

ODR –India as a Global Hub

Naavi

www.arbitration.in

www.naavi.org

ODR in India

- Advantages of ADR are well recognized
- ADR to ODR is a natural progression
- Challenge is
 - Acceptability in law
 - Affordability of the system
 - Adaptability of the users
 - Risk Perceptions
 - Technical preparedness

Risk Perceptions

- **Two types of ODR disputes**
 - **Dispute is entirely online**
 - Can be resolved without the intervention of a physical person
 - Eg: secondlife.com type disputes, online purchase related disputes, Domain name disputes
 - Can be executed on digital properties and does not require access to physical properties
 - **Dispute where the impact is offline**
 - Resolution needs reference to the Physical person
 - Can be executed only on a physical asset.
 - Eg: a Bank fraud such as Phishing, Disputes in any other business contracts/matrimonial disputes/Employer-Employee disputes

The Threat

- There are three major threats that can be identified for the ODR system
 - Identity threat
 - Privacy threat
 - Admissibility threat

Identity Threat

- How are we sure that the participant is who he declares to be?
 - IP address can be spoofed or masked
 - E-Mail address not properly mapped to a reliable identity

Criticality of ID

- **In a digital only dispute**
 - Physical ID is not critical
- **In a cross society dispute**
 - Physical ID mapping to digital ID is critical
 - Final resolution may involve execution of a decree in physical space
 - Eg: Defamation of a physical identity in cyber space and cyber frauds involving loss of physical society cash
 - Acceptance by physical society Courts and Law enforcement is necessary

Biggest Challenge to ODR development is therefore

- How do we map the physical identity of a person to his digital ID in a manner which is acceptable to law enforcement in both societies.
- How do we make the proceedings of an ODR process acceptable to members of Physical society including the law enforcement and judiciary so that the process can be easily ported to the physical world for execution with the assistance of the Police and Courts if required.

The object of this presentation is to bring to the attention of the ODR world that

- India has the necessary legal environment to meet these challenge
- A working solution is already in place to be used today if required
- India can be a global center for ODR

Why ODR is legally acceptable in India

Legal Support to ODR

- India has provided legal recognition to electronic documents
 - Sec 4 of ITA 2008
- India has defined how an electronic document can be authenticated in a manner which is admissible as evidence in any physical court
 - Digital signature on a digital document
 - Section 5 of ITA 2008 read with Sections 3 and 3A
 - Certified paper document
 - Section 65B of Indian Evidence Act

Section 4: Legal Recognition of Electronic Records

- Where any law provides that information or any other matter shall be in writing or in the typewritten or printed form, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is
 - (a) rendered or made available in an electronic form; and
 - (b) accessible so as to be usable for a subsequent reference

Section 5: Legal recognition of Electronic Signature

- Where any law provides that information or any other matter shall be authenticated by affixing the signature or any document should be signed or bear the signature of any person then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied, if such information or matter is authenticated by means of digital signature affixed in such manner as may be prescribed by the Central Government.
 - **Explanation** - For the purposes of this section, "Signed", with its grammatical variations and cognate expressions, shall, with reference to a person, mean affixing of his hand written signature or any mark on any document and the expression "Signature" shall be construed accordingly.

Admissibility of Electronic Records

- 65B (IEA). (1) Notwithstanding anything contained in this Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as the computer output)
 - shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and
 - shall be admissible in any proceedings, without further proof or production of the original as evidence of any contents of the original or of any fact 'stated therein of which direct evidence would be admissible.

www.ceac.in

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CEAC
...A Unique Global Service from Naavi Established in 2002

Be a part of an Cyber Law Revolution in India

Enroll to be a member of the Unique Service network

What this Center is All About

CEAC is a Multifaceted Service Center providing a "**Trusted Third Party Cyber Law Assurance Service**". The service is a first of the kind global service backed by the provisions of Information Technology Act 2000 (ITA 2000) as amended by Information Technology Act 2008 (ITA 2008).

