

## **Arbitration Rules of Institute of Chartered Accountants of India**

### **Rule 1**

(i) These rules may be called the "Arbitration Rules of Institute of Chartered Accountants of India."

(ii) These rules shall apply where parties have agreed in writing that (a) a dispute has arisen or (b) a dispute which may arise between them in respect of defined legal relationship whether contractual or not, shall be settled under the "Arbitration Rules of the Institute of Chartered Accountants of India".

### **Rule 2**

Definitions:

- (i) "Act" means Arbitration and Conciliation Act, 1996.
- (ii) "Arbitral Tribunal" means an arbitrator or arbitrators appointed for determining a particular dispute or difference.
- (iii) "Arbitrator" means a sole arbitrator or a panel of arbitrators appointed in terms of these rules.
- (iv) "Arbitral Award" includes an interim award.
- (v) "Applicant" means the person who makes the application for initiating arbitral proceedings.
- (vi) "Cell" means Alternative Dispute Redressal Cell constituted under Arbitration Rules of ICAI.
- (vii) "Council" means the Council constituted under the Chartered Accountants Act, 1949.
- (viii) "Institute or ICAI" means the Institute of Chartered Accountants of India.
- (ix) "International Commercial Arbitration" means an arbitration relating to disputes arising out of legal relationships, whether contractual or not, considered as commercial under the law in force in India and where at least one of the parties is (a) an individual who is a national of, or habitually resident in, any country other than India; or (b) a body corporate which is incorporated in any country other than India; or (c) a company or an association or a body of individuals whose central management and control is exercised in any country other than India, or (d) the Government of a foreign country.
- (x) "Member" means member of ICAI.
- (xi) "Panel" means the Panel of Arbitrators maintained by ICAI.
- (xii) "Respondent" means the person against whom applicant lodges an arbitration application, whether or not there is a claim against such person.
- (xiii) "Rules" means the Arbitration Rules of ICAI.

## **ALTERNATIVE DISPUTE REDRESSAL CELL**

### **Rule 3**

The Institute shall constitute an Alternative Disputes Redressal Cell (herein after mentioned as Cell) for performing the functions prescribed under these Rules. The Cell shall consist of such members of the Council as Chairman, Corporate and Allied Laws Committee may determine in consultation with the President and will be assisted by such officials as may be determined as required for this purpose from time to time.

## **RULES APPLICABLE**

### **Rule 4- Applicability of Rules**

(a) Any dispute in India or in foreign country, amongst

- (1) Members inter se,
- (2) Members and others,<sup>1</sup>
- (3) Other parties,<sup>1</sup>

relating to any commercial or professional or industrial matters including Intellectual Property Rights in India or in foreign country who have agreed for arbitration under the Arbitration Rules of the Institute shall be determined and settled in accordance with these Rules.

Provided that the parties may incorporate the following clause in the Partnership/LLP agreement:<sup>2</sup>

“Any dispute or difference whatsoever arising between parties in relation to the construction, meaning and operation or effect of this contract or the breach thereof or any other commercial or professional or industrial dispute amongst the parties shall be settled by arbitration in accordance with these Rules and award made in pursuance thereof shall be binding on the parties.” Or

Furnish an undertaking in Form A to settle any dispute arising amongst them through Alternative Dispute Redressal Cell.

- (b) The Cell shall also be competent to administer the conduct of arbitration in any dispute or difference relating to a commercial transaction between parties as mentioned in sub-clause (a) where they have agreed to have their dispute arbitrated under any other Rules and have agreed to have such arbitration administered by the Cell, wholly or in respect of some matters arising out of such arbitration and have agreed to be bound by these Rules.
- (c) In case the parties have provided different procedure for appointment of arbitrator or schedule of cost including the arbitrator's fee, the Cell shall not be bound to process the case unless both the parties agree to follow the entire procedure of arbitration under these Rules.
- (d) The Cell may also function as Appointing Authority as contemplated under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).
- (e) Notwithstanding anything contained in these Rules, the Cell, at its discretion or if the parties agrees to that effect either before or after the arbitration proceeding, may arrange Negotiation, Mediation and Conciliation to settle the dispute and failing of which the dispute may be referred to the arbitration under these rules

#### **Rule 5 – Applicability in case of foreign party**

If one or both of the parties to a dispute which is referred to arbitration by the Cell belong to a country or countries other than India, in the absence of an agreement by the Parties on the substantive law to be applied, it will be determined by the Arbitral Tribunal. The procedural law shall be the laws of India.

#### **INTERPRETATION OF THE RULES**

#### **Rule 6**

The decision of the Cell on any question relating to interpretation of these rules or any procedural matter there under shall be final and binding on the parties.

#### **PANEL OF ARBITRATORS**

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<sup>1</sup> Initially the Cell will settle disputes of members interse and after gaining more experience, development of a panel and streamlining systems and procedures, will be made applicable to these categories. The Rules have been drafted comprehensively for the sake of clarity at this stage itself.

<sup>2</sup> It is proposed that Form 18 may be amended to include a Clause that “Whether the arbitration clause in terms of Arbitration Rules of ICAI has been agreed to among the partners”.

