
HARNESSING ARBITRATION AND ADR IN EVOLVING LEGAL LANDSCAPES: BALANCING REGULATORY CONSTRAINTS AND PARTY AUTONOMY IN INSOLVENCY AND TAX DISPUTES

Somya Tyagi, LL.M., Gujarat National Law University, Silvassa Campus

ABSTRACT

The traditional litigation system in India faces specific issues concerning the backlog of cases, accompanied by delay in the disposal of cases, which hence constitute an increased stress on alternative dispute resolution mechanisms like arbitration and mediation. This article examines the trend of growing instrumentalization of ADR in India concerning its use within the fields of insolvency and tax disputes, which reflects an essential contradiction between the regulatory frameworks set to protect public and economic interests on one hand and the autonomy of disputing parties in selecting the dispute resolution process on the other hand.

The article further traces the legislative and judicial developments that promote ADR in the Indian arena, including "the Arbitration and Conciliation Act, Commercial Courts Act, and Mediation Act, 2023". It discusses the challenges and opportunities around ADR within the framework of the Insolvency and Bankruptcy Code (IBC), looking at the interplay between the IBC's moratorium and arbitration and the proposed framework for mediation in insolvency.

The article thus studies traditional procedures followed in India concerning tax dispute resolution and the prospects of encompassing arbitration and mediation, considering their superseded status for arguing, just because of their sovereign essence. Further, the article goes through case studies and expert opinions in examining the regulatory conditions of state control versus party autonomy about the jurisdictional tussle in insolvency and tax issues. It unveils some advantages and disadvantages in instrumentalizing ADR in these changing times, with recommendations for the future trajectory.

Keywords: ADR, Insolvency, Tax Disputes, Regulatory Tussle, Union Budget 2025, Dispute Resolution, Corporate Insolvency Resolution Process, Tax Litigation, Online Dispute Resolution.

INTRODUCTION

The traditional litigation mechanism is the pillar of justice in India and faces many challenges; namely, a sizable backlog of cases, endless delays, and rising costs. The globally changing backdrop of the dispute is now immersed in some meaningful radical changes with much focus on “Alternate Dispute Resolution (ADR) mechanisms” now recognized as an alternative to traditional formal process.¹ Driving these aspects into change is not simply the inherent flaws of court-based processes which are lengthy, often exorbitantly expensive, and characterized by some of the most confrontational form of dispute processes, but also very markedly, exacerbated by a postures more pronounced in specialist and complex disputes like insolvency and tax disputes in India. These disputes are generally linked with highly significant stakes, complicated legal framework, longer-than-average disposition of disputes which inhibit economic development and generate uncertainty to the stakeholders.

The mechanisms of ADR are now viewed as effective means which allow for relief of the problems associated with litigation by offering remedies which, while sometimes less reliable, are potentially faster, cheaper, and more reconciliation-oriented than the trial system. ADR methods of dispute resolution can include arbitration, mediation, and conciliation. Under these methods, disputes can originate in procedures that may ultimately be settled on a more speedy and cheaper basis in a flexible manner than going to court.

Party autonomy offers disputants the choice of their mechanisms and processes for resolving their disputes, but the degree to which disputants can use their chosen forms of autonomy is typically limited by statutes or by and within a bigger regulatory framework, especially in areas of high state interest.²

The article will address the debate about the use of ADR in insolvencies and tax disputes in India and explain the fundamental inconsistency between the current regulation in the areas of insolvency and tax and the basic tenet of party autonomy in choosing and conducting ADR methods.

¹ Astha Srivastava, Role of Alternative Dispute Resolution in Indian Judiciary (April 17, 2025), <https://lawfullegal.in/role-of-alternative-dispute-resolution-in-indian-judiciary/> (last visited May. 19, 2025).

² Mr Justice Johnson Lam PJ, Permanent Judge of the Hong Kong Court of Final Appeal, The Relevance or Irrelevance of Party Autonomy in Insolvency Proceedings (Feb. 26, 2025).

THE EMERGENCE OF ADR IN INDIA: A STRATEGIC RESPONSE TO EVOLVING DISPUTE DYNAMICS

Legislative and Judicial Catalysts in the Evolution of ADR in India

In India, with the traditional roots of dispute resolution being older than formal legal practice, many informal processes have been used in the past. The indigenous dispute resolution processes ranged from a community elder to panchayats and had significance in resolving conflict according to local customs and practices. The legal system grew more formalized with the onset of the colonial period and these traditional devices slowly fell into oblivion. It was only in the post-colonial period that interest in new processes for dispute resolution and their formal recognition resumed to lessen the burden on the courts and to provide accessible and effective justice.

The original legal framework for alternate dispute resolution (ADR) is Section 89 of the Civil Procedure Code of 1908³. This section states that, if the court thinks, having regard to the wishes of the parties, may provide for grounds for a settlement that is acceptable to the parties, it can provide for the adjudication of the disputes by way of arbitration, conciliation, mediation, or judicial settlement by way of Lok Adalat. Section 89 requires courts to promote and facilitate alternate dispute resolution.

The Arbitration Act of 1940⁴ was the first real comprehensive legislation dealing with arbitration in India. The 1940 Act had provided a channel for dispute resolution outside the official courts, but it had become antiquated and slow; it did not achieve speedy resolution from conflict at a time when economic conditions were rapidly changing. As India entered the economic liberalization process in the 1990s, the push for new arbitration law to facilitate a speedy resolution consistent with international best practices was increasingly clear.

The Arbitration and Conciliation Act's development occurred due to the fact that it represented a meaningful step towards modernising the ADR process in India in accordance with the "UNCITRAL Model Law on International Commercial Arbitration". The purpose of the Act is to take the burden off the judiciary; therefore, it provided party autonomy, customisation in the manner in which an arbitration is conducted, and expeditious resolution of disputes especially

³ The Civil Procedure Code, 1908, § 89, Acts of Parliament, 1908 (India).

⁴ The Arbitration Act, 1940, Acts of Parliament, 1940 (India).

in commercial matters. The Act also provided for the selection of arbitrators and allowed the parties to establish rules of procedure; such legislation provides a strong endorsement of party autonomy.

In continuing to promote ADR, the Commercial Courts Act of 2015⁵ has made mediation a condition precedent to institute a suit for certain categories of commercial dispute⁶. This demonstrates the government's commitment to provide for a proper resolution in economically significant issues through ADR. This helps to expedite the resolution of commercial disputes speedily so that economic growth can be maintained.

As the first All-India Law on mediation for the purpose of dispute resolution, the Mediation Act of 2023 is a landmark event in the development of ADR in India. By providing for an institutional framework for mediation that is speedy, flexible, and implementable in substance, it establishes mediation as legal act and enforces any mediation outcome⁷. It is applicable to both domestic and international mediation on Indian soil. The purpose of the Mediation Act is to provide a single umbrella of common use, however, there appears to be debate over the applicability of this Act with respect to certain aspects of, potentially, debt resolution under the Insolvency and Bankruptcy Code (IBC)⁸.