CEAC was started in 2002 to provide assistance to Cyber Law Practitioners and Law Enforcement Agencies with a service that can convert electronic evidence into admissible paper evidence for the purpose of submission in a Court of Law as per Section 65B of Indian Evidence Act. CEAC is proud to have been associated with the Chennai Police in several Cyber Crime cases for providing evidentiary support including forensic assistance. The first conviction under ITA 2000 in the case of State of Tamil Nadu Vs Suhas Katti in the AMM Court, Egmore (2004) was based on the evidence provided by CEAC as to the occurrence of the crime on a Yahoo Group. Services of CEAC was also used by the AMM court in one of the defamation cases filed against a publication in Chennai by actress Trisha. (P.S: Copy of the judgement referring to CEAC service in case of Suhaskatti available here. [Part 1: Part2](#)). CEAC has provided certified copies of E-Mails, Web pages, electronic documents in a corporate computer etc on various occasions both for presentation in Indian Courts as well as Arbitration Proceedings in India and abroad. It has also provided certification of documents even with remote machines in USA and other towns. Providing certified copies of electronic documents as a part of litigation support services continues to be a major activity of CEAC.

Over the years, CEAC has developed a multifaceted dimension with several service offerings. CEAC has now transformed itself into a unique service portal for all Legal Professionals. The redefined objective of CEAC is to assist advocates any where in India with such tools as are required to make them Cyber Law Proficient advocates. This will include "Education", "Collaboration", "Online Information Resources", "Online Archival Services", "Online Arbitration Services", "E-Court Services" etc. The end objective of CEAC is to enable any Cyber Crime victim in India to have an informed assistance readily available to meet the challenge of growing volume of Cyber Crimes.

Explore the different CEAC services by clicking through the menu.

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A Solution Available now

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 **Arbitration.in**
A BPO for Arbitrators
First Online Facilitation Center for Arbitrations in India

Be a part of an ADR Revolution in India
Contact Immediately for More Information

What this Center is All About

A BPO for Arbitration in India

This is a "Facilitation Center". An unique portal, the first of its kind in India. The objective of this portal is to enable any existing arbitration council in India or elsewhere to utilize online facilities for

a) Back office Management

b) Online Dispute Resolution by Arbitration or Mediation

The services of this center would be available to member organizations which can be any kind of arbitration council or an individual arbitrator.

a) Back Office Management

As a Back Office Management service, the center would assist its members in

1. Making the details of the available services known to Netizens,
2. Providing services for registration of requests,
3. Providing services for the issue of notices,
4. Providing services for selection of arbitrators for a given arbitration
5. Providing services for arbitration venue management on request.

The procedure for arbitration, the fees and the choice of arbitration venue and time is left to the member organization and is to be provided to the center in electronic

File Zone Net Zone

8:25 PM



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Log in through Digital Signature

Chennai Super Kings Squ... x Naavi's portal on Mediat... x www.arbitration.in/arbitr... x

www.arbitration.in/arbitration_demo_2/index.htm

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Be a part of an ADR Revolution in India
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User Name :

[New User Register Here](#)

File Zone Net Zone

2/8/2011 e-executor... 4 Interne... 5 Micros... 2 Googl... Naavi ir b r x - Wi... 8:28 PM

Use an approved digital certificate

The screenshot displays the Arbitration.in website interface. The browser's address bar shows the URL www.arbitration.in/arbitration_demo_2/index.htm. The website header features the Arbitration.in logo and the text "A BPO for Arbitrators" and "First Online Facilitation Center for Arbitrations in India". A prominent banner reads "Be a part of an ADR Revolution in India" with a subtext "Contact Immediately for More Information".

The login form is highlighted with an orange box and contains the following fields and buttons:

- User Name :
-
-
- [New User Register Here](#)

A "Web Signer" dialog box from e-mudhra is overlaid on the bottom right. It displays the content to be signed: "Vijayashankar Nagaraja Rao". Below this, a table lists the digital certificate details:

Common Name	Issuer Name	Serial No
VIJAYASHANKAR NAGARAJA RAO	e-Mudhra Class 3 Platinum Individ...	27366

The dialog box also includes a "Windows Store" dropdown set to "P12/PFX", a "View Certificate" button, and "Sign" and "Cancel" buttons.

The Windows taskbar at the bottom shows the date "2/8/2011" and the time "8:29 PM".