### **Rule 7- Qualification of Arbitrator**

A Panel of Arbitrators shall be maintained by the Cell from amongst the Members who have qualified Certificate Course on Arbitration conducted by the Institute and have a post qualification experience of 20 years in practice or in employment and are willing to act as arbitrators generally or in specific fields and agree to abide by the code of ethics for Arbitrators.

All the members of the Panel will carry equal status and parties will not have any right to challenge the appointment of the arbitrator on the ground that its nominee arbitrator has higher status than the Presiding Arbitrator.

### **Rule 8- Cell to maintain list of Arbitrator**

The Cell shall maintain an up-to-date Panel of Arbitrators together with adequate information as to their qualifications and experience. Separate lists of arbitrators included in the Panel may be kept and maintained for disputes in general and for each of the fields of international trade and/or business transactions. The Cell shall host the Panel on the website of the Institute and shall update the Panel periodically.

### **Rule 9- Disqualification**

The Cell may at any time delete the name of any person from the panel when:

- (1) he ceases to be the member of Institute,
- (2) where he is found to act contrary to these Rules and directives if issued under these Rules,
- (3) where he has failed to comply with code of ethics for arbitrators.

## **DUTIES OF THE CELL**

### **Rule 10**

- (i) The Cell shall receive applications, payment of fees and deposits, appoint, in consultation with the Chairman of the Cell, or in his absence or otherwise in consultation with the other members of the Cell designated by him, an arbitrator or arbitrators as hereinafter provided.
- (ii) The Cell shall also receive all communications made to the Arbitral Tribunal by the parties and communicate to them the orders and directions of the Arbitral Tribunal.
- (iii) The Cell shall keep a register of applications made to the Cell and of awards made by the Arbitral Tribunal.
- (iv) The Cell shall keep such other books or memoranda and make such other records or returns as the Cell shall from time to time require and take such other steps as may be necessary to assist such Arbitral Tribunal in the carrying out of its functions.

## **INITIATION OF ARBITRATION**

### **Rule 11- Application Procedure**

- (i) Any Party willing to commence arbitration proceedings under these rules (Applicant) shall give a notice of request for arbitration to the Cell and to the Respondent.
- (ii) The notice of request (application) for arbitration to the Cell shall be accompanied by:-
  - (a) The names and full addresses of the parties to the dispute.
  - (b) Statement of the claim and facts supporting the claim, points at issue and relief or remedies sought with other details of the applicant's case.
  - (c) Original or duly certified copies of the arbitration agreement, any contract or agreement out of or in connection with which the dispute has arisen and such other documents and information relevant or relied upon.
  - (d) Registration fee of Rs. 2,000/-. In case of Members - registration fees of Rs. 1000/-.

- (f) Subject to Rule 12, the Arbitration shall be deemed to have commenced on the day the application for arbitration; registration fee and statement of claim are received in the office of the Cell.
- (g) If any Court or Tribunal or other Authority makes an order directing that arbitration be held under these Rules, in addition to the documents listed in above sub Rules, the order of that Court or Tribunal or other Authority, a copy thereof shall accompany the application for arbitration.

#### **Rule 12 – Discretion of the Cell**

- (a) On receipt of an application for arbitration, the Cell shall have absolute discretion to accept or reject the said application. The Cell shall give reasons for the exercise of its discretion. Before deciding on the acceptability of an application for arbitration, the Cell may ask the parties for further information and particulars of their claims.
- (b) Similarly, if any information or particulars regarding the arbitration agreement furnished by Applicant with the application for arbitration are found to be incorrect or false, at any time subsequently, the Cell shall have a power to reject the application for arbitration.
- (c) Any Party aggrieved by the decision of the Cell, in accepting or rejecting an application for arbitration as above, may apply to the Court for suitable directions.

#### **DEFENCE STATEMENT**

##### **Rule 13**

- (a) On receipt of the application together with the claim statement, the Cell shall send to the other Party (Respondent) a copy of the claim statement and attached documents and ask such other party to furnish within thirty days or within any extended date, a defence statement setting out his case accompanied by all documents and information in support of or bearing on the matter.
- (b) Any communication sent by the Cell under Registered/ Speed Post to the Respondent on the address appearing in the Arbitration Agreement/the contract between the parties, as per the information supplied to the Cell, will be deemed to be duly served on the Respondent, if it is delivered to the addressee personally or at his place of business, habitual residence or mailing address last known, even if the Respondent refuses to accept the said communication or if it is returned to the Cell by the postal authorities as unclaimed by the said party. The Cell may proceed further with the arbitration proceedings as per the rules as if such communication had been duly served on the concerned party. The Cell may in such cases make an additional communication to the Parties by Registered Letter or by other means, which may provide a record of attempts to deliver it.
- (c) A copy of the defence statement and all appended documents, if any, shall be sent to the Applicant for information.
- (d) The communication is deemed to have been received on the day it is so delivered.

