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Presently the arbitration law is contained in three Acts, namely - Arbitration Act, 1940; Arbitration (Protocol and Convention) Act, 1937 and, the Foreign Awards (Recognition and Enforcement) Act, 1961. Arbitration Act, 1940 deals with the domestic awards and the other two acts deal with the foreign awards. There is no provision relating to conciliation in these acts. The law is old and could not meet the requirements of the day.

DOMESTIC AWARDS:

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Indian Arbitration Act 1940, generally applicable to Awards made in India was based on English Arbitration Act 1934. The English Act was amended from time to time but Indian Act remained un-amended for the last 55 years. Said Act of 1940 contains provisions for Arbitration with and without intervention of Court and Arbitration in suits but the Award is not enforceable till Court passes decree confirming the Award. The judgment/decree of the Court is also subject to revision and appeals in higher Courts. The grounds for setting aside award are very wide. Hence, the Arbitration is time consuming, costly and not effective in the settlement of commercial disputes under the said Act.

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FOREIGN AWARDS:

India is a party to the Protocol on Arbitration Clauses 1923, the Convention on the Execution of Foreign Arbitral Awards, 1927, and the Arbitration (Protocol and Convention) Act, 1937 was passed to give effect to the said Protocol and Convention. India is also party to Newyork Convention on the Recognition and Enforcement of Foreign Awards, 1958 and the Foreign Awards (Recognition and Enforcement) Act, 1961 was enacted to give effect to the said Convention. Recently, Supreme Court of India has interpreted Section 9 (b) in NTPC vs Singer Company case and it has been found that Section 9 (b) is contrary to Article 1 (1) of the Newyork Convention. The said Act also contained provisions for the filing of the Awards and registration of applications for filing of the Awards

which consume extra efforts as well as extra time. It has provision relating to enforcement of Foreign Awards but does not have distinct provision for the recognition of Foreign Awards, although, Convention requires recognition as well as enforcement of Foreign Awards. The ground for setting a side Foreign Award are very limited being based on the Convention.

PROPOSED LAW

The United Nations Commission on International Trade Law (UNCITRAL) had adopted the UNCITRAL Model Law on International Commercial Arbitration in 1985. The General Assembly of The United Nations had recommended that all states should give due consideration to the said Model Law for uniformity of the law of Arbitral procedures and the specific needs of International Commercial Arbitration. It seems that now there is a competition in the World to have the best Arbitration Law. Many Countries have adopted the principles of UNCITRAL Model Law on International Commercial Arbitration with or without amendments. Some Countries have also apply the said Rules to Domestic Arbitrations.

The Government of India has adopted the Policy of liberalization and globalization of economy and is reviewing the laws for better efficiency and harmony in the World trade. Institutions, such as Indian Council of Arbitration, Indian Society of Arbitrators, Federation of Indian Chamber of Commerce & Industry etc., had also been pressing very hard for the improvement of Arbitration Law in India.

Government of India had constituted a working group comprising Law Ministers, Law Secretaries of different States of India and also eminent experts and representatives of Arbitral Institutions etc., with the mandate of reviewing the Law relating of Arbitration. The recommendations of the above group have been taken into account and Draft Arbitration & Conciliation Bill has been prepared and it seeks to unify the existing Arbitration Act, 1940, Foreign Awards (Recognition and Enforcement) Act, 1961 and Arbitration (Protocol and Convention) Act, 1937 and both National and International Arbitrations.

It has been proposed to enact a new law based on provisions of UNCITRAL Model Law on International Commercial Arbitration and International Conventions.