



**Latest trends under the
Commercial Courts Act, 2015
and how far has the Act been
successful in achieving its
objectives**

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Introduction- Objects and Reasons

- The Commercial Courts Act, 2015 was enacted to remedy the lacuna of inordinate delays and it came into force on October 23, 2015.
- The purpose of enactment-
 - Improving India's rank under the "Ease of Doing Business" Index
 - Speedy, convenient and efficient dispute resolution
 - Growth of FDI and public-private partnership
 - Strong and responsive legal system
 - Procedure for quick resolution and summary judgments

Jurisdiction

- Section 3(1A): State Government may specify pecuniary value which shall not be less than three lakh rupees.
- Section 3(2): State Government may specify local limits of jurisdiction
- West Bengal - Commercial Division – Notification dated March 20, 2020:
 - at Siliguri, Asansol, Alipore and Rajarhat- not less than Rs. 30 lakhs
 - within the territorial jurisdiction of city civil court - not less than Rs. 3 lakh and not more than 30 lakh
 - at High Court, concurrently with the City Civil Court- exceeding Rs. 10 lakh but not exceeding Rs. 1 crore
 - at High Court- exceeding Rs. 10 lakh

What is a commercial dispute?

❑ Section 2(c): dispute arising out of any of the kinds of transactions listed from sub-clauses (i) to (xxii):

- transactions in relation to merchants, bankers, financiers and traders.
- Issues relating to admiralty and maritime law
- Partnership agreements
- Insurance and re-insurance

❑ The Courts have warned against giving a liberal interpretation that may have the effect of defeating the object of the Act.

- *Ambalal Sarabhai Enterprises Ltd. vs. KS Infraspace LLP*
- *Jagmohan Behl vs. State Bank of Indore*

Transfer of pending cases

Section 15

- Transfer of applications that are already pending; to the commercial division;
- if it relates to a commercial dispute of a specified value;
- including applications under the Arbitration and Conciliation Act, 1996.

All pending suits and applications relating to a commercial dispute of a specified value shall be transferred to a Commercial Division.

Provisions shall apply to the procedures that were not complete at the time of transfer under such suit.

No transfer of a suit filed in the Commercial Division to any other Court.

A suit transferred u/s 15 has to be considered as the continuation of the old suit.

Amendments brought into the CPC

Section 16 of the Commercial Courts Act elaborates the amendments to the Code of Civil Procedure, 1908 in its application to commercial Disputes.

Section/Order	Before Amendment	After Amendment
Order V, Rule 1(1): Written Statements	Written statement in response to the summons issued- within 30 days or 90 days.	Written statement within 30 days or 120 days. On expiry of 120 days, the defendant's right to file written statement will be forfeited.
Order VII Rule 2: Plaint	In cases of recovery of money - state the precise amount claimed or approximate value.	Insertion of Rule 2A- Where interest is sought in the suit In case of interest, the plaint shall contain a statement to that effect - in relation to a commercial transaction within section 34 of CPC.
Order VIII, Rule 1: Written Statement	Written statement within 30 days or 90 days.	Written statement within 30 days or 120 days. On expiry of 120 days, the defendant's right to file written statement will be forfeited.

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Section/Order	Before Amendment	After Amendment
Order XI: Procedure for disclosure, discovery and inspection of documents before the Commercial Courts	Procedure for discovery and inspection of the facts of the suit through interrogatories.	<p>Included disclosure, along with discovery and inspection of documents.</p> <p>Parties required to file a list of documents at the stage of filing of plaint/written statement, specifying about the possessor.</p> <p>Parties not allowed to rely on any documents other than the ones mentioned in the list without leave of the Court.</p>
Order XIII-A: Summary Judgements	There was no provision of summary judgement before amendment	<p>Summary judgment is given by the court without recording oral evidence when there is no compelling reason for recording.</p> <p>An applicant may apply for summary judgment at any time after summons has been served on the defendant.</p> <p>Such application will not be entertained after the court has framed the issues.</p> <p>An application for summary judgment shall not be made in a suit originally filed as a summary suit under Order XXXVII.</p>
Order XV-A: Case Management Hearing	There was no provision for case management hearing in Order XV	This allows the Court to make a time line, and fix dates for the proceedings of the matter.

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Section/Order	Before Amendment	After Amendment
Order XVIII, Rule 2: Written Arguments	Any party may address oral arguments, submit written arguments (with court's permission) in support of his case to the Court and such written arguments shall form part of the record.	Parties mandated to submit concise written arguments under distinct headings within 4 weeks of commencement of oral arguments. Further, the revised written arguments may be filed within one week of the conclusion of arguments.
Order XIX: Procedure related to Affidavits (Rules 4, 5 and 6)	No such provision of controlling or rejecting evidences.	Courts empowered to control evidence, permitted to decide the issues which require evidence, and the manner in which such evidence is to be recorded. Discretion to exclude evidence and to redact or reject any affidavits.
Order XX, Rule 1: Time period for pronouncing judgment	No specific provision regarding the pronouncement of judgements.	Judgment must be pronounced within a maximum time period of 60 days/90 days from the date of conclusion of hearings.

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Speedy Resolution of Disputes

❖ *Ladymoon Towers vs Mahendra Investment Advisors*

If the suit does not arise out of a commercial dispute, rigours of 2015 Act would not apply

❖ *SCG Contracts India vs Ks Chamankar Infrastructure*

Filing of the written statement within the stipulated time is mandatory

Substantive rights would have precedence

❖ *Harji Engineering Works vs Hindustan Steelworks*

The process of admission/denial to be cut short where the dispute is very narrow

Burger King vs Techchand Shewakramani

❖ *Bayer Intellectual Property GMBH v. Symed Laboratories*

Expediency and speed to be practised not only till decree but till fruits are reaped

❖ *Nitin Gupta v. Texmaco Infrastructure*

Late filing of documents cannot be allowed under unless good cause has been established

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Section 12A: Pre-institution Mediation and Settlement

The parties must first exhaust the remedy of pre-institution mediation.

➤◆ *M/s. Dhanbad Fuels Ltd. vs. Union of India*: **To encourage party to explore the possibility of settlement and reduce the pendency of commercial litigation in India.**

◆ *Terai Overseas Private Limited vs. Kejriwal Sugar Agencies Private Limited*: **No chance of settlement is not a ground for dispensing the requirement of pre-institution mediation unless urgent relief shown.**

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Statistics

India's rank under the Ease of Doing Business Index among 190 countries in past 5 years –

2021	63
2020	63
2019	77
2018	100
2017	130



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SUCCESS AND GROWTH

Success	Critiques
More than 10,000 disputes settled in Delhi, Mumbai, Kolkata, and Bengaluru.	More than 29,00 pending cases in Delhi, Mumbai, Kolkata, and Bengaluru.
It used to take 1,095 days in trial and judgment of commercial matters, now it takes 306- 424 days to resolve.	India's disability to enforce contracts and resolve disputes.
A jump from rank 142 to 63 in the 'Ease Doing Business Index' Report in the last six years	Commercial Courts can't function as specialized courts because of empty seats and poor strength of Judges
22 Commercial Courts in Delhi, 16 in Maharashtra, 9 in Karnataka, and 8 in Bengaluru.	Lack of infrastructure in States is one of the main points of increasing Commercial disputes.

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THANK YOU