#### **COUNTER-CLAIM AND REPLY TO COUNTER-CLAIM**

##### **Rule 14**

- (a) The Respondent may make a counter-claim against applicant provided the counter-claim arises under the same matter, as the original claim. He must submit the counter-claim with full details supported by all documents and information as in the case of the claim under Rule 11 within the period laid down for the defence statement to the claim and the Applicant may within twenty-one days of the notification of the counter claim or within such extended time submit a statement in reply to the counter-claim. The Arbitral Tribunal appointed to adjudicate upon the original claim shall also adjudicate upon the counter-claim and there will be no change in the number of members of Arbitral Tribunal already constituted on the basis of original claim.

- (b) Copy of the reply of the Applicant to the counter-claim and all appended documents, if any, shall be sent to the Respondent for information.

#### **COPIES OF STATEMENTS ETC.**

##### **Rule 15**

All statements, replies and other documents and papers submitted by the parties and all appended documents must be supplied in triplicate. Where there is more than one arbitrator or more than one opposing party, the parties shall within the time specified furnish to the Cell such number of copies as may be required by the Cell.

#### **CONSTITUTION OF THE ARBITRAL TRIBUNAL**

##### **Rule 16 -**

On receipt of the application for arbitration, the Cell shall take necessary steps to have the Arbitral Tribunal constituted for the adjudication of the dispute or difference as provided hereunder.

##### **Rule 17- Number of Arbitrator(s)**

The number of arbitrators to hear a dispute shall be determined as under:

Amount in Dispute (in Rs.)	No. of Member(s) in Panel
Upto 50 lakhs	1
More than 50 lakhs and upto 5 crore	3
More than 5 crore	5

##### **Rule 18- Manner of Appointment of Arbitrator(s)**

The appointment of arbitrators shall be made in the following manner:

The parties may choose their common arbitrator(s) on the panel of arbitrator from the panel available in the website and in such case they have to accord their consent in the application form, otherwise the following rules are applicable:

- (a) The Cell shall provide the list of Arbitrators out of the Panel of Arbitrators in the following manner:

No. of Member(s) in Panel	No. of Arbitrators provided by the Cell from the Panel
1	5
3	10
5	15

- (b) In case a Sole Arbitrator has to be appointed, the Cell shall, by a notice in writing, call upon the parties to the dispute to forward the order of preference of arbitrators from the list provided by the Cell. The said notice shall specify the period within which the preference shall be made; and which shall not be more than fifteen days from the date of the said notice to the respective parties. The sole arbitrator will be appointed on the basis of matching of such order of preferences. If the parties fail to agree on the person to be appointed as sole arbitrator within the time granted by the Cell, the Cell in consultation with the Chairman and in his absence in consultation with the other member/person of the Cell designated by the Chairman, shall appoint the sole arbitrator from among the Panel of Arbitrators. The sole arbitrator so nominated shall constitute the Arbitral Tribunal to hear the dispute and shall be appointed as such in writing by the Chairman or any other person of the Cell designated by the Chairman. The Cell shall give notice to the Parties of the constitution of the Arbitral Tribunal.

(c) Where the reference is to three or five arbitrators, the Cell shall in the first instance call upon the parties to nominate one arbitrator each from among the Panel of Arbitrators by a notice in writing, sent to them. The said notice shall specify the period within which the nomination shall be made; which shall not be more than thirty days from the date of the said notice to the respective Parties. If a Party to the dispute refuses or neglects to appoint an arbitrator on his behalf within the period specified or if he requests the Cell to nominate an arbitrator on behalf of that party, the Cell in consultation with the Chairman and in his absence in consultation with the other members of the Cell designated by the Chairman shall appoint the arbitrator from the Panel of Arbitrators on behalf of that party. On receipt of the nominations from the respective parties or on the appointment as aforesaid by the Cell, the Cell shall appoint another person as the Presiding Arbitrator of the Arbitral Tribunal in consultation with Chairman and in his absence in consultation with other members of the Cell designated by the Chairman, from among the panel of arbitrators to be additional arbitrator to act as Presiding Arbitrator of the Arbitral Tribunal.

(d) The arbitrators so nominated or appointed shall constitute the Arbitral Tribunal and shall be appointed as such in writing by the Cell. The additional arbitrator appointed by the Cell shall act as Presiding Arbitrator of the Arbitral Tribunal. The Cell shall give notice to the parties of the constitution of the Arbitral Tribunal.

#### **Rule 19- Consent of Arbitrator(s)**

The Cell will obtain the consent from person(s) nominated by the parties. After a person gives his consent for appointment as arbitrator, he will be duly intimated about his appointment to decide the dispute, by a Memo in writing about the constitution of the Arbitral Tribunal. The appointment of the arbitrator will take effect from the date of such intimation about the constitution of the Arbitral Tribunal.

#### **Rule 20- Disclosure of Interest**

Before accepting his nomination the prospective arbitrator shall disclose any circumstances such as financial or personal interest in the outcome of the award, likely to disqualify him as an impartial arbitrator. Upon receipt of such information, the Cell shall disclose it to the parties, who, if willing to proceed under the circumstances disclosed, shall advise the Cell accordingly. If either party declines to waive the presumptive disqualification, the prospective arbitrator shall be disqualified from acting as arbitrator and the vacancy so created shall be filled, in accordance with the applicable provision of these Rules.