In addition to legislation, the Indian Supreme Court and the various High Courts have also taken an active role in implementing ADR. Further, some courts have also set up ADR centres within the court itself and have required ADR in certain classes of cases. The rationale was to relieve some strain on the judiciary and provide substantive remedies to the parties. The approaches of “the Supreme Court Mediation Centre and the Delhi High Court Mediation and Conciliation Centre” are very illustrative of the extent to which the judiciary is trying to make ADR an institution in the Indian legal system.

⁵ The Commercial Courts Act, 2015, Acts of Parliament, 2015 (India).

⁶ Harshita Kumari, Arbitration and Alternative Dispute Resolution (ADR) Laws in India: A Comprehensive Overview, VIAMEDIATIONCENTRE, <https://viamediationcentre.org/readnews/MTQ3NA==/Arbitration-and-Alternative-Dispute-Resolution-ADR-Laws-in-India-A-Comprehensive-Overview>. (last visited May. 19, 2025).

⁷ Shalaka Patil & Kartikey Bhalotia, The Mediation Act 2023: India Paves The Way for a New Mediation Law – Part 1, MEDIATIONBLOG (Feb. 7, 2025), <https://mediationblog.kluwerarbitration.com/2025/02/07/the-mediation-act-2023-india-paves-the-way-for-a-new-mediation-law-part-1/>. (last visited May. 19, 2025).

⁸ Mediation Act to yield to IBC on debt resolution matters, KANCHANSOBHA (Feb. 2024), <https://kanchansobha.com/article/mediation-act-to-yield-to-ibc-on-debt-resolution-matters/> (last visited May. 19, 2025).

The Growing Influence of Online Dispute Resolution (ODR) in Modern Legal Systems

The concept of Online Dispute Resolution has surfaced in the arena of Alternative Dispute Resolution in India, marrying the very principles of traditional ADR with modern technology. Such ODR platforms become an easy, inexpensive, and accessible method for resolving disputes, extending from consumer grievances to e-commerce transactions and even low-value commercial disputes. In fact, the current age of digitization makes ODR very resourceful because of its economy and availability.

While India, as of now, does not have any specific legislation concerning ODR, developments in this area seem to be gaining currency in legal practice. Agencies and platforms offering ODR or using it for a variety of disputes have sprung up all over.⁹ Some statutes in existence would interpretably include ODR: “the Arbitration and Conciliation (Amendment) Act 2015”¹⁰ allows arbitral tribunals to mediate, conciliate, or use other procedures while arbitration proceedings are underway; therefore, ODR would be included. The Information Technology Act, 2000¹¹ also provides a foundational legal framework for online transactions and online communication, thus indirectly supporting the legitimacy of ODR processes. This shows that the spirit behind the existing law is rather progressive towards accepting technological advances in dispute resolution.

Integrating Alternative Dispute Resolution: Key Challenges and Emerging Opportunities

While a lot has been done to promote ADR in India, there are still several barriers that prevent it from taking root as a primary dispute resolution mechanism. The general lack of awareness about ADR mechanisms particularly in rural areas usually causes miserable delays that had been encountered at times during arbitration proceeding, fear of judicial overreach and intervention in the arbitral process, enforcement of arbitral awards, questions regarding the quality and competence of some arbitrators and mediators, and cost concerns associated with institutional arbitration are barriers to making ADR a reliable and assured substitute for traditional litigation in India.

⁹ Pallavi Modi, Online Dispute Resolution: The Future of Dispute Resolution in India, JGU, <https://jgu.edu.in/mappingADR/online-dispute-resolution-the-future-of-dispute-resolution-in-india/> (last visited May. 19, 2025).

¹⁰ The Arbitration and Conciliation (Amendment) Act, 2015, Acts of Parliament, 2015 (India).

¹¹ The Information Technology Act, 2000, Acts of Parliament, 2000 (India).

ADR offers a speedier method of resolving conflicts compared to most of the time-consuming procedures in courts, and in some instances, it is much more cost-effective than the more traditional modes. Confidentiality is another noteworthy advantage of ADR proceedings, especially where the matter involves sensitive commercial and personal issues. Another advantage of ADR is that it allows for much more flexibility and control on the part of the parties in the resolution process. Joint methods such as mediation also assist the parties in keeping a good relationship between them, an essential factor mostly in business or family disputes. However, ADR will be optimally utilized concerning adequate capacity building among ADR practitioners, increased public awareness of the ADR mechanisms across all segments of society, and better leveraging technology to convert ADR into the core of the Indian justice system.

The Role of Arbitration under the Insolvency and Bankruptcy Code: A Legal and Procedural Analysis

The Insolvency and Bankruptcy Code, or IBC, enacted in the year 2016, holds the esteem of making an important legislation in India for the resolution of insolvency. The core aims behind this legislation are time-bound resolution of financial distress and maximization of the value of assets of financially distressed entities. While a comprehensive law with respect to “the corporate insolvency resolution process (CIRP)” and liquidation, the IBC does not specifically direct the engagement of ADR mechanisms like arbitration or mediation. Nevertheless, the very existence of the IBC allows for the settlement and withdrawal of insolvency petitions based on an agreement between the parties under “Section 12A and Regulation 30A (1) of the CIRP Regulations”. In other words, it implies that the ADR principles may be infused into the insolvency framework.

A notable development occurred when “the Insolvency and Bankruptcy Board of India (IBBI)” has recently suggested that a voluntary mediation mechanism should find a place within the IBC¹². The current proposition to make insolvency proceedings smoother and to reduce the litigation load from “the National Company Law Tribunal (NCLT)”, ensuring the resolution of various stakeholders in a congenial and efficient way. The proposed mechanism would provide an exclusive mediation cell in the insolvency ecosystem, a mediation process with time frames

¹² The-Scope-and-Potential-of-Mediation-in-Indias-Insolvency-and-Bankruptcy-Code, LEGALMANTRA (Dec. 21, 2024), <https://www.legalmantra.net/blog-detail/The-Scope-and-Potential-of-Mediation-in-Indias-Insolvency-and-Bankruptcy-Code> (last visited May. 19, 2025).

within which mediation must be completed, in the range of 30-60 days and recognition, inducement, and enforcement of settlements achieved by such mediation. Such a move of the IBBI does stand yet another active step toward formal recognition of mediation as an adjunct mechanism for resolving disputes related to or arising from insolvency processes under the IBC.

