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+91 70421 48991
editor@ijlar.com
www.ijlar.com

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Introduction

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Preface

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WINNING THE ARBITRATION, WAITING FOR ENFORCEMENT: RECONCILING STAMP DUTY REQUIREMENTS WITH SECTION 36 OF THE ARBITRATION AND CONCILIATION ACT 1996

AUTHORED BY - GANNAVARPU RAJLAKSHMI & DIYA JAIN

Abstract

Deficient stamping exposes a gap between obtaining an arbitral award and recovering the amount awarded. The difficulty concerns not merely payment of revenue, but the allocation of responsibility for compliance and the procedural steps through which an award becomes capable of enforcement. This paper examines India-seated awards enforced under Part I of the Arbitration and Conciliation Act 1996, using Delhi as its principal jurisdictional example. It employs a doctrinal research methodology, analysing statutory provisions, judicial decisions and their interaction, supplemented by normative evaluation of procedural reforms. Beginning with URC Construction (P) Ltd v Airports Authority of India, it distinguishes the timing of stamp-duty liability, the stage at which an objection becomes relevant and the procedure necessary to cure a deficiency. It then evaluates responsibility for stamping, unequal penalty consequences across statutory routes, administrative delay, registry scrutiny and differences between state regimes. The analysis suggests that effective enforcement depends on coordinated compliance rather than an implied exemption from fiscal law. It proposes an allocation of tasks across the award's lifecycle, combining early institutional checks, predictable referral and endorsement procedures, and legislatively authorised penalty reform. This approach preserves revenue collection without allowing a remediable fiscal defect to produce avoidable uncertainty about recovery.

Keywords: Enforcement of arbitral awards, Stamp-duty liability, URC Construction (P) Ltd v Airports Authority of India, Section 36 of Arbitration and Conciliation Act.

I. Introduction: The Distance Between an Arbitral Award and Actual Recovery

A successful claimant may leave arbitration with a binding determination of liability but without the money necessary to continue its business. Enforcement therefore forms part of arbitration's commercial promise. The quality of an award matters, but so does the institutional capacity to convert it into recovery. Park's account of arbitral accuracy cautions against reducing effective arbitration to speed alone.[1] The same caution applies after adjudication: an efficient enforcement process must respect legal obligations, yet should not create unnecessary procedural repetition.

Stamp duty brings this tension into focus. The Arbitration and Conciliation Act 1996 structures the making, challenge and enforcement of awards. The Indian Stamp Act 1899 regulates chargeable instruments and restricts their use when they are insufficiently stamped.[2] Each statute pursues a legitimate objective. Difficulties arise when parties treat completion of arbitration as completion of every legal requirement, leaving fiscal compliance to the moment coercive recovery becomes necessary.

The Delhi High Court's decision in *URC Construction (P) Ltd v Airports Authority of India*, delivered on 1 September 2026, provides a contemporary starting point. An award initially bearing insufficient duty was followed by payment of the deficiency during enforcement proceedings. The dispute was whether payment alone removed the obstacle or whether impounding, determination of the applicable penalty and statutory endorsement remained necessary.[3] The problem was thus narrower, and more consequential, than whether an unstamped award could ever be cured.

A curable defect is not an inconsequential defect. Curability preserves the possibility of lawful reliance on an instrument; it does not necessarily dispense with the prescribed conditions of cure. Conversely, mandatory procedure does not establish that every administrative delay or repetitive filing serves a fiscal purpose. Treating these propositions separately permits scrutiny of procedural design without assuming that arbitration policy overrides stamp legislation.

This paper asks: how should stamp-duty compliance and the procedure for curing deficient stamping be coordinated with section 36 without undermining either revenue collection or effective enforcement? Its principal scope is India-seated awards under Part I, with Delhi as

[1] William W Park, 'Arbitrators and Accuracy' (2010) 1 Journal of International Dispute Settlement 25, 25–26.
[2] The Arbitration and Conciliation Act, 1996 (26 of 1996) ss 31, 34, 35 and 36; The Indian Stamp Act, 1899 (2 of 1899) ss 3, 17, 33 and 35.
[3] *URC Construction (P) Ltd v Airports Authority of India* 2026:DHC:7520 [1]–[4], [272].

the main example. It does not extend Delhi's schedule or administrative arrangements throughout India, and excludes foreign-award enforcement under Part II. Registration is addressed only where necessary to distinguish a separate statutory requirement.

The argument is that responsibility should be allocated across the award's lifecycle, rather than concentrated upon the award-holder at enforcement. Early preparation, a clearly identified cure route and prompt return to the enforcement court can reconcile the statutes more effectively than judicially invented exemptions. The paper uses doctrinal methodology to interpret legislation and judgments, followed by normative assessment of proposals against legality, revenue protection and procedural efficiency. It does not claim to measure the prevalence or average duration of stamping-related delay.