#### **Rule 21 – Right to Objection**

Any Party shall have the right to file an objection to the appointment of an arbitrator on receipt of the notice of his appointment for reasons which disqualify the arbitrator. Such objection can be made only within 15 days after his appointment has been communicated to the objecting party or within 15 days of his becoming aware of the reasons for which the objection is made. Copies of the communication of objection shall be sent to the other Parties and the arbitrators. The Cell shall be the sole judge of the grounds of the objection and the decision of the Cell in this regard shall be final and binding on the Parties.

#### **Rule 22 – Termination of mandate and substitution of Arbitrator**

- (a) If any appointed arbitrator resigns or dies or becomes ineligible of acting as such or neglects or fails to act expeditiously, prior to or during the arbitration hearings, or if fails to make the award, the Cell in consultation with the Chairman, may terminate the authority of such an appointed arbitrator and inform him accordingly.
- (b) In case of the resignation or death or termination of authority of an appointed arbitrator under Sub-Rule (a) above, a new arbitrator will be appointed in his place by the Cell, in case the Cell had appointed the original arbitrator. Where the Parties had made the appointment

of the arbitrator, the Cell shall call upon the Parties who had appointed the arbitrator(s), to nominate another arbitrator in his place. If any Party refuses or neglects to nominate an arbitrator within 15 days of the date of notice requiring him to nominate the arbitrator or within such extended time, the Cell shall nominate the arbitrator on behalf of that Party from amongst the Panel of Arbitrators.

- (c) The arbitrator(s) appointed as above will be informed about the reconstitution of the Arbitral Tribunal and the reconstituted Arbitral Tribunal shall make the award expeditiously within the time prescribed under Rule 54 from the date when the reconstituted Arbitral Tribunal enters on the reference. The reconstituted Arbitral Tribunal shall proceed with the arbitration with the liberty to act on the record of evidence and proceedings as then existing or to commence the proceedings de novo.

## **DEPOSITS**

### **Rule 23 - Deposits**

The Cell may require the Parties before passing the case on to the arbitrators under Rule 31, to deposit in advance in one or more installments, such sums of money as it deems necessary to defray expenses of the arbitration including the administrative charges and arbitrator's fee. As a general rule, the deposits shall be called for in equal shares from the Applicant(s) and the Respondent(s). The Arbitral Tribunal may, during the course of the arbitration proceedings or in the arbitration award, require further sums to be deposited by the Parties or any one of them to meet the expenses of the arbitration. When one of the Parties neglects or refuses to make the deposit, the Cell or the Arbitral Tribunal, as the case may be, may require such deposit whether in relation to a claim or a counter-claim, to be made by the other Party to the dispute (Applicant or Respondent as the case may be). Should the whole or part of the deposit be not made by the Parties or any one of them, the Cell shall inform the Parties or the Party concerned that the claim or counterclaim, as the case may be, will not be the subject matter of the reference. The Arbitral Tribunal shall proceed only in respect of those claims or counter-claims for which the deposits have been duly paid to the Alternative Dispute Redressal Cell and otherwise may order the suspension or termination of the arbitral proceedings.

All deposits towards costs and expenses shall be made with the Cell and no payment shall be released to the arbitrators directly by the parties. The deposit made shall be taken into account by the Arbitral Tribunal in apportioning the cost while making the award. Any deposit made in excess shall be refunded to such of parties as the Arbitral Tribunal may direct. The Cell shall have a lien for the arbitral award on any unpaid cost of the arbitration.

## **FEES AND EXPENSES**

### **Rule 24 – Expenses incurred by the Arbitral Tribunal**

The Arbitral Tribunal shall be entitled to allow fees and expenses of witnesses, expenses connected with the selection and carriage of sample and examination of goods, Licensed Measure's Department charges, conveyance, hire, cost of legal or technical advice or proceedings in respect of any matter arising out of the arbitration incurred by the Arbitral Tribunal, and any other incidental expenses and charges in connection with or arising out of the reference or award as the Arbitral Tribunal shall, in its absolute discretion, think fit.

### **Rule 25 – Discretion of the Cell**

The costs of the reference and the award including charges, fees and other expenses shall be in the discretion of the Cell, which may direct to and by whom, and in what proportion, such charges, fees and other expenses and any part thereof shall be borne and paid, and settle the amount of costs to be so paid or any part thereof and may award costs to be paid as between

the authorized representative and the client. In the event, any administrative fees and expenses are due to the Cell, the Arbitral Tribunal may award them in favour of the Cell.

