

DISPUTE RESOLUTION

Celebrating Partnerships



OVERVIEW

The Dispute Resolution & Advisory team of Khaitan Legal Associates is a team of dynamic lawyers with a shared passion for the practice of law. The team has experience in all types of commercial litigation before Courts and Tribunals across the country and abroad.

We, at Khaitan Legal Associates, have advised and represented Indian and international clients, across a multitude of sectors including infrastructure, education, energy & power, steel, insurance, banking and finance, telecom, media & entertainment, real estate and commodities.

The team has significant experience in disputes, in relation to complex commercial contracts, shareholders' issues, joint ventures, employment, real estate, EPC contracts, intellectual property, insurance and regulatory litigation. The team has cutting edge expertise in insolvency laws and are thought leaders responsible for several market leading cases in the Indian insolvency landscape. The team also has rich experience in niche areas of intellectual property and insurance claims.

The team can boast of active presence in commercial litigation across the country, including before the Supreme Court of India, various High Courts, National Company Law Tribunals, Debt Recovery Tribunals, Securities Appellate Tribunal, various Regulatory Tribunals, several District as well as Magistrate's Courts. Our disputes team is equipped to handle high stake and complex commercial arbitrations, both institutional and ad-hoc, foreign and domestic.

The team's legal expertise, innovative and strategy driven processes, success rate and commitment to transforming the practice of law, makes Khaitan Legal Associates your preferred partner.

With focus on pre-dispute strategy and research, the team has successfully handled complex litigation and been part of several landmark judgments of recent times which have helped in not only shaping the law but also significantly impacted commercial transactions.

Khaitan Legal Associates has correspondent partners in all parts of India, Singapore, UK, Europe, USA, enabling the team to seamlessly provide Indian legal disputes related services to clients across the globe.

SELECT EXPERIENCE

COMMERCIAL DISPUTES AND ARBITRATION

- Represented a party to a Commercial Suit, where the Bombay High Court, for the first time, decided that the time period of 120 days to file a Written Statement in a Commercial Suit, is sacrosanct and delay cannot be condoned. Reported at: (2019) SCC OnLine Bom 358)
- Advised and represented a large civil construction company before the Bombay High Court and Supreme Court of India on an issue pertaining to invocation of a bank guarantee, particularly the interpretation of the "claim period". Reported at: (AIR 2018 Bom291)
- Represented an award creditor before the Bombay High Court on the issue of limitation for filing a petition for setting aside an arbitral award being three months (extendable by a period of 30 days) and any delay beyond such time not being condonable. (Order dated 07.01.2020 passed by the Bombay High Court in Commercial Arbitration Petition (L) No. 1107 of 2019)
- Represented a steel trading company before the Delhi High Court on the issue of the impact of a scheme of arrangement on the rights of parties in arbitration. This is one of the very few instances where an order passed by the Arbitrator rejecting termination of arbitral proceedings under Section 32 of the Arbitration & Conciliation Act, 1996 was treated as an "interim award" for the purposes of challenge under Section 34. Reported at: 266 (2020)DLT 484
- Advised and represented a leading international computer hardware manufacturer / IT Service provider in various commercial contractual disputes with its distributors/dealers.
- Advised and represented an Indian group of companies, its Promoters, together with its London based sister companies in disputes against Thai and Singaporean companies before Courts in London and the Singapore International Arbitration Centre.
- Advised and represented leading global manufacturing, pharmaceutical, chemical and fertiliser companies as well as multinational construction companies on Indian law and litigation strategy in arbitrations arising out of complex commercial contracts.
- Advised and represented the Liquidator of a listed EPC company before the Bombay High Court and Supreme Court in an enforcement action where the Court decided the issue of whether an award debtor can seek post award security and extension of earlier bank guarantees.
- Advised and represented various large international as well as domestic contractors in disputes arising out of construction & EPC contracts, O&M contracts, concession agreements etc.
- Advised and represented various corporates and individuals in disputes with prominent real estate developers before the Real Estate Regulatory Authority as well as the National Company Law Tribunal.

SELECT EXPERIENCE

COMMERCIAL DISPUTES AND ARBITRATION

- Advised and represented several Funds as well investee entities in disputes arising out of their investment agreements, particularly on issues relating to exit options under share purchase and shareholder agreements.
- Advised and represented various entities, in enforcement of foreign and domestic arbitral awards and decrees, including (i) enforcement of high-stake arbitral awards; (ii) execution of Indian decrees for high net-worth individuals and large corporations; and (iii) execution of a foreign decree for one of India's largest public sector banks.
- Advised and represented various Banks and Financial Institutions in their disputes with borrowers and guarantors arising out of a wide range of credit facility arrangements.
- Represented a construction company in a Writ Petition in respect of Bank Guarantee invocation and wrongful termination by its government contractor, under COVID-19 related circulars issued by the Government of India.
- Advised and represented the Promoters of some of the largest steel manufacturing and trading companies in India in disputes arising out of credit facilities availed by such companies, personal guarantees, and other security documents.
- Advised and represented shareholders in oppression and mismanagement petitions before the National Company Law Tribunal, National Company Law Appellate Tribunal and the Supreme Court of India.

SELECT EXPERIENCE

INSOLVENCY

- Advised and represented prominent foreign and Indian creditors, borrowers, resolution professionals, liquidators, and committees of creditors of in respect of a gamut of issues arising out of the Insolvency and Bankruptcy Code, 2016 in significant insolvency resolutions across sectors such as steel, power, real estate, manufacturing, trading, and hospitality.
- Advised and represented Promoters of a leading steel manufacturing company before the National Company Law Appellate Tribunal where the issue of disqualification of a prospective resolution applicant under Section 29A(d) of the Insolvency & Bankruptcy Code, 2016 was decided. Reported at: (MANU/NL/0200/2018)
- Represented a leading Indian steel manufacturing company in one of the first cases by an Operational Creditor under the IBC. This case went on to become the landmark judgments on the interpretation of the word 'dispute' as used in the IBC. Reported at: (2017)204CompCas511)
- Represented a UK based Company before the National Company Law Tribunal and National Company Law Appellate Tribunal where the issue regarding requirement of shareholder's resolution for filing a Section 10 Application under the IBC. (Order dated 8.09.2017 passed by the National Company Law, Chandigarh Bench in Company Petition (IB) No.40/CHD/HRY/2017)
- Represented a large Indian steel manufacturing company in landmark case before the Supreme Court on the issue of requirement of Bank Certificate for an Operational Creditor under the provisions of IBC to sustain an Application of Section 9. By this order, the law was settled on the requirement of Bank Certificate not being mandatory. Reported at: AIR2018SC498
- Represented and advised a liquidator in a landmark case before the NCLT, NCLAT and Supreme Court on the issue of realisation/relinquishment of assets by a secured creditor and priority of charge. Reported at: (2020)160SCL425
- Advised and represented a European steel manufacturing and trading company in an action before Gujarat High Court in enforcement of a foreign award involving the pertinent question of clean slate theory after corporate insolvency resolution process.
- Advised and represented a global agricultural commodities merchant before the NCLT, NCLAT and Supreme Court in various applications arising out of the insolvency of their Indian investment.
- Advised and represented an Indian and UK based sugar merchant before the NCLT, NCLAT and Supreme Court where the issue of setting off of claim and debt was decided.
- Advised and represented a liquidator before the NCLAT where the issue of whether a liquidator can decide a fee claim of a resolution professional was decided. Reported at: MANU/BB/0016/2022

SELECT EXPERIENCE

INSOLVENCY

- Advised and represented a liquidator before the NCLT in a case involving a question of law about security interest of a port trust for unpaid dues.
- Advised a successful resolution applicant before the NCLAT as well as the Supreme Court of India, where the Court decided the issue of (i) ability of a resolution applicant to withdraw an approved resolution plan on the grounds of commercial viability; (ii) transfer of a third-party guarantor's assets under a resolution plan.
- Advised and represented an asset reconstruction company before the NCLAT where the issue of continuing guarantee and limitation for filing insolvency action were decided.
- Advised and represented leading asset reconstruction companies in various high stake insolvency actions against borrowers and corporate guarantors.