EVALUATING ADR IN INSOLVENCY: STRENGTHS AND SHORTCOMINGS UNDER THE IBC FRAMEWORK

Arbitration in the Shadow of Insolvency: Navigating the IBC Landscape

The conflict primarily arises between the moratorium provided under Section 14 and the arbitration proceedings that are pending or to be initiated against the corporate debtor. Thus, this moratorium comes into effect once a CIRP application is admitted and generally prohibits the institution or continuation of any legal proceedings, arbitration included, against a corporate debtor¹³. This provision may be at odds with the principle of party autonomy, which is a major hallmark of arbitration: freedom for the parties to choose how the dispute is to be settled. However, judgments have provided specific exceptions where this moratorium does not apply, allowing arbitration to continue if it is said to be in benefit of the corporate debtor or necessary for maximizing its value¹⁴. For example, it has been held that arbitration proceedings to recover owed amounts against the corporate debtor could continue.¹⁵

Thus, it has been the developing jurisprudence of arbitrability of insolvency disputes in India. Initially, it was considered that these insolvency and winding-up matters were non-arbitrable, but exceptions restricting this view were opened by precedents through the judiciary. This further lays out the growth of a fine understanding and of how arbitration can play its role within this specific context of insolvency resolution.

¹³ Devna Arora and Didon Misri, The Intersection Between Arbitration and Insolvency Proceedings: An Indian Perspective, SCC ONLINE (Jan. 1, 2023), <https://www.sconline.com/blog/post/2023/01/01/the-intersection-between-arbitration-and-insolvency-proceedings-an-indian-perspective/> (last visited May. 19, 2025).

¹⁴ Aditya Joby and Mayannk Sharma, Arbitration and Insolvency: Bringing Arbitration into the CIRP, JGU, <https://jgu.edu.in/mappingADR/arbitration-and-insolvency-bringing-arbitration-into-the-cirp/> (last visited May. 19, 2025).

¹⁵ Raghav Gupta, Insolvency and Arbitration – On the Horns of a Dilemma, BIMACC (Apr. 23, 2024), <https://www.bimacc.org/insolvency-and-arbitration-on-the-horns-of-a-dilemma/> (last visited May. 19, 2025).

The Emerging Role of Mediation under the Insolvency and Bankruptcy Code (IBC)

Mediation is best suited for settling IBC disputes like intercreditor disputes and claims verification and other disputes arising from insolvency. This is unlike the court system where there is an adversarial system; mediation is all about amicable settlement and aims to preserve important business relations. This is especially important where the goal is the restructuring and revival of the corporate debtor. The technique may be invoked at different junctures of an insolvency process, such as pre-insolvency negotiations for debt restructuring, resolution of the conflict among the creditors regarding distribution of assets, and settlement of disputes between the corporate debtor and external parties.¹⁶

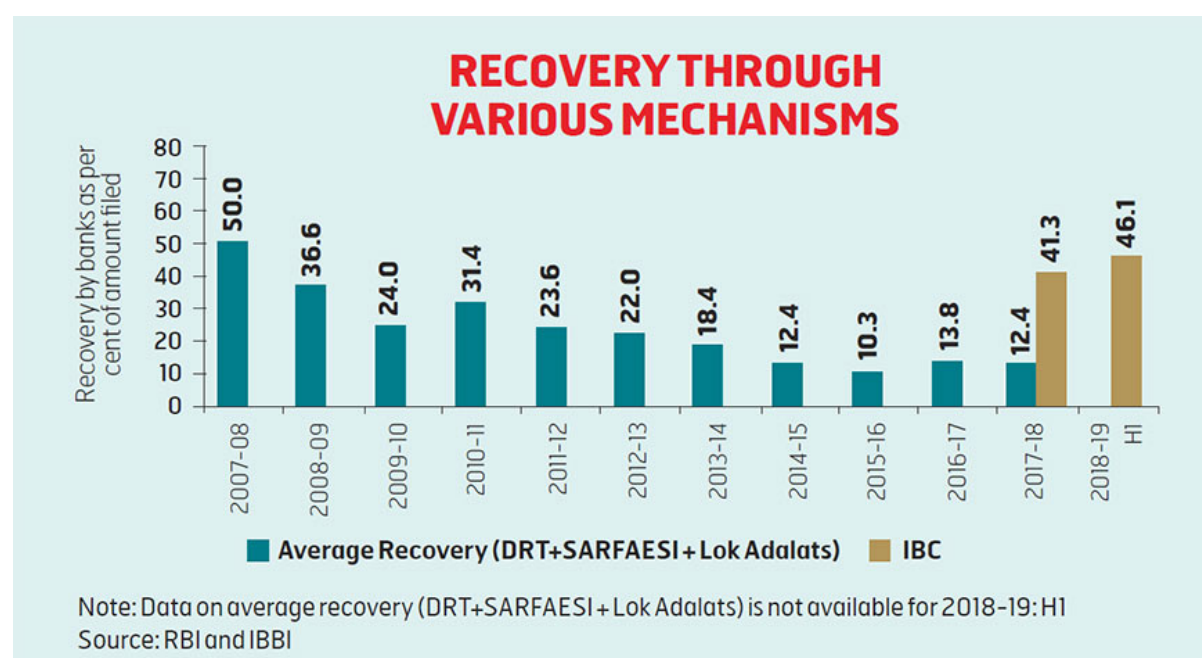
However, the actual practice of mediation in IBC has its challenges including a lack of awareness about mediation as a genuine alternative to litigation amongst the stakeholders, the need for a sizable pool of competent mediators experienced in matters of insolvency, the ability of integrating mediation with the current IBC processes and timelines, rewarding parties who select mediation, and lastly, the enforceability of settlements resulting from mediation.

Crafting Consensus: The IBBI's Approach to Mediation in Insolvency Resolution

Enhancing the efficiency of the insolvency resolution process, the IBBI constituted an Expert Committee that submitted its report in January 2024 on the "Framework for Use of Mediation under the Insolvency and Bankruptcy Code, 2016"¹⁷. The committee suggested the introduction of voluntary mediation as a complementary mechanism to settle disputes concerning the processes under the IBC. The proposed framework envisions voluntary participation of the parties, aims at reducing the timelines of the insolvency process, and makes provision for the enforceability of mediated settlement agreements.

¹⁶ Justice A.K. Sikri and Anuroop Omkar, Mediation In Corporate Insolvency: A Game Changer, BUSINESSWORLD (June 14, 2019), <https://www.businessworld.in/article/mediation-in-corporate-insolvency-a-game-changer-171872> (last visited May. 19, 2025).

¹⁷ Insolvency Mediation – Report on framework for use of Mediation under Insolvency and Bankruptcy Code, 2016(IBC), IBCLAW (Feb. 15, 2024), <https://ibclaw.in/framework-for-use-of-mediation-under-the-insolvency-and-bankruptcy-code-2016-january-2024/> (last visited May. 19, 2025).