**Rule 26 – Fee(s) Structure**

The fees, costs and expenses incidental to the reference and the award shall include the following:

- (1) Registration Fee  
The Registration fee is Rs. 1,000/-, however, in case of others Rs. 2000/-, shall be payable. The registration fee will not be refunded and becomes the property of the Cell.
- (2) Administrative Fee and Arbitrator’s Fee  
The Administrative fee (of Cell of Institute) and Arbitrator’s fee (for each arbitration) will be fixed separately with regard to the amount in dispute including determined interest in each case, as under:

Amount in Dispute (in Rs.)	Arbitrator’s Fee (in Rs.)	Administrative Fee
Upto 5,00,000	10,000	20% of Arbitrator’s Fee
5,00,001 to 25,00,000	10,000 plus 750 per lac or part thereof subject to a ceiling of 25,000	20% of Arbitrator’s Fee
25,00,001 to 1,00,00,000	25,000 plus 500 per lac or part thereof subject to a ceiling of 62,500	20% of Arbitrator’s Fee
1,00,00,001 to 5,00,00,000	62,500 plus 12,500 per crore or part thereof subject to a ceiling of 1,12,500	20% of Arbitrator’s Fee
5,00,00,001 to 10,00,00,000	1,12,500 plus 10,000 per crore or part thereof subject to a ceiling of 1,62,500	20% of Arbitrator’s Fee
More than 10,00,00,000	1,62,500 plus 7,500 per crore or part thereof	20% of Arbitrator’s Fee

- (3) However in case of disputes amongst other parties, the fees shall be double of the above slab. In case of any dispute in this regard, the decision of the Cell shall be final.
- (4) In addition to the above, the Cell will be entitled to receive a Special Fee of Rs.2,500/- per hearing for providing optional facilities of rooms, for arbitration hearings and secretarial assistance etc. at the arbitration hearing.
- (5) Notwithstanding the provisions in Sub-Rule (2) of this Rule, the Cell/Chairman of the Cell may prescribe the Arbitrator's fees and the Administrative fees of the Cell at a figure higher than those prescribed in the said Sub- Rules, if in the exceptional circumstances of the case this appears to be necessary.
- (6) In case of the Panel, the fees received for the arbitration shall be divided equally amongst the arbitrators.

**Rule 27 – Fees for administrative and other services**

Where the arbitration proceedings under an adhoc arbitration or under the Arbitration rules of any other arbitral organisation or otherwise are administered by the Cell wholly or in respect of some matters arising out of such arbitration, the Cell may charge an appropriate fee for such administration and other services.

**Rule 28 – Application to include claim amount**

The amount of the claim shall be stated in the application by the party applying for arbitration. If the amount is stated in a currency other than the rupee, it shall be converted into Rupees, at the current Reserve Bank of India’ reference rate prevailing at the date of application.

**Rule 29 – Further deposit to be paid by the parties**

Where the sum under dispute is not stated or in arbitration proceedings where the relief claimed is other than a money claim, viz., a declaratory claim, the Cell and the Arbitral Tribunal under Rule 23, may require such deposits as may be deemed necessary to be paid by such of the parties as may be required subject to a later adjustment.

**Rule 30 – Claim amount to include interest**

The amount of interest, wherever specified, will be included in the claim amount for the purpose of calculation of administrative fee. Further, claims and counter-claims referred for arbitration shall be taken into consideration separately for the purpose of calculation of arbitrator as well as administrative fees under Sub Rule 26(2).

**SUBMISSION OF THE CASE TO THE ARBITRAL TRIBUNAL**

**Rule 31 – Cell to submit the case to the Arbitral Tribunal**

The Cell shall send copies of all papers relating to arbitration such as claim statement, defence statement, counterclaims, reply, statements, or other documents received from the parties to the dispute to the Arbitrator/Arbitrators constituting the Arbitral Tribunal under Rule 12,13,14 and 15 with a request to proceed with the arbitration and the Arbitral Tribunal shall be deemed to have entered on the reference on the day on which applications, defence statement, counter-claims, replies, documents, etc. have been dispatched to the Arbitrator/Arbitrators. Intimation shall be given to the Parties of the day on which the Arbitral Tribunal is deemed to have entered on the reference.

If the Applicant does not file all the requisite documents, papers, etc. or does not deposit the appropriate fees as per the Rules after having been given due opportunity for the purpose by the Cell or the Arbitral Tribunal, the Cell or the Arbitral Tribunal may dismiss/close the case on file for lack of perusal by the Applicant. Similarly, if the Respondent fails to produce any requisite documents, papers including the statement of defence or information or fails to deposit administrative fees, or arbitrators fees etc. after having been given due opportunity for the purpose by the Cell or the Arbitral Tribunal, the Cell or the Arbitral Tribunal may proceed further with the arbitration proceedings as per the Rules, notwithstanding such failure or refusal by the Respondent.

**Rule 32 –Joint hearing**

Where there are two or more applications for arbitration by the Cell and the issue involved in the dispute arises out of same matter, the Cell may, if he thinks proper to do so and with the consent of the Parties, fix the hearings of the disputes to be heard jointly or refer the applications to the same Tribunal. The awards, however, shall be given separately in each case.

**NOTIFICATIONS AND/OR COMMUNICATIONS FROM THE CELL**

**Rule 33 – Notification and/or communication from the Cell**

All applications which the parties desire to make to the Arbitral Tribunal and all notices to be given to the Parties before or during the course of arbitration or otherwise in relation thereto shall be made through and sent by the Cell which shall communicate the orders and directions of the Arbitral Tribunal thereon to the Parties.

## **AMENDMENT OF CLAIMS, ETC.**

### **Rule 34 – Amendments of claims etc.**

Amendments of the claim, defence statement, counter-claim or reply submitted to the Arbitral Tribunal must be formulated in writing by the Party so desiring. The Arbitral Tribunal will decide whether such amendments should be allowed or not. The Administrative fee and Arbitrator's fee (for each Arbitration) shall get revised to the extent of increase for such additional claims/counter-claims. The party making such additional claim/counter-claim shall deposit the entire fees payable in respect of such increase of additional claim as set out in the schedule of fees in Rule 26(2).

## **PLACE OF ARBITRATION**

### **Rule 35 – Place of Arbitration**

The place or venue of arbitration shall be India. The Arbitration proceedings shall be held at such place or places in India as the Arbitral Tribunal may determine having regard to the convenience of the Arbitrators and the Parties. In a case in which one or both the Parties are from overseas, the Arbitration proceedings may also be held at any place outside India at the discretion of the Arbitral Tribunal.

## **FAST TRACK ARBITRATION**

### **Rule 36 – Fast Track Arbitration**

The Parties may opt for Fast Track Arbitration and request the Arbitral Tribunal, before the commencement of the arbitration proceedings, to decide the reference in a fixed time frame of 3 months or any other time agreed between the Parties and decided by the Arbitrators, according to the Fast Track Arbitration procedure, as under:

- (1) The Arbitral Tribunal will be authorized to decide the dispute on the written pleadings, documents and written submissions filed by the Parties without any oral hearings.
- (2) The Arbitral Tribunal shall have power to call for any further information/clarification from the parties in addition to the pleading and documents filed by them.
- (3) An oral hearing may be held if both the parties make a joint request or if the Arbitration tribunal considers an oral hearing necessary in any particular case.
- (4) If an oral hearing is held, the Arbitral Tribunal may dispense with any technical formalities and adopt such procedure as it deems appropriate and necessary for economic and expeditious disposal of the case.

## **PROCEEDINGS OF THE TRIBUNAL**

### **Rule 37 – Appearance of Party (es)**

At a hearing, a party shall be entitled to appear by a duly authorized representative and/or personally.

### **Rule 38 – Arbitral Tribunal to proceed in case of failure/neglect of the Party (es)**

The Arbitral Tribunal may proceed with the reference notwithstanding any failure by a party to comply with any of the directions of the Arbitral Tribunal and may also proceed with the arbitral proceedings in the absence of any or both the Parties who fail or neglect to attend at the time and place appointed by the Arbitral Tribunal, in spite of due notice.

### **Rule 39 – Parties to enable Arbitral Tribunal to act expeditiously**

The parties shall do all acts necessary to enable the Arbitral Tribunal to make an award expeditiously and shall not do or cause or allow to be done, any act which will delay the

proceedings or prevent Arbitral Tribunal from making an award expeditiously, and if any party does cause or allow to be done any such act, that party shall pay such costs as the Arbitral Tribunal deems reasonable.

**Rule 40 – Arbitration Session**

The arbitration session will go on as far as possible on a day-to-day basis once the hearing begins after completion of all the formalities. The Arbitral Tribunal shall not ordinarily adjourn a hearing at the request of any party, except where the circumstances are beyond the control of the party and the Arbitral Tribunal is satisfied that reasons and circumstances for the adjournment are justified. While granting an adjournment, the Arbitral Tribunal may make such orders regarding payment of costs by one or both of the parties, as it deems fit and reasonable.

**Rule 41 – Ex- parte proceedings**

If the parties have agreed to submit their case to arbitration under these Rules and any party refuses or fails to take part in the arbitration proceedings, the Arbitral Tribunal may proceed with the arbitration notwithstanding such refusal or absence.

**Rule 42 – Consultation with the experts by Arbitral Tribunal**

The Arbitral Tribunal may at its discretion at any time or times before making the final award and at the expense of the parties concerned, consult any person having special knowledge relating to the particular industry, commodity, produce or branch of trade or services concerned in the reference or any expert or qualified chartered accountant and may also at the like expenses of the Parties, consult solicitors, counsel or advocates upon any technical question of law, evidence, practice or procedure arising in the course of the reference. If the parties agree, the Arbitral Tribunal may, at the expense of the Parties, appoint any expert or chartered accountant to sit with as an assessor and take into account the advice of such assessor.

**Rule 43 – Parties/witness to comply with the requirements of the Arbitral Tribunal**

The Parties to the reference and any witness on their behalf shall, subject to the provisions of any law for the time being in force:

- (a) submit to be examined by the Arbitral Tribunal on oath or affirmation in relation to the matters in dispute.
- (b) produce before the Arbitral Tribunal all books, deeds, papers, accounts, writings and documents in their possession or power respectively which may be required or called for by the Arbitral Tribunal.
- (c) Comply with the requirements of the Arbitral Tribunal as to the production or selection of samples, and
- (d) generally do all other things which, during the pendency of the reference, the Arbitral Tribunal may require.

