arbitration within three years of the date the cause of action was filed. In deciding whether to adjudicate an application under Section 11(6) of the Arbitration Act, the Court established a two-part test. The court must first decide if the Section 11(6) application was submitted within the allotted three years following the Arbitration Act's Section 21's date of arbitration invocation. The second step is to determine if the claims are prima facie or clearly time-barred because Section 21 arbitration was not invoked within the allotted three years of the cause of action date.

Consequently, a modification specifying a deadline for filing the application under Section 11(6) of the Arbitration Act is urgently needed to close this legal loophole. Taking into account the structure of the arbitration timeline in India, this period should not surpass three to six months from the passing of thirty days from the date of the notice requesting arbitration.

The model law defines the Arbitration Agreement as follows: “An agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not” section 7 of the Act, 1996 defines it as arbitration agreement means an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not.

³⁶ See also, *B & T AG vs Ministry of defence* 2023 SCC Online 657, *Municipal Corporation of Delhi v. Natraj Construction Company* 023: DHC:2054

³⁷ Supra 24

³⁸ Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent