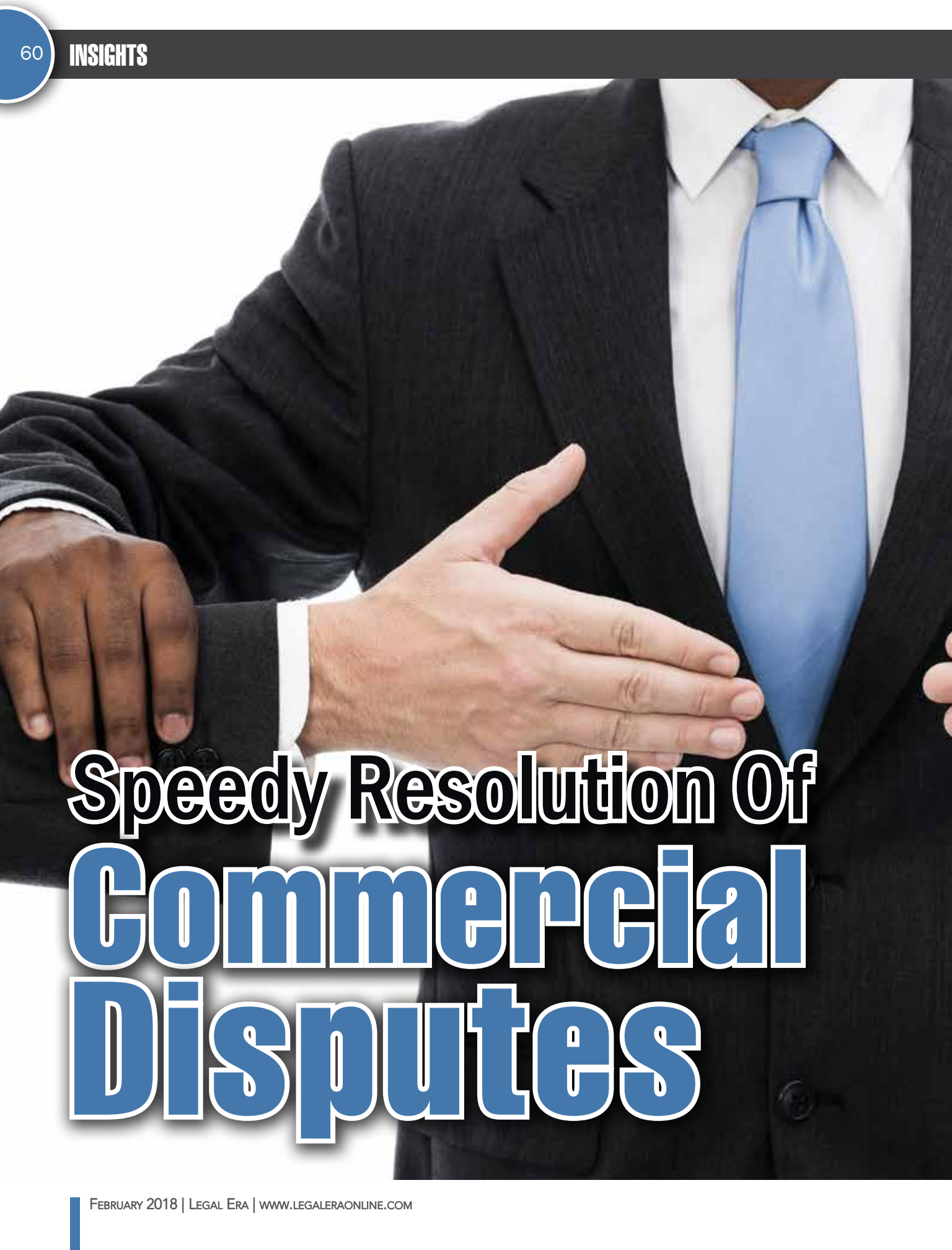




Speedy Resolution Of Commercial Disputes



The enactment of the Commercial Courts Act is a step in the right direction in enabling speedy disposal of commercial disputes of specified value



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Determined to bring about a positive change in the international perception about the Indian justice delivery system by creating an environment for swift disposal of commercial disputes¹, the Indian Government has enacted the Commercial Courts, Commercial Division and Commercial Appellate Division of the High Courts Act, 2015 (the “Commercial Courts Act”). As per the Commercial Courts Act, to resolve commercial disputes wherein the specified value of the subject matter is not less than one crore rupees², the State Governments will establish Commercial Courts³ at the district level and the Chief Justices of the High Courts will establish the Commercial Division⁴ and the Commercial Appellate Division⁵ in their respective High Courts. Pursuant to the Commercial Courts Act coming into force, various State Governments and the Chief Justices of the High Courts have established the required legal framework for the adjudication of commercial disputes. Recently, on November 29, 2017, the Chief Justice of the Madras High Court issued a notification constituting the Commercial Division and the Commercial Appellate Division comprising two Division Benches, one in Madras and the other in Madurai.