**Rule 44 – Evidence of Witness**

The Arbitral Tribunal will consider, as far as possible, to receive the evidence of witnesses by affidavit. Provided that the witness whose affidavit is admitted in evidence is made available for cross-examination at the request of the opposite Party, the Arbitral Tribunal may:

- (a) administer oath or affirmation to the Parties or witnesses appearing and giving evidence;
- (b) make or amend any interim award or direction conditional or in the alternative;
- (c) correct any award or directions, any clerical mistake or error arising from or incidental to any slip or omission;
- (d) administer to the Parties to the arbitration such interrogatories as it may consider necessary;
- (e) decide all objections to its jurisdiction including any objection regarding the existence or validity of the arbitration clause or the arbitration agreement, without prejudice to the right of the parties to have the matter decided by the Court of law;

- (f) decide the law governing
  - (i) the contract or the matter in dispute,
  - (ii) the arbitration agreement, and
  - (iii) the arbitration procedure
  - (iv) award interest including pendente lite interest.

**Rule 45 – Arbitral Tribunal to invite parties involving same dispute or question of law**

When substantially the same dispute or questions of law and facts are likely to arise in more than one contract or agreement (Chain Contracts), the Arbitral Tribunal may invite all parties involved to agree to submit to an award in one arbitration between such two or more of the parties as are named for the purpose.

**Rule 46 – Arbitral Tribunal to dismiss the application or make an ex parte award**

- (i) The Arbitral Tribunal may by the award, dismiss the application or claim:
  - (a) if the Applicant does not pursue the arbitration proceedings or file the papers within the time granted; or
  - (b) neglects or refuses to pay the dues or deposits ordered to be paid by the Arbitral Tribunal or the Cell.
- (ii) The Arbitral Tribunal may make an ex parte award:
  - (a) if the Respondent neglects or refuses to appear or make his defence or fails to file the papers within the time granted; or
  - (b) neglects or refuses to pay the dues or deposits ordered to be paid by the Arbitral Tribunal or the Cell.

**Rule 47 - Language**

The language of the arbitration proceedings shall be Hindi/English unless otherwise agreed by the parties. If any documents filed by a Party are in a language other than Hindi/English, the Party filing such documents shall simultaneously furnish a Hindi/English translation of the documents. The Cell may make arrangements for the service of an interpreter at the request of one or more of the parties and costs thereof shall form part of the costs of the reference.

**Rule 48 – Interim Orders/ directions**

The Arbitral Tribunal may issue such orders or directions as it may deem necessary for safeguarding, interim custody, preservation, protection, storage, sale or disposal of the whole or part of the subject matter of the dispute or for its inspection or sampling without prejudice to the rights of the Parties or the final determination of the dispute.

**WAIVER OF RULES**

**Rule 49 – Waiver of Rules**

Any party who proceeds with the arbitration with the knowledge that any provision or requirement of these rules has not been complied with and who fails to state his objection thereto in writing, shall be deemed to have waived his right to object.

**RETURN OF DOCUMENTS**

**Rule 50**

Unless required to be filed in a Court of law, the Arbitral Tribunal shall have full discretion, after one year from making an award, to retain/to return all books, documents or papers produced before it and may direct at any time that the books, documents or papers produced before it or any of them may be returned to the parties producing them on such terms and conditions as the Arbitral Tribunal may impose.

## **AWARD**

### **Rule 51 – Award to be made after notice to the other party**

No award shall be made by the Arbitral Tribunal unless the case of the party applying for arbitration has been brought to the notice of the other party and until after the lapse of such specified time within which he has been asked to submit his defence statement under Rule 13.

### **Rule 52 – Majority Award to prevail**

Whenever there is more than one arbitrator, the award of the majority shall prevail and be taken as the decision of Arbitral Tribunal. Failing a majority, the Presiding Arbitrator of the Arbitral Tribunal alone shall make the award.

### **Rule 53 – Award on settlement of dispute**

Should the Parties arrive at a settlement of the dispute by common agreement before the Arbitral Tribunal and the Arbitral Tribunal is satisfied that such agreement is genuine and not to defeat the purpose of any law, the Arbitral Tribunal shall render an award as per agreement of the Parties. Otherwise, the Arbitral Tribunal shall make the award on the basis of the documents, evidence, etc. filed before it by the Parties.

### **Rule 54 – Time limit for making the Award**

The Arbitral Tribunal shall make the award as expeditiously as possible, but not later than six months, from the date of the reference. On an application by party, a maximum extension of upto 3 months can be recommended by the Arbitral Tribunal. The time limit can be extended only when it is approved by the Cell. If necessary, the maximum limit for making the award may be extended by agreement between the parties to the dispute subject to approval by the Arbitral Tribunal.

### **Rule 55 – Reasons of Award**

The arbitral award shall state the reasons upon which it is based, unless :

- (i) the parties have agreed that no reasons are to be given, or
- (ii) the award is an arbitral award on agreed terms.

### **Rule 56 – Award to state date and place of Arbitration**

The arbitral award shall state its date and the place of arbitration and the award shall be deemed to have been made at that place.

