

PAPER REPORT



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Dispute settlement too goes pvt

Arbitration & Mediation Centre Claims To Have Solved 30 Disputes So Far

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WHEN the managing director of Koluthara Exports contested a defective sea food consignment procured from his supplier, he choose the alternative dispute resolution (ADR) route to come to an settlement. Therein finding an alternative to what would have been a long drawn and expensive legal battle.

"The case, which otherwise would have languished in the court for several years was settled quickly," says Mr Antony Verghese Koluthara, MD at Koluthara Exports, who took the dispute to arbitration and mediation centre (AMC), an institution for alternative dispute resolution, which claims to be the first of its kind in the private sector.

Besides the time—a mere two months to resolve the dispute—Mr Koluthara says that his company saved Rs 2 lakh-



plus, which otherwise would have gone towards legal charges and court fees.

With courts in India being inundated with pending cases, the emergence of ADR institutions like AMC is a welcome trend, say legal experts, adding that ADRs are the preferred route to settle litigations

he claims, have been resolved since AMC came into being a year ago.

Real estate developers, private financiers and marine food exporters are the profile of clients that AMC has catered to. AMC that started off in Kochi, today has offices in Bangalore, Chennai and Hyderabad, and is keen to expand to other parts of the country as well.

Litigants who take their dispute through the entire legal chain, from munsiff to the Supreme Court spend considerable amount in court fees alone.

Depending on the state, court fees at every stage varies between 4-7% of the claim amount. Compared to this, the arbitrator fee and the administrative expenses in AMC is around 6%, he says.

Mr Xavier says that AMC offers all forms of dispute resolution like negotiation, conciliation and mediation and arbitration, which operate under set rules and procedures. In

several countries like the US, UK and Canada. In India too, although arbitration bodies like Indian Council of Arbitration, the Bengal Chamber of Commerce are present, private enterprises for resolving disputes are negligible, say legal professionals.

Ad hoc arbitration (outside institutional framework) is not gaining ground due to lack of accredited arbitrators, proper arbitration rules not being followed and discretionary arbitration fees charged, they say.

According to former chief justice of India, M N Venkatachaliah, arbitration institutions are effective, speedier and cheaper alternative. Arbitral alternative can do immense amount of work, he says, pointing out to intra institutional arbitration mechanisms that have successfully existed in several sectors of business in the country, which have significantly shrunk the number of litigations.

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addition to a panel of legal professionals, AMC offers arbitrators from diverse professions like medical, engineering and accounting giving litigants a choice of arbitrators.

The list includes two retired chief justices, judges and advocates, doctors and engineers. Mr B K Somashekara, former judge at high courts of Karnataka and Andhra Pradesh, says that the new Arbitration and Conciliation Act, 1996, has recognised the role of institutions in promoting and organising arbitration. Arbitration results are legally binding. According to him, award under this Act will be enforced under the Civil Procedure Code in the same manner as it were decree of the court. Any commercial dispute is amenable to arbitration, he adds.

He says that there is infinite scope in India for arbitral justice system and that ignorance of the benefits of arbitration has checked the growth of alternative dispute resolution mechanism.

Continuity to depend on quality

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He cites the example of arbitration mechanism present among the share broking community, and kirana merchants among others as example.

He says that though the time is right for concerns like AMC to enter the dispute resolution business, their continuity will depend on the quality of service they provide and their credibility.

Mr Anil Xavier, an administrator at AMC—started by a group of advocates amongst others—says that response so far has been very encouraging. Over 30-plus disputes,