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BOOK REVIEW: LAW PRACTICE AND PROCEDURE OF ARBITRATION IN INDIA

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Following the successful release of the 2nd edition of 'Law, Practice and Procedure of Arbitration' written from the perspective of Malaysian law, Datuk Professor Sundra Rajoo has authored another invaluable treatise in his latest work 'Law, Practice and Procedure of Arbitration in India', a welcome and valuable resource providing a detailed insight into India's developments and contributions to international arbitration. This book provides a holistic guide on both the practical and procedural aspects of arbitration. The book expounds not only on arbitration in India but also draws comparisons of the Indian position with global international arbitration practice, which both the Indian and global community would be able to harness. Datuk Professor Sundra Rajoo brings to this exposition on Indian arbitration law his vast knowledge and experience as an arbitrator (including his stint as the former President of the Chartered Institute of Arbitrators and founding president of the Asian Institute of Alternative Dispute Resolution), his expertise in the construction and architecture sectors, as well as his academic knowledge gained from his professional degrees in Architecture and Town Planning.

Divided into 12 divisions and further sub-divided into 51 chapters, the work is designed for practitioners to efficiently navigate to the desired sections of the book for quick reference and at the same time provide deep academic insight for scholars as well. The book juxtaposes the Indian Arbitration Act with the rules of other major arbitral institutions in India and around the world, as well as the New York Convention. The book starts off with a useful introduction to arbitration, its mechanisms and its process in a manner appropriate for novices, serving as a one-stop guide. The contribution is also valuable for seasoned practitioners and users generally at any stage of the arbitration process, as the author identifies common pitfalls that should be avoided in the practice of arbitration.

It is insightful that Professor Rajoo begins the book by shedding light on the fact that dispute resolution methods akin to arbitration are not new in India, and that such traditions go back many centuries, even before the colonial era. It traces the history of arbitration in India, highlighting that it is a jurisdiction that has been a pioneer in resolving disputes by alternative means and not just by way of litigation in the Court. Such illustration of the historical context allows readers to appreciate the Indian culture and outlook from early days to resolve disputes by way of alternative dispute mechanisms. With this background, the author then delves into the present-day arbitration case law and discusses leading Indian precedents and latest developments in the sphere, including the amendments brought about by the Arbitration and Conciliation (Amendment) Act 2020. Professor Rajoo helpfully compares the Indian position with the development of case law in other jurisdictions.

It is significant that Professor Rajoo has included insightful analysis of very current Supreme Court of India decisions, such as that of *PASL Wind Solutions Private Limited v GE Power Conversion India Private Limited* (2021) SCC OnLine SC 331. In this case, the Supreme Court of India held that there is no bar under Indian law to permit Indian parties and Indian subsidiaries of foreign companies to use foreign-seated arbitration to resolve disputes and / or foreign substantive law to govern the contract between them. The Supreme Court of India held that Section 28(1)(a) of the Arbitration Act only applied in relation to Indian-seated arbitrations between Indian parties. Professor Rajoo highlights potential policy concerns that arises from this decision, where Indians may attempt to use such an avenue to evade Indian law. He discusses the potential applicability of the public policy exception under the Arbitration Act. Professor Rajoo also discusses whether Section 28(1)(a) of the Arbitration Act should be amended to allow parties to a domestic arbitration to also have the

autonomy to agree on a substantive law other than Indian law, to encourage Indian parties to use arbitrations with India as the seat of arbitration but allow the flexibility to apply other rules of substantive law to facilitate their undertakings and contracts.

In-house counsels and parties in the inception stages of drafting their contracts would find the first 2 divisions of the book (Chapter 3 Defining an Arbitration, Chapter 5 Privacy, Confidentiality and Transparency in Arbitration, Chapter 6 Types of Arbitrations, Chapter 7 Arbitration Agreements, Chapter 10 Who May Refer Matters to Arbitration, Chapter 11 Scope of Arbitration Agreement) illuminating, in particular Chapter 4 which Professor Rajoo has devoted to express his views on the relevance of arbitration in resolving disputes, which also captures the impact of the COVID-19 pandemic on arbitration as a dispute resolution mechanism. Of pertinent mention is that Professor Rajoo has dedicated a substantial portion of commentary in division 6 of the book on the topics of Appointment (Chapter 20) and Composition of the Arbitral Tribunal (Chapter 21), Removal of Arbitrator (Chapter 23) and Remuneration (Chapter 24).

Professor Rajoo has also given emphasis to how the role of the court intertwines with the arbitral process - from the commencement of arbitration, with the possibility of staying concurrent proceedings in Courts (Chapter 14), injunctions restraining arbitration proceedings (Chapter 17), to ousting the court's jurisdiction (Chapter 18) and finally the court's supervisory role in challenges to arbitral awards and enforcement (Divisions 10 and 11). Finally, Professor Rajoo has also covered Conflict of Laws (Chapter 50) and Investment Arbitration (Chapter 51), which would be crucial topics for multinational projects.

All in all, Professor Rajoo, has through his excellent exposition in the form of 'Law, Practice and Procedure of Arbitration in India' contributed to detailing and showcasing Indian jurisprudence on arbitration, which has much to offer in the sphere, with recent landmark judgments of the Supreme Court of India promulgating the development of jurisprudence on arbitration and buttressing its pro-arbitration stance. The book is an essential and invaluable resource on India's developments and contributions to the international arbitration jurisprudence and practice.