### **Rule 57 – Interim Award**

The Arbitral Tribunal may make or amend an interim award, and may, by an award, determine and order what shall be done by either or any of the Parties, respecting the matters referred.

### **Rule 58 – Signing of the Award**

The arbitrators constituting the Arbitral Tribunal or the Presiding Arbitrator where Rule 52 is applicable, shall sign the award and the Cell shall give notice in writing to the Parties of the making and signing thereof and of the amount of fees and charges payable everywhere in respect of the arbitration and the award.

### **Rule 59 – Cell to furnish copies and make publications**

- (a) When an award has been made, the Cell shall furnish a true copy of the award to the parties by registered/speed post provided the arbitration costs have been fully paid to the Cell by the parties or by one of them.
- (b) The Cell may require either Party to notify it of the compliance with the award.

- (c) The Arbitral Tribunal and the Cell shall assist the parties in complying with any formalities that may be necessary for the enforcement of the award or for other purposes.
- (d) The Cell may print, publish or otherwise circulate any award made under its rules or under its auspices, in any journal, magazine, report, etc. for the purpose of creating arbitration jurisprudence or precedents for the benefit and guidance of future arbitrations. No party to the arbitration shall have any objection to the publication of awards as above provided that the names and addresses of any Party to the dispute will be omitted from such publication and its identity duly concealed if so desired by such party.

**Rule 60 – Additional copies to be made available to parties**

Additional copies of the award, truly certified by the Cell shall be made available only to the parties to dispute, at all times and upon payment as fixed by the Cell on request.

**Rule 61 – Finality of Arbitral Awards**

A party shall in all things abide by and obey the award which shall be binding on the Parties and their respective representatives, notwithstanding the death of any party before or after the making of the award and such death shall not operate as revocation of the submission or reference. To avoid delays and further litigation, the arbitrators/Cell shall ask the Parties to agree that the award made by the arbitrators/s shall be final and binding on the Parties and neither Party shall be entitled to challenge it in the Court of law.

**FILING OF AWARD**

**Rule 62- Filing of the Award**

The Arbitral Tribunal shall at the request of any of the Parties to the proceedings or of any person claiming under a Party or if so directed by the Court and upon payment of fees and charges due in respect of the arbitration and award and of the costs and charges of filing the award, cause the award or a signed copy thereof together with the deposition or documents which may have been taken and proved before it to be filed before the Court.

**Rule 63- Filing fees**

A fee of Rs. 1,000/- plus incidental expenses at actuals in addition to the court fees is payable by the party requiring the award to be filed before the Court.

**STAMP DUTIES**

**Rule 64**

Stamp duties are to be paid by the parties in equal share in all cases in accordance with the scale of stamp duties for the time being imposed by law.

**COPIES OF PROCEEDINGS**

**Rule 65**

No party is entitled, as a right, to copies of proceedings before the Arbitral Tribunal. In case the Cell is required to furnish copies of depositions and/or documents which have been taken or proved before the arbitrator, a charge as demanded by the Cell shall be paid by the party requiring such copies. The arbitrators shall provide copies of all the documents relating to every day proceedings to the Cell.

**Rule 66**

Subject to Rule 50, the Cell shall, upon the written request of a party, furnish to such party at its expense, certified facsimile of any documents filed in the arbitration proceedings.

## **CASES WITHDRAWN**

### **Rule 67**

When the party instituting a case desires to withdraw it before an Arbitral Tribunal has been constituted, the Cell shall return to him any deposits made by him, under Rule 23, after deducting such charges as the Cell might have incurred in connection with the cases. The registration fee, however, shall not be refundable.

### **Rule 68**

If the arbitration is terminated by the act or default of any parties after constitution of the Arbitral Tribunal and before the award is made, any fees, charges and expenses incurred by the Cell shall be paid by the parties in such proportion as per schedule of fees prescribed in these Rules.

## **INDEMNITY**

### **Rule 69**

The Institute, the Alternative Dispute Redressal Cell and the officers of the Institute shall not be liable for any act or omission in whatever capacity they may have acted in connection with or in relation to arbitration under these Rules. Parties are themselves required to contest the proceedings regarding the validity of the arbitration agreement before the court.

### **Rule 70 – No proceeding against the Tribunal**

No party shall bring or prosecute any suit or proceedings whatsoever against the Arbitral Tribunal, or any member thereof, for or in respect of any matter or thing purporting to be done under these Rules nor any suit or proceedings in respect thereof (save for enforcement of the award) against the other party.

## **AMENDMENT OF RULES**

### **Rule 71**

The Cell of the Institute may revise, amend or alter these rules or the schedule of fees and other monies to be charged and paid as and when expedient and necessary.

## **APPLICABILITY OF THE ARBITRATION AND CONCILIATION ACT, 1996**

### **Rule 72**

Notwithstanding anything contained in these Rules, the Arbitration and Conciliation Act, 1996 shall be applicable to the arbitration proceedings under these Rules and any term which has not been defined in these Rules shall have the same meaning as construed in the said Act.