SELECT EXPERIENCE

INTELLECTUAL PROPERTY

- Advised and represented a leading television network in various copyright disputes ranging from infringement to assignment rights and default in payment of licence fee.
- Advised and represented a US based production company in a Suit filed by a Producer on the issue of dubbing rights.
- Advised and represented a UK based company engaged in the business of stand-up comedy on its trademark related disputes with its JV partner. As part of this, Khaitan Legal Associates has successfully represented the client before the High Court, in arbitration and execution proceedings.
- Advised and represented a leading broadcaster, the assignee of cinematographic work on the issue of taking license from IPRS for broadcasting the work of its members.
- Advised and represented a leading American production company on several day-to-day copyright issues and litigations.
- Advised and represented prominent music labels, production houses and advertising companies on a variety of issues pertaining to intellectual property, both on the copyright and trademark front.
- Advised and represented a prominent music label, on the scope of statutory licensing under Section 31D of the Copyright Act, 1957.
- Advised and represented India's largest producer and exporter of dairy products in an action for disparagement initiated by a multinational competitor. Reported at: 2017(71)PTC396(Bom)

SELECT EXPERIENCE

INSURANCE CLAIMS

- Advised and represented one of the largest listed Indian pharmaceutical companies with global presence, in a suit before the Bombay High Court against a general insurance company in a coverage dispute under its D&O Policy and successfully negotiating a settlement.
- Successfully negotiated a settlement on behalf of an IT service company in respect of its claim under a Professional Indemnity policy against a general insurance company.
- Advised and represented a global technology services provider in arbitration proceedings against a popular general insurance company in respect of a coverage dispute under its Cyber Risk Policy.
- Advised and represented a public sector insurance company in arbitration proceedings against a clearing corporation of a commodity and derivative exchange in respect of a quantum dispute under a Settlement Guarantee Protection Fund Policy.
- Advised and represented a logistics company in arbitration proceedings against a public sector general insurance company in respect of a quantum dispute under its Standard Fire & Special Perils Policy.
- Advised and represented a textile company in arbitration proceedings against a public sector general insurance company in respect of a quantum dispute under its Industrial All Risk Policy.
- Advised and represented a Registrar & Transfer Agent in a suit before the Bombay High Court against a public sector insurance company in respect of a coverage dispute under its All Risk Policy.
- Advised and represented a company engaged in the manufacture of compressors in a suit before the Bombay High Court against a public sector general insurance company in respect of a coverage dispute under its Erection All Risk Insurance Policy.
- Advised and represented a Global Services providing business and knowledge processing company in arbitration proceedings against a renowned general insurance company in respect of a coverage dispute under its PI Policy.
- Advised and represented a listed company engaged in the manufacturing of automobile parts in arbitration proceedings against a private insurer in respect of a coverage dispute under its D&O Policy.



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Sakate is the managing partner of the firm with over 30 years of experience. A rare combination of lawyer and MBA.



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A highly skilled and dynamic litigator, Dhiraj leads the Disputes Resolution practice. An expert in commercial disputes, IP, insurance claims and insolvency.



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Smiti is a bright young litigator who co-leads the litigation practice with expertise in commercial disputes, insolvency and insurance claims.



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A highly proficient litigator based out of the Delhi office. An expert in commercial litigation, insolvency and regulatory disputes.

OUR DISPUTE RESOLUTION TEAM



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