Data visualization of recovery through various mechanisms (bar chart). Source: RBI and IBBI.¹⁸

The salient features of the key recommendations of the committee are as follows:

1. Mediation should be voluntary.
2. Mediation should be based on mutual consent by the parties.
3. There should be a dedicated NCLT-annexed insolvency mediation cell with an independent secretariat.
4. Mediation should run parallel to the CIRP and fit within existing statutory timelines.
5. Mediated Settlement Agreements (MSAs) should be recognized and able to be enforced under the IBC.
6. The framework suggested for future exploration of pre-institution mediation in creditor-initiated cases and for the referral to mediation of certain disputes, such as

¹⁸ According to the Reserve Bank of India and the Insolvency and Bankruptcy Board of India, recent data visualized in a bar chart shows the comparative recovery performance of various insolvency mechanisms.

inter-creditor issues and collation of claims¹⁹.

The expert committee suggested developing a self-contained framework under the IBC, which would depart from the general Mediation Act, 2023, because of the sui-generis nature of insolvency proceedings which runs parallel to their objective of time-bound reorganization and maximization of value.

Case-Based Perspectives on ADR Mechanisms in Insolvency Proceedings

Many landmark judgments and recent decisions have played an important role in shaping the understanding of this aspect from the views of ADR and insolvency law in India. Recently, it was held in the case of *“Indian Oil Corporation Ltd v. Arcelor Mittal Nippon Steel India Ltd”*²⁰ that the IBC resolution process and the "clean slate" doctrine will prevail over arbitration challenging the approval of a resolution plan by the NCLT²¹. Further it has been clarified in this case for claims that stood extinguished under an approved resolution plan that they would also be non-arbitrable, thereby reinstating the control of the regulator over the insolvency process.

The recent verdicts concerning unilateral appointment clauses in arbitration are very much in line with judgements of the Supreme Court in the case of *“Central Organisation for Railway Electrification, v. ECI-SPIC-SMO-MCML (JV)(CORE-II)”*²² which apply equally to insolvency disputes relating to government entities. The Court in this case emphasized upon the independence and impartiality in the appointments of arbitrators and struck a balance between the principle of party autonomy and the fairness-an equality requirements, particularly in public-private contracts, that may ultimately lead into insolvency solutions.

Cases like *“Alchemist Asset Reconstruction Co. Ltd. v. Hotel Gaudavan (P) Ltd.”*²³ have shown that the moratorium under Section 14 of the IBC effectively bars arbitration proceedings from

¹⁹ DMD Advocates, IBBI Committee Releases Report on Mediation Framework under IBC, (Feb. 16, 2024), <https://www.dmd.law/publications/ibbi-committee-releases-report-on-mediation-framework-under-ibc/> (last visited May. 19, 2025).

²⁰ Indian Oil Corp Ltd v ArcelorMittal Nippon Steel India Ltd, SCC Online NCLAT 33 (NCLAT).

²¹ Akshay Sewlikar & Alyssa Glass, Clean Slate: The Interface Between Arbitration and Insolvency Processes in India, KLUWERARBITRATIONBLOG (Sept. 27, 2024), <https://arbitrationblog.kluwerarbitration.com/2024/09/27/clean-slate-the-interface-between-arbitration-and-insolvency-processes-in-india/> (last visited May. 19, 2025).

²² Central Organisation for Railway Electrification v M/s ECI SPIC SMO MCML (JV) A Joint Venture Company, 2024 INSC 857.

²³ Alchemist Asset Reconstruction Co Ltd v Hotel Gaudavan (P) Ltd, [2018] SCC Online SC 627.

being pursued against a corporate debtor as a rule. However, in the case of “*Annapurna Infrastructure (P) Ltd. v. SORIL Infra Resources Ltd.*”,²⁴ NCLAT also came out with the consequence that an arbitral award against a corporate debtor would trigger an event of default under the IBC bringing into the fold of insolvency the arbitral result and enforceable against it the moratorium.

In “*Col. P.K. Uberoi (Retd.) & Anr. v. Vigneshwara Developwell Pvt. Ltd. & Ors.*”,²⁵ the High Court has recognized and ordered enforcement of mediation settlements within the purview of the insolvency scheme. Whereby creating a path for acceptance of mediation by the Courts because it promises formal recognition under the IBC.

ADR in Insolvency: A Comparative Perspective on Global Best Practices

Countries like Singapore and the UK have far more strongly pro-arbitration in the insolvency context. Their laws often have provisions to stay or dismiss the proceeding for winding-up or insolvency on the ground of arbitration if the concerned debt was bona fide disputed and was covered by a valid arbitration agreement²⁶. This indicates a tendency towards greater emphasis on the freedom of resolving disputes between parties, even when insolvency proceedings are pending. On the contrary, though India may hold relevancy to considering mediation in insolvency as evident in the recommendations of the IBBI, its attitude toward arbitration in this practice area remains distant, partly because of the IBC's regulatory imperatives and the collectively inherent nature of insolvency proceedings.²⁷ The jurisdiction of the NCLT to resolve an insolvency case or liquidation case strips the surrender to arbitration for core insolvency issues. Mediation in insolvency cases enjoys greater uses in other countries as well. Like in the USA, mediation was successfully applied in the case of Lehman Brothers, where out of 77 mediation exercises, the most were settled. Thus, mediation seems to work well to

²⁴ *Annapurna Infrastructure (P) Ltd v SORIL Infra Resources Ltd*, [2020] SCC Online NCLAT 11.

²⁵ *Col P K Uberoi (Retd) and Anr v Vigneshwara Developwell Pvt Ltd and Ors*, [2019] SCC Online Del 9585.

²⁶ Peter Doraisamy & Pranav Kamnani, *Arbitration Agreements and Insolvency Proceedings: Comparing the Pro-Arbitration Perspectives in Singapore, the United Kingdom, and India, and Calling for International Consensus*, KLUWERARBITRATIONBLOG (Jan. 18, 2024), <https://arbitrationblog.kluwerarbitration.com/2024/01/18/arbitration-agreements-and-insolvency-proceedings-comparing-the-pro-arbitration-perspectives-in-singapore-the-united-kingdom-and-india-and-calling-for-international-consensus/> (last visited May. 19, 2025).

²⁷ *Insolvency and Bankruptcy Board of India, Report on Framework for Use of Mediation under the Insolvency and Bankruptcy Code, 2016* (2024), <https://ibbi.gov.in/uploads/resources/1256aa8a9e2c89bd09d8186dae2e6019.pdf> (last visited May. 19, 2025).

resolve complex monetary disputes involving multiple parties within the context of insolvency.