II. Two Statutory Frameworks: Fiscal Compliance and Arbitral Enforcement

2.1 From making an award to enforcing it

Section 31 requires a written, signed award and delivery of a signed copy to each party. It also requires the award to state its date and the place of arbitration, at which it is deemed to have been made.[4] These requirements identify the completed adjudicatory instrument and ensure that parties receive the decision. They do not constitute an exhaustive code governing every fiscal consequence of that instrument.

Section 34 supplies limited grounds for setting aside an award.[5] Its ordinary three-month period runs from receipt of the award by the applicant, or from disposal of a qualifying section 33 request. A further thirty days may be allowed on sufficient cause, but not thereafter.[6] The date of signature and the date of receipt therefore perform different functions. Describing enforcement as commencing automatically three months after the award's date obscures this distinction and disregards the circumstances governing the challenge period.

Section 35 makes an award final and binding, subject to Part I. Section 36 permits enforcement through the Code of Civil Procedure once the statutory conditions are satisfied. Filing a section 34 application does not itself suspend enforcement: a separate stay application and judicial order are required. The statute prescribes considerations governing such relief, including a specific proviso concerning fraud or corruption.[7] Stamp deficiency neither replaces that stay

[4] The Arbitration and Conciliation Act, 1996 (26 of 1996) s 31(1)–(5).
[5] ibid s 33.
[6] ibid ss 33 and 34(3).
[7] ibid ss 35 and 36.

mechanism nor becomes irrelevant because no stay exists. It is a separate restriction on acting upon the instrument.

The decree analogy also has limits. In *Sundaram Finance Ltd v Abdul Samad*, the Supreme Court explained that an award is enforced in the manner of a decree without becoming a decree actually passed by a civil court.[8] The enforcement fiction supplies machinery for recovery. It does not erase the award's identity as an instrument or automatically import every exemption that might attach to a judicial decree.

2.2 The award as a chargeable instrument

Stamp liability must be established under the applicable fiscal legislation. Sections 2(12), 3 and 17 of the Indian Stamp Act connect execution, chargeability and timely stamping. For a chargeable instrument executed in India, section 17 requires stamping before or at execution. Delhi's applicable Schedule IA contains an award entry, article 12; its classification and exclusions must be examined before calculating duty.[9] An award directing partition, for example, cannot simply be treated as an ordinary monetary award under that entry.

The statutory structure offers both advance clarification and subsequent cure. Section 31 enables an application to the Collector for an opinion on proper duty, whether the instrument is executed or unexecuted. Section 32 provides certification subject to specified restrictions. These provisions support certainty, but do not make advance adjudication compulsory for every readily classifiable award.[10] Routine compliance should remain possible without transforming every arbitration into a revenue proceeding.

Sections 33 and 35 address deficient instruments encountered by competent authorities. Section 33 requires impounding where its conditions are met.[11] Section 35 restricts admission in evidence and acting upon an insufficiently stamped instrument, subject to its provisos.[12] Sections 38, 40 and 42 then regulate transmission, determination and endorsement.[13] They make cure an institutional process rather than merely a financial transaction. Payment evidence matters, but it must be connected to the instrument through the appropriate statutory mechanism.

[8] *Sundaram Finance Ltd v Abdul Samad* (2018) 3 SCC 622.
[9] The Indian Stamp Act, 1899 (2 of 1899), ss 2(12), 3 and 17, sch IA art 12 (as applicable to Delhi); *URC Construction* (n 3) [104]–[115].
[10] The Indian Stamp Act, 1899 (2 of 1899) ss 31 and 32.
[11] ibid s 33.
[12] ibid s 35.
[13] ibid ss 38, 40 and 42.

The distinction between routes matters equally. Admission following collection of duty and the prescribed penalty leads to the transmission contemplated by section 38(1). In other cases, section 38(2) requires transmission of the original instrument to the Collector. The Collector's determination under section 40 and endorsement under section 42 enable lawful subsequent use.[14] Identifying the correct route prevents both unnecessary referral and unauthorised judicial relaxation.

2.3 Two meanings of execution

Execution has different meanings in the two frameworks. Under stamp legislation, execution of an instrument refers to signature; in enforcement proceedings, execution concerns the court's machinery for recovery.[15] A rule governing the latter cannot, without statutory support, postpone liability attached to the former. The analysis below assumes the ordinary case of an award signed in India. Unusual cross-border signing arrangements require separate consideration of territorial stamp provisions, rather than an assumption that arbitral seat alone answers every fiscal question.

III. When Must the Award Be Stamped? Separating Liability from the Stage of Objection

3.1 Liability, objection and cure

Three questions must remain distinct. First, what event attracts duty? Second, when does a court need to determine the consequences of non-compliance? Third, what procedure restores the instrument's capacity to be acted upon? The first concerns fiscal liability, the second procedural relevance and the third statutory remediation. An answer to one does not necessarily answer the others.

For an award falling within the applicable charge and executed in India, the statutory starting point is signