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The Companies Act, 2013 has provided various new definitions and new provisions which did not exist in the erstwhile Companies Act, 1956. Such new concepts have been introduced in view of the global corporate governance trends and to make the Companies accountable for their stakeholders.

InSync in this edition aims at explaining the latest notification passed by the Ministry of Labour and Employment and the pro-arbitration Supreme Court judgement.

Hassle-free Maintenance of Registers under Labour Laws

In today's progressive business environment, the labour ministry has provided another relief to the manufacturing sector by simplifying the procedures in relation to the maintenance of registers under various labour laws prevalent in India. Ministry of Labour and Employment on 21st February, 2017 has notified the Ease Of Compliance To Maintain Register Under Various Labour Law Rules, 2017 (“**Rules**”)

Scope of the Rules

Before these Rules were introduced, the employer was under an obligation to maintain around 56 (Fifty Six) registers under 9 (nine) central laws. These requirements have been waived off and the Rules have combined the maintenance of 56 (Fifty Six) register into 5 (Five) registers as specified in the Schedule of the Rules. As per these Rules, following registers maintained by the employers needs to be consolidated:-

1. Employee Register
2. Wage Register
3. Register of Loans and Recoveries
4. Attendance Register
5. Register of Rest/Leave/Leave Wages(to be maintained under the Mines Act, 1952, Sales Promotion Employees (Conditions of Service) Act, 1976 and Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955)

If the registers were already maintained in electronic format then the layout and presentation of the register should be adjusted without changing the integrity, serial

These Rules shall come in force from 21.02.2017

These Rules have combined the maintenance of 56 Registers into 5 Registers as specified in the Schedule of the Rules

Such Registers can now be maintained electronically as well

These Rules promise to make the labour compliance process a lot more simpler, cheaper and transparent

number and contents of the column of the register. These Registers can also be maintained electronically.

Conclusion

The maintenance of these combined registers would lead to sharp reduction in cost as well as reduce the compliance burden on the employer. Further these Rules shall make the process of compliance, maintenance and inspection of registration simpler and the information provided by the employer shall be available in public domain thereby increasing transparency while reducing costs.

This Judgement is being considered as a pro-arbitration judgement as it upholds the validity of foreign arbitral awards.

The Supreme Court has held that Part of the arbitration act can be excluded even by the actions and conduct of the parties

The Court held that the choice of institutional arbitral rules and the consequent choice of seat by the arbitral institution can operate as exclusion of Part 1 of the Act.

This judgment promises relief to parties whose contracts date back to the pre-BALCO era

India Supreme Court upholds choice of Foreign Seat by an Arbitral Institution

The Apex Court of the country has in the matter of *IMAX Coporation Vs. E-City Entertainment Pvt. Ltd.* upheld the validity of a Foreign Seat chosen by an Arbitral Institution. The Experts of the field have been finding this judgement as a pro-arbitration one.

Background of the Case

The Indian Supreme Court in the aforesaid case considered whether to maintain a petition challenging a foreign award under Section 34 of the Arbitration and Conciliation Act, 1996 (the Act) in India, under the pre-BALCO regime, which permits challenges to foreign awards in India unless the parties have expressly or impliedly excluded the operation of Part I of the Act.

The Court held that the choice of institutional arbitral rules (ICC Rules in this case) and the consequent choice of seat by the arbitral institution (London) operated as exclusion of Part I of the Act, thereby ousting the jurisdiction of Indian Courts to maintain and entertain a challenge to the foreign award.

Takeaways from the Judgement

- a) An arbitral institution's choice of seat, made in consultation with parties, was upheld as a valid and binding choice of seat in the absence of an express choice of seat.
- b) This was recognized as exclusion of Part-I of the

Arbitration and Conciliation Act, 1996 (the Act), for arbitration agreements entered into prior to the judgement of the Supreme Court in *BALCO v. Kaiser Aluminum*.

c) The decision is of particular interest as it relates to the pre-BALCO regime which has long been considered as a regressive regime in Indian arbitration.

Conclusion

This judgement promises relief to parties whose contracts date back to the pre-BALCO era where choice of seat remains absent, while choice of arbitral institution remains alive. If the chosen institutional rules contain provisions for designating the seat of arbitration, the parties will be in a position to exclude the operation of Part I of the Act where foreign seat is chosen by the arbitral institution. This will save the parties from potential situations where foreign awards might be amenable to challenge before the Indian courts.

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AMC Law Firm, Advocates & Solicitors
B-30, LGF, Lajpat Nagar 3, New Delhi - 110024 India
Phones: 91-11-41354354, 41078082
Fax : 91-11-29841673
E-mail: info@amclawfirm.com

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