Feature	India	Singapore	United Kingdom
Arbitrability of Insolvency Disputes	Generally limited for core insolvency matters; moratorium impacts ongoing arbitration.	Pro-arbitration stance: winding-up petitions may be stayed if debt is disputed and subject to arbitration.	Pro-arbitration stance: courts have discretion to stay or dismiss winding-up petitions in favour of arbitration if a genuine dispute exists.
Formal Integration of Mediation	Proposed voluntary framework by IBBI; not explicitly mandated in IBC.	No specific legislation for insolvency mediation, but mediation is generally encouraged.	No specific legislation for insolvency mediation, but mediation is a well-established ADR method used in various contexts.
Impact of Moratorium on Arbitration	Moratorium under IBC generally stays arbitration against corporate debtor.	Moratorium under Singapore law may not automatically stay arbitration; depends on the specifics of the case and the nature of the dispute.	Moratorium under UK insolvency law generally stays proceedings, but exceptions may exist for arbitration with court's permission.
Party Autonomy in Choosing ADR	Limited for core insolvency matters; greater potential for mediation.	Courts generally respect parties' choice of dispute resolution.	Strong emphasis on party autonomy in arbitration; courts generally uphold arbitration agreements unless there are compelling reasons not to.
Key Regulatory Challenges	Aligning ADR with IBC's timelines; enforceability of mediated settlements; lack of specialized mediators.	Ensuring that the dispute falls within the scope of the arbitration agreement and is genuinely disputed.	Determining whether a genuine and substantial dispute exists to warrant staying winding-up proceedings in Favor of arbitration.

Table 1: A Comparative Analysis on Global Best Practices with respect to Insolvency matters.

ALTERNATIVE DISPUTE RESOLUTION IN TAX MATTERS: SIGNALLING A PARADIGM SHIFT?

Exploring the Traditional Landscape of Tax Dispute Resolution in India

The traditional method of resolving tax disputes in India covers a multi-layered appellate structure under “the Income Tax Act, 1961” and GST laws. The process is generally initiated with some assessment by the tax authorities, later followed by an appeal to the Commissioner (Appeals), then to “the Income Tax Appellate Tribunal (ITAT)”, to the High Court, and finally to the Supreme Court.²⁸ The entire process is long and cumbersome, often taking years for any dispute to reach completion in resolution. The large number of tax appeals pending at different levels-millions of cases-strongly endorses the need for a prompt tax dispute resolution mechanism that could alleviate the burden of litigation on both the taxpayer and tax administration and create a more conducive environment for business.

Exploring Existing ADR Frameworks for Resolving Tax Disputes in India

ADR have many mechanisms for resolving tax-related ADR disputes today, each of which has defined scopes and limitations. The Authority for Advance Rulings (AAR) was set up to provide tax clarity and certainty on liabilities triggered from identified transactions, particularly with nondomestic counterparts.²⁹ Nonetheless, the authority itself has numerous hindrances, such as delays in pronouncements and most significant posts being vacant, thus making it less effective in practice. Rulings from the AAR are binding, however, only on the applicant and the jurisdictional tax authorities.

The Dispute Resolution Panel (DRP) provides a faster way to resolve transfer pricing and international taxation disputes involving foreign companies.³⁰ The Income Tax Settlement Commission (ITSC), which later ceased to provide an avenue for taxpayers to settle disputes through voluntary disclosures of income that were not disclosed in the past, was under this

²⁸ CA Mohammed S Chokhawala, Income Tax Appellate Tribunal, ClearTax (May 15, 202), <https://cleartax.in/s/income-tax-appellate-tribunal> (last visited May. 19, 2025).

²⁹ Goods and Services Tax Council, Advance Ruling Mechanism in GST(Goods and Services Tax), <https://www.gstcouncil.gov.in/sites/default/files/> (last visited May. 19, 2025).

³⁰ Dispute Resolution Panel, ClearTax (Apr. 21, 2025), <https://cleartax.in/s/dispute-resolution-panel>. (last visited May. 19, 2025).

regime³¹. The ITSC has closed its doors, indicating a significant shift in policy towards tough enforcement. ABAs became popular to bring about certainty for the taxpayer, with the prospect of avoiding long-winded litigation in this otherwise complex area. The Vivad Se Vishwas scheme is designed as a measure against the backlog of tax litigation and provides a solution for the taxpayer to settle the dispute by paying the principal amount in contention³². Although these existing mechanisms are good, experience shows that they have not addressed systemic challenges in tax dispute resolution, indicating that ADR needs to be explored at a broader level.

Arbitration and Mediation in Taxation: Exploring Pathways to Effective Dispute Resolution

Traditionally tax disputes in India have been considered non-arbitrable, since the tax laws are intertwined with sovereign functions, and public interest is involved in them. But this view has been increasingly challenged, given the developments in tax legislation and the pressing need for more effective means of resolution. At a larger conception, there is a growing trend toward including arbitration and mediation in tax dispute frameworks. Several nations are, therefore, considering or experiencing these ADR strategies for the more efficient resolution of tax disputes.³³

Among the arguments that support arbitration in taxation are efficiency, specialization, and the binding nature of arbitral awards. This kind of resolution would serve well for disputes concerning commercial contracts with tax ramifications and under bilateral investment treaties. On its part, mediation offers a great opportunity in tax disputes to enable negotiations between taxpayers and tax authorities: this would yield settlements of such disputes in a friendly manner while also attempting to stabilize the ongoing relationship. The ability to sustain good relationships is crucial to ensuring that tax disputes in the future are duly resolved amicably and that the same type of conduct is encouraged, thus endorsing high levels of compliance. The

³¹ Mariya Paliwala, Delhi High Court Upholds Income Tax Settlement Commission's Action In Restricting Interest Liability To Application Admission Date, JurisHour (Oct. 10, 2024), <https://www.jurishour.in/direct-tax/income-tax-settlement-commission-action/> (last visited May. 19, 2025).

³² Fatima Hunaid, Taxing Matters: How India's APA Programme and Vivad Se Vishwas Scheme Aim to Ease the Tax Dispute Caseload, CHAMBERS (Nov. 15, 2024), <https://chambers.com/legal-trends/indias-tax-dispute-resolution> (last visited May. 19, 2025).

³³ Pavan Kumar.R, A Comparative Analysis of Resolution of Tax Disputes in India and The United Kingdom, CALR, <https://calr.in/wp-content/uploads/2021/06/A-comparative-analysis-of-resolution-of-tax-disputes-in-India-and-the-United-Kingdom.pdf> (last visited May. 19, 2025).

Indian government is reportedly weighing a proposal introducing an arbitration mechanism to settle tax disputes in the next Union Budget 2025.

Case Analysis: The Role of ADR and Arbitration in Resolving Tax Conflicts

The Supreme Court in *Numaligarh Refinery*³⁴ held that on the one hand, disputes arising out of the interpretation of tax clauses in commercial agreements between parties must be referred to arbitration in case those parties had contracted in that manner. The case can be said to be important, but it does not mean that all types of tax disputes are going to be flooded with arbitration in India, and it provides for arbitration concerning tax issues directly deriving from contractual obligations.