ID verified

The screenshot shows a web browser window with the following elements:

- Browser Tabs:** Chennai Super Kings Squ..., Naavi's portal on Mediat..., www.arbitration.in/arbitr...
- Address Bar:** www.arbitration.in/arbitration_demo_2/index.htm
- Bookmarks:** IN Offers E Mail, Ne..., bloggers_news, ChessCube.com - P..., Naavi_org, Cyber Laws for CxO..., Web Mail Services, Mobile Website free ..., Indian News | India ..., Other bookmarks
- Website Header:** Arbitration.in, A BPO for Arbitrators, First Online Facilitation Center for Arbitrations in India
- Banner:** Be a part of an ADR Revolution in India, Contact Immediately for More Information
- Login Form:** User Name : Vijayashankar Nagaraja Rao, Login with DSC, New User Register Here
- Verification Dialog:** The page at www.arbitration.in says: You have been successfully verified. Click OK to continue. OK
- Taskbar:** File Zone, Net Zone, 4 Windo..., e-executor..., 4 Interne..., ODR servi..., 2 Googl..., Inbox - Wi..., 8:30 PM

Arbitration Entry Page

The screenshot displays a web browser window with the URL www.arbitration.in/arbitration_demo_2/indexmain.htm?tbsAsString=Vijayashankar+Nagaraja+Rao&myAction=&signedData=. The page header features the Arbitration.in logo and the text "A BPO for Arbitrators" and "First Online Facilitation Center for Arbitrations in India".

The main content area is titled "Case -No: Arbitration 1/10" and "Vijay Kumar Vs Punjab National Bank". It contains the following text:

This Service room is set up specifically for the Arbitration of Vijay Kumar Vs Punjab National Bank. Only authorized persons are allowed entry to this arbitration with the use of digitally signed entry request. (For each case, this type of page is created with relevant details after registration of the application)

If you are not authorized invitee to the Arbitration Proceedings, Please quit. Otherwise you will be liable for prosecution under ITA 2008 and is applicable for even for those residing out of India or who are not Citizens of India.

For any clarifications contact the administrator of the arbitration room at ceac@live.com

Authorized invitees who have reached this page with the use of digital signatures may join the meeting 15 minutes before the scheduled meeting as conveyed to them separately through e-mail.

For Joining the meeting, Click on the button below.

Kindly note that that you need to open the webcam to share your video.

The session will start with instructions from the Registrar of the session. You need to follow the instructions.

If the internet connection breaks, you need to re-log in.