Post constitution of Commercial Court, Commercial Division, and Commercial Appellate Division

Consequently, all civil suits, where the subject matter is a commercial dispute of specified value, to be filed afresh or pending (excluding those reserved for judgment prior to the constitution of Commercial Courts and Commercial Division) before the Courts at the district level or a High Court having original jurisdiction will stand transferred to the jurisdictional Commercial Court or Commercial Division⁶. Similarly, applications and appeals arising out of international commercial arbitration (except matters relating to the appointment of arbitrators) and domestic arbitration, where the subject matter is of specified value and filed in the original side of a High Court under the provisions of the Arbitration and Conciliation Act, 1996 (“Arbitration Act”), will be heard and disposed of by the Commercial Division of the jurisdictional High Court. Applications and appeals arising out of domestic arbitration of specified value that would lie before the principal Civil Court of original jurisdiction in a district will be heard and disposed of by the jurisdictional Commercial Court.

The Commercial Appellate Division set up in each High Court will adjudicate appeals that may arise from: (i) orders of the Commercial Courts, (ii) orders of the Commercial Division, and (iii) appeals arising from

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domestic and international arbitration matters that are filed before a High Court.

Timelines, a key aspect

In addition to providing for the constitution of separate Commercial Courts and Commercial Divisions and Commercial Appellate Divisions as well as appointing judges who have experience in dealing with commercial disputes, the Commercial Courts Act specifies strict timelines for conduct of cases to ensure the speedy resolution of commercial disputes. The provisions of the Code of Civil Procedure, 1908 (“C.P.C.”) applicable to commercial disputes stand amended in the manner as specified in the Schedule⁷ to the Commercial Courts Act.

On failure to comply with the specified timelines, the defaulting party will now face serious repercussions. Key timelines specified in the said Schedule are as follows:

Written statement: A written statement⁸ must be filed by the Defendant within *thirty days* from the date of receipt of the suit summons. However, the Defendant can, with the leave of the Court and on payment of cost, file a written statement within *one hundred and twenty days* from the date of receipt of the suit summons. Failure to do so will result in the Defendant forfeiting the right to file a written statement.

Inspection of documents: Parties to proceedings must complete the inspection⁹ of documents disclosed by either side within a period of *thirty days* from the date of filing of the written statement or written statement to the

¹ Section 2 (1)(c) of the Commercial Courts Act. ² Section 2 (1)(i) of the Commercial Courts Act. ³ Section 2 (1)(b) r/w section 3(1) of the Commercial Courts Act.

⁴ Section 2 (1)(d) r/w section 4(1) of the Commercial Courts Act. ⁵ Section 2 (1)(a) r/w section 5(1) of the Commercial Courts Act. ⁶ Section 15 of the Commercial Courts Act. ⁷ Section 16 of the Commercial Courts Act. ⁸ Order VIII (1)(i) of C.P.C. ⁹ Order XI (3) of C.P.C. ¹⁰ Order XI (4) of C.P.C. ¹¹ Order XIII-A and Order XV-A of the C.P.C.

¹² Order XX of C.P.C. ¹³ Section 13 of the Act

counterclaim, whichever is later. However, the Court upon application by either party may extend the aforementioned time limit for the inspection of documents by a further period of *thirty* days.

Admission and denial of documents: Parties to proceedings must submit their statements¹⁰ of admission/denial of all disclosed documents within *fifteen* days of completion of the inspection.

Summary judgments and case management hearing: Through a key amendment to the C.P.C., the Commercial Courts Act has ushered in specific provisions for summary judgment and case management hearing¹¹ for speedy adjudication of commercial disputes. Pursuant to the introduction of the case management hearing, the trial and arguments must be completed within *six* months from the date of the first case management hearing.

Judgment: The Commercial Court, Commercial Division, and Commercial Appellate Division must pronounce the judgment¹² within *ninety* days of the conclusion of arguments by parties.

Appeals: An appeal¹³ against the decision of the Commercial Court or Commercial Division must be filed before the Commercial Appellate Division of the jurisdictional High Court within *sixty* days from the date of the impugned judgment or order. The Commercial Appellate Division will endeavor to dispose of such appeal within six months from the date of filing the appeal.

Conclusion

The enactment of the Commercial Courts Act is a step in the right direction in enabling the speedy disposal of commercial disputes of specified value. The fact that the State Governments and Chief Justices of the High Courts have either established or are in the process of establishing a legal framework really gives teeth to the Commercial Courts Act. With the constitution of separate Commercial Courts, Commercial Divisions, and Commercial Appellate Divisions, together with the appointment of judges experienced in commercial disputes and most importantly with strict timelines and grave repercussions on failure to comply with such timelines, the Commercial Courts Act is a much-needed shot in the arm for the resolution of commercial disputes through Courts.



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