At various levels, there have been many proposals to include tax disputes within the purview of mediation or other forms of alternative dispute resolution (ADR) in driving down the judicial burden and making doing business easier. The move towards replacement of AAR by BAR under the Finance Act, 2021, with the objective of making the advance ruling mechanism significantly more efficient, can also be seen as a reform in the conflict resolution landscape for international taxpayers. While a total transition to ADR concerning all tax disputes is yet to be observed, these developments reflect a deeper truth about the recognition and momentum gained towards looking into alternative mechanisms.

Global Approaches to Dispute Resolution: Comparative Insights and Global Best Practices

Several developed countries have willingly embraced ADR in their processes to resolve tax disputes. The USA, the UK, and some European countries include arbitration and mediation in case of international tax matters and transfer pricing disputes. These countries acknowledged that ADR could provide more efficient and less adversarial ways of resolving cross-border complex tax issues.

International bodies like “Organisation for Economic Co-operation and Development (OECD)” have also been prodding its members to adopt arbitration methodology for solving

³⁴ *Numaligarh Refinery Ltd v Daelim Industrial Co Ltd*, (2007) 8 SCC 466.

international disputes related to taxes and tax treaties³⁵. OECD presented model arbitration clauses for insertion into tax treaties, thereby fuelling the fire of shareholder-based efforts to promote arbitration as a method for settling disputes between states regarding tax matters.

³⁵ Iqra Bawany, FIT FOR PURPOSE? Reconceptualising arbitration clauses in international tax treaties', VYA, accessed 12 December 2021, <https://www.vyablog.com/2021/12/fit-for-purpose-reconceptualising.html> (last visited May. 19, 2025).

Feature	India	United States	United King Dom
General Approach to ADR in Tax	Limited formal integration; reliance on litigation; some ad-hoc schemes and contractual tax arbitration.	More acceptance of ADR, including mediation and arbitration, especially for international tax and transfer pricing.	Increasing emphasis on ADR, particularly mediation, for resolving tax disputes; HMRC has published specific guidance on ADR.
Availability of Mediation	Tax disputes explicitly excluded from the Mediation Act, 2023; limited use in practice.	Mediation is used for certain types of tax disputes, often facilitated by the IRS Independent Office of Appeals.	Mediation is actively promoted by HMRC for resolving a wide range of tax disputes.
Availability of Arbitration	Limited to specific contractual contexts; general reluctance due to sovereignty concerns.	Arbitration is available for certain international tax disputes, particularly under tax treaties and Bilateral Investment Treaties (BITs).	Arbitration is less common for domestic tax disputes but can be used in specific contractual settings and for international tax disputes under treaties.
Role of Party Autonomy	Limited; regulatory concerns about sovereignty and public interest prevail.	Greater emphasis on party autonomy in choosing ADR methods for tax disputes.	Increasing recognition of party autonomy in selecting ADR, although within a framework of regulatory oversight.
Main Regulatory Hurdles	Sovereignty concerns; need for transparency and accountability; exclusion from Mediation Act.	Ensuring fairness and consistency in ADR outcomes; potential for disputes involving public policy.	Maintaining a balance between promoting ADR and safeguarding the tax system's integrity.

Table 2: Comparative Insights to Dispute Resolution and Global Best Practices

BALANCING THE SCALES: REGULATORY OVERSIGHT VS. PARTY AUTONOMY IN DISPUTE RESOLUTION

Regulating Insolvency and Taxation in India: A Critical Examination of Legal Frameworks

The existence of divergent objectives for the governing regulatory frameworks for insolvency and tax conflict in India is an underpinning reason. The IBC, 2016, primarily focusses on time-efficient reorganization and insolvency resolution of corporate entities while maximizing the value of assets and balancing the interests of all stakeholders involved.³⁶ The regulatory context thus engendered by the emphasis on rigors of process and time for the features of any ADR mechanism to operate aptly. For example, the IBBI's proposed framework for mediation in the IBC seeks to synchronize the voluntary and consensual nature of mediation with the IBC's objectives of time resolution and value maximization.

Contrarily, the principles on which tax laws stand emphasizes the right of the state to impose and recover taxes, protect public revenue, and publicizing fairness, transparency, and consistency in the application of tax laws. There intervenes taxation as a sovereign act permeated with fundamental public interest to wrestle with. Such contextual milieu narrows the ambit within which party autonomy can be exercised in respect of any dispute resolution in tax matters. Therefore, any discussion on using ADR in an increasing way in tax areas shall remain watchful of these basic principles balancing the interests of the State and maintaining public confidence in tax administration.

Moreover, specific regulations defining ADR's application come about in each of the domains. The moratorium as per Section 14 of the IBC comes into operation as soon as an insolvency application is filed which generally stays legal proceedings against corporate debtors and goes into arbitration impacting the effectiveness of the parties to arbitrage when insolvency proceedings commence. Likewise in the case of tax, restrictions placed upon “the Authority for Advance Rulings (AAR)” regarding the type of matters on which they may pronounce, the

³⁶ Pooja Mahajan, Mahima Singh, Arveena Sharma & Samridhi Shrimali, Cramdown under Indian Insolvency Law, GLOBALRESTRUCTURINGREVIEW (Oct. 9, 2024), <https://globalrestructuringreview.com/review/asia-pacific-restructuring-review/2025/article/cramdown-under-indian-insolvency-law> (last visited May. 19, 2025).

non-binding character of rulings in some situations, and the closure of the Income Tax Settlement Commission (ITSC) serve as regulatory confines within which ADR operates.³⁷

The Reach and Restraints of Party Autonomy in Alternative Dispute Resolution

Party autonomy remains the lifeblood of all arbitrations; here the contracting parties themselves determine all the features of the dispute resolution process, including the selection of arbitrators, rules of procedures, and place of arbitration. Accordingly, arbitration is often entrusted to commercial disputes since this allows the parties freedom to mould the process to their needs and tastes.³⁸

However, the limits of party autonomy are not absolute and exist in restraints, especially in respect of insolvency and tax matters. In insolvency proceedings, the nature of the collective process mandates an evaluation of the interests of several stakeholders, including creditors, employees, and the corporate debtor itself, and this has its consequence on the unfettered exercise of party autonomy. The statutory scheme of the IBC would prefer a collective resolution process to maximize value for all stakeholders and might sometimes necessitate overriding individual agreements.

Whereas in tax disputes, even more, curtailments are put upon party autonomy by the sovereign right of the state to tax and the public interest involved. The regulatory framework ensuring the application of tax laws applied fairly and consistently, which is in the domain of public revenue, is by its very nature a governmental function that cannot be completely delegated to private dispute resolution mechanisms without thinking deeply.