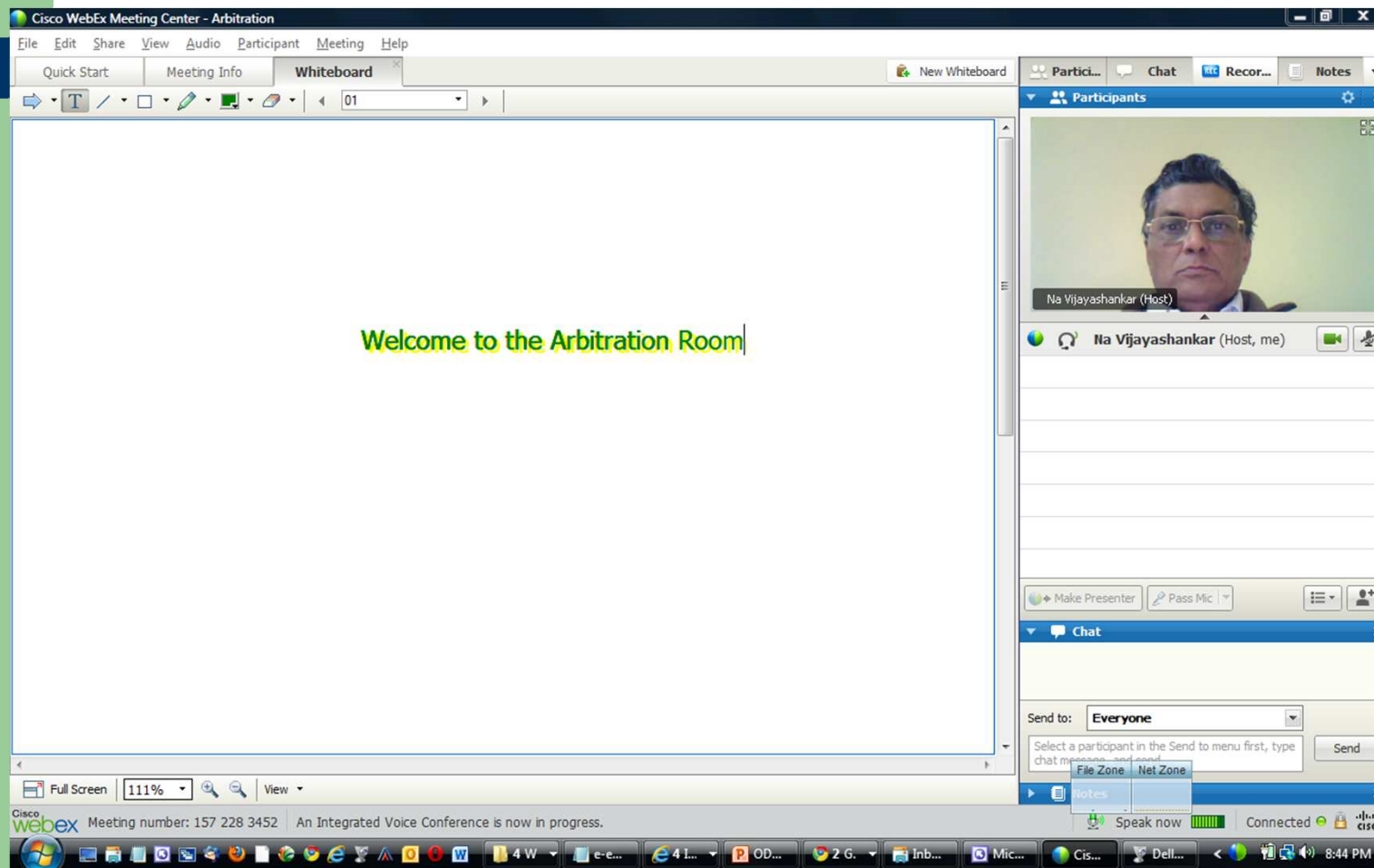
If necessary you can call the helpdesk on the phone number provided to you for real time assistance. On request, you would be provided the assistance of a dedicated help assistant to carry you through the session.

At the bottom of the page, there is a "Join Meeting on the Web" button and a table with "File Zone" and "Net Zone" columns.

The left sidebar contains the following information:

- ARBITRATORS**
 - M.N.Chandrasekar
 - B. Prabhakar
 - K.Lakshmi
- APPLICANT**
 - K.Vijay Kumar
- RESPONDENT**
 - Punjab National Bank
- Counsel for Applicant**
 - K. Mazumdar
- Counsel for Respondent**
 - V.Pastay
- REGISTRAR**
 - Na.Vijayashankar
- Room Administrator Contact**
 - ceac@live.com
 - Mobile: 919343554943

Arbitration Room with video conferencing



Evidence

- Entire proceedings in the arbitration room is supervised by the registrar
- Proceedings are recorded
- Certified as required under Section 65B
- Copy provided to all stakeholders

End Result

- An online arbitration
 - Which identifies participants through digital signatures as per ITA 2008
 - Which records proceedings as provided by ITA 2008
 - A legally admissible arbitration proceedings conducted in cyber space.

Requirements

- Good bandwidth for internet connectivity
- Standard computer with webcam, Microphone and speakers
 - On registration, preliminary training provided online
 - Local offices of the service provider may be made available in due course so that people can walk into the nearest service center instead of logging in from their house or office.

An Opportunity

- The legal support available in India for digital signatures and certification of electronic documents opens up the possibility of India providing the service as an outsourced IT enabled service across the globe
 - No other country has this advantage

India as a global center of ODR

- It is therefore possible that India can develop itself as a global center of IDR
 - Vision 2020 of arbitration.in
 - Let us ask ourselves
 -Why not this be our Vision 2011?

Thank you

Naavi