Judicial Interpretations of the Balance Between Regulation and Party Autonomy in ADR

Most of Indian judiciary's work has revolved around interpreting the relationship between regulatory frameworks and party autonomy in ADR. Several cases illustrate confrontations between the moratorium imposed under IBC and arbitration agreements-witness "*Alchemist Asset Reconstruction Co. Ltd. v. Hotel Gaudavan (P) Ltd*"³⁹, which established a general

³⁷ TAXMANN, Application for adv. rulings.pdf, <https://dit-live.taxmann.com/Tutorials/39.%20Application%20for%20adv.%20rulings.pdf> (last visited May. 19, 2025).

³⁸Paridhi Jain, Party Autonomy or the Choice of Seat: The Essence of Arbitration, SCC ONLINE (Oct. 20, 2022), <https://www.sconline.com/blog/post/2022/10/20/party-autonomy-or-the-choice-of-seat-the-essence-of-arbitration/> (last visited Apr. 14, 2025).

³⁹ *Alchemist Asset Reconstruction Co Ltd v. Hotel Gaudavan (P) Ltd*, supra note 24.

principle that any arbitration commenced after imposition of the moratorium is to be regarded as non-est. However, exceptions have been carved for such arbitration proceeding which are to the advantage of the corporate debtor or otherwise serve to enhance its value. These changes have offered a perspective regarding the arbitrability of insolvency and tax disputes. Initially, as per the *Booz Allen* case⁴⁰, it was considered that insolvency matters were non-arbitrable, but later certain cases paved way for exceptions. On the other hand, taxation is generally considered a sovereign subject and therefore tax disputes are non-arbitrable. The Supreme Court has been able to recognize party autonomy within the ambit of several rulings even with respect to public sector enterprises. For instance, the Court underscored party autonomy by stating that two Indian parties can select a foreign seat of arbitration. Yet, autonomy is never absolute, and its exercise is limited by statute and public policy. Thus, the judiciary finds harmony between granting autonomy to parties in the resolution of their disputes and the public policy requirements stemming from insolvency and tax laws.

Expert Perspectives on Striking the Right Balance Between Regulation and Autonomy

Experts in insolvency and tax law never fail to stress the necessity of achieving a fine balance between regulatory intervention and the autonomy of stakeholders.⁴¹ The intention is to ensure that the one party to an agreement is given sufficient freedom to negotiate and structure his affairs, provided that his freedom will not adversely affect the collective objectives of the legal framework-maximization of the value of assets, timely conclusion, and equitable treatment of stakeholders. This tension is especially pronounced in insolvency: while the creditor and debtor want freedom in negotiating terms, nonetheless systemic predictability and fairness call for a level of standardization and control.

The IBBI now seeks to put in place a framework for voluntary mediation to settle disputes under the IBC in an artful combination of formal institutions with interest-based dispute resolution. Really a facilitative approach, mediation supports party autonomy-the stakeholders create their own mutually acceptable solution outside adversarial litigation or over rigid timelines imposed by procedures. However, if mediation is institutionalized as part of the IBC, then IBBI is assuring that such negotiation will take place under a structure that guarantees the

⁴⁰ *Booz Allen & Hamilton Inc v SBI Home Finance Ltd*, (2011) 5 SCC 532 (SC).

⁴¹ D K Prahlada Rao, 'Role & Responsibility of Insolvency Professionals Under The CODE-An Analysis' (September 2016), [https://icsiip.in/panel/assets/images/research_articles/16331692499424Articles%20\(Sep,%202016\).pdf](https://icsiip.in/panel/assets/images/research_articles/16331692499424Articles%20(Sep,%202016).pdf) (last visited Apr. 14, 2025).

overriding objectives of the code, such as transparency, accountability, and the preservation of economic value.

This endeavour conforms to international best practices whereby hybrid approaches-meaning integrating regulation and self-regulation-are now increasingly perceived to be highly effective in complex commercial disputes. By backing voluntary mediation, IBBI is thereby creating grounds for the understanding of mediation as an efficient and effective means while preserving the view that sustainable insolvency resolution is best achieved through consensus and balance.⁴²

ADR AS A POLICY TOOL IN INSOLVENCY AND TAXATION: BENEFITS, DRAWBACKS, AND IMPLICATIONS

Efficiency, Cost-Effectiveness, and Timeliness

One main benefit of using ADR techniques with insolvency proceedings or tax disputes is speed when compared to a conventional court setting. ADR mechanisms, like mediation or arbitration, can greatly compress the time required to achieve a resolution. Furthermore, ADR is somehow cheaper than ordinary means of litigation, thus saving too much on legal costs and costs of procedures. In insolvency, mediation can help to fast-track any delays that may have afflicted the CIRPs while in taxation; ADR provides a fast lane for conflict resolution outside the lengthy appellate arena. Some studies put mediation at a much cheaper cost than the usual court litigation.

Confidentiality and Stakeholder Relationships

ADR guarantees confidentiality of the proceedings, a valuable feature particularly in sensitive insolvency and tax matters where public disclosure may be harmful. This privacy may protect the reputations of companies undergoing restructuring while also keeping sensitive financial information secure. Further, collaborative methods of ADR like mediation aim for amicable settlements and help protect relationships between opposing parties. This is especially

⁴² NITI Aayog, Designing The Future of Dispute Resolution The ODR Policy Plan for India March 2023, <https://www.niti.gov.in/sites/default/files/2023-03/Designing-The-Future-of-Dispute-Resolution-The-ODR-Policy-Plan-for-India.pdf> (last visited May. 19, 2025).

important in insolvency for establishing cooperation among creditors, while in matters of tax disputes, it helps maintain goodwill for the taxpayer.⁴³

Enforceability and Judicial Intervention

The summary of the Arbitral awards under “the Arbitration and Conciliation Act” provides for their enforceability as law with binding effect upon the dispute. With the Mediation Act, 2023, coming into effect, mediated settlement agreements also get legal recognition and enforceability under the proposed legislature fitting under the IBC. This provides the necessary support for resolution provided under ADR mechanisms⁴⁴. Nevertheless, the threat of excessive judicial intervention into ADR processes, particularly arbitration, remains a great concern whereby such intervention may hamper the efficiency and finality that ADR seeks to provide.

Navigating the Challenges of Ensuring Fairness and Expertise in ADR

A core challenge in making effective use of ADR in insolvency and tax disputes is finding trained and competent arbitrators or mediators with the necessary expertise in these special legal and economic domains: quality and competence in ADR personnel directly affect the effective fairness of the process. In the case of insolvency, financial restructuring is so complicated and specialized that the mediators need to possess requisite skills; however, it has been noted that the necessary experts are few. Such is the case often with tax disputes as legal and accounting aspects of these usually require special knowledge. ADR processes must also counterbalance possible power imbalances between parties in an insolvency case involving many creditors or between a taxpayer and the state to ensure fairness in outcomes. Fairness and transparency in the selection and conduct of ADR processes are also part of the requirements in view of integrity and credibility for these mechanisms.

⁴³ Vasanth Rajasekaran and Harshvardhan Korada, 'Confidentiality in Arbitration: Legal and Practical Challenges in India', SCC Online (July 30, 2024), <https://www.scconline.com/blog/post/2024/07/30/confidentiality-in-arbitration-legal-and-practical-challenges-in-india> (last visited May. 19, 2025).

⁴⁴ Vasant Rajasekaran and Harshvardhan Korada, 'Enforcement of Arbitral Awards in India: An Analysis of Potential Issues and Strategies for Success', SCC Online (April 2, 2024), <https://www.scconline.com/blog/post/2024/04/02/enforcement-of-arbitral-awards-india-analysis-potential-issues-strategies-for-success/> (last visited May. 19, 2025).

RECOMMENDATIONS AND THE WAY FORWARD FOR TAX AND INSOLVENCY DISPUTES

The use of ADR in the insolvency and tax disputes must be taken further into instrumentality in India with the carrying out of certain policy interventions. The government must also continue to make the Act stronger by clarifying the application of the Mediation Act, 2023, in insolvency proceedings and by considering amendments to the tax laws for explicit arbitration in certain specified categories of tax disputes, particularly those involving commercial contracts and valuation aspects. Institutional frameworks related to ADR would also need all this, including increased funding and infrastructure improvements and the development of specialized training for their arbitrators and mediators on the areas of insolvency and tax law. Awareness campaigns focused on businesses, lawyers, and the public would be instrumental in promoting the process of out-of-court settlement very much⁴⁵.

Enhancing party autonomy while overcoming the statutory hurdles is quite a delicate balancing act. There must be fair amount of flexibility in respect of the selection of ADR methods and their procedures. Hence, guidelines on the scope or types of disputes in insolvency that could be subjected to arbitration during moratoriums might be very helpful. In the area of tax disputes, the possibility of allowing arbitration for some categories of disputes should be explored, if there are appropriate safeguards to ensure the protection of public revenues. Initiating ODR platforms will boost the efficiency and access to ADR, particularly for small disputes and distant areas. Development of a general standard must be coordinated to cover universally application in terms of ODR process while ensuring security of ODR processes and confidentiality⁴⁶.

CONCLUSION

The development of Alternative Dispute Resolution (ADR) mechanisms in India specifically in the narrow and highly regulated contexts of insolvency and taxation signifies a significant change in India's legal and economic architecture. As litigation processes continue to be burdened by systemic delays, cost concerns, and procedural complexities, the rise of ADR

⁴⁵ Press Information Bureau, Initiatives and reforms in arbitration, mediation and dispute resolution (20 March 2025), <https://www.pib.gov.in/PressReleaseIframePage.aspx?PRID=2113223> (last visited May. 19, 2025).

⁴⁶ Aishni Kalra & Rishabh Mehta, The Battle for Balance: Party Autonomy and Procedural Integrity in Arbitration, RSRR (Mar. 10), <http://rsrr.in/post/the-battle-for-balance-party-autonomy-and-procedural-integrity-in-arbitration> (last visited May 19, 2025).

reflects a growing consensus that our justice delivery system must improve in both efficiency and in terms of participatory and outcome-oriented processes.

ADR provides unique benefits such as speedy, cost-effectiveness, privacy, procedural flexibility, and fostering collaboration rather than adversarial engagement. These benefits are particularly pertinent to insolvency and tax disputes as disputes often arise out of complex intertwining financial relationships, a number of stakeholders, and long-term financial consequences. Mediation and arbitration, especially where appropriately structured and supported, can relieve the courts, improve dispute resolution, and protect necessary business relationships and fiscal compliance.

Nonetheless, both insolvency and tax law are grounded in collective and sovereign interests that must be delicately balanced to honour the regulatory objectives, as this may impact the autonomy of the individual party. In the case of insolvency, the reflection of moratoriums under the IBC highlights some of the limitations for arbitration, highlighting the collective interest of the creditor and debtor, and how it is subsequently viewed as part of a collective process. In consideration of the recent case law and the IBBI's proposal to initiate a voluntary mediation framework in 2024, this is a pathway to hybrid dispute resolution.

Taxation presents an even more complicated hurdle. Recognized as a non-arbitrable sovereign function in the past, taxation disputes have historically been excluded from formal ADR⁴⁷. However, in a global landscape where best practices espoused by OECD and adopted by those in the UK, US, and EU, it is reasonable to argue that as a first step, ADR could be selectively and intentionally situated within a tax-related dispute, in the context of international taxation, transfer pricing, or treaty obligations. India has recently acknowledged advance ruling clarification, struck taxpayer-friendly settlement programs, and suggested arbitration under the Union Budget 2025 updates, showing a slow but deliberate displacing of policy.

Ultimately, the future of ADR in insolvency and taxation will rely not only on reform to the legal framework for these forms of resolution, but also on developing institutional capacity, public awareness, and professional skill. Trained mediators and arbitrators with sufficient domain knowledge in areas of financial restructuring, corporate governance, tax law, and

⁴⁷ Tarun Jain, Tax Arbitration in India: Scope and Trends, SCC Online (Mar. 5, 2024), <https://www.sconline.com/blog/post/2024/03/05/tax-arbitration-in-india-scope-and-trends/> (last visited May 19, 2025).

commercial practice would be required to be able to ensure ADR processes would provide fair, enforceable, and credible outcomes. Also, using Online Dispute Resolution (ODR) and having systems designed for ADR, especially in low-value or repetitive cases, may assist with public access to justice in remote and underserved areas⁴⁸.

Realizing the full potential of ADR in these complicated areas will take a concerted collaborative approach involving, legislative definition, judicial backing, administrative facilitation, and stakeholder education. While fundamentally, the notion of party autonomy must be engaged with in a setting that provides equity, transparency, and safeguards against the public interest. Regulators like IBBI, and tax agencies must undertake reform to make ADR institutional in nature and avoid undermining the insolvency or tax event ecosystem.

In conclusion, the deliberate integration of ADR into India's insolvency and tax law is indicative not just of procedural reform but also represents a significant shift towards a more modern, efficient, and inclusive legal system. If implemented with care, ADR could provide not just better dispute resolution outcomes but also improved confidence in India's investors and business environment and a genuine contribution to the rule of law in India's modernizing, democratizing and developing economy.

⁴⁸ Justice (Retd.) AK Sikri, THE NITI AAYOG EXPERT COMMITTEE ON ODR, DESIGNING THE FUTURE OF DISPUTE RESOLUTION THE ODR POLICY PLAN FOR INDIA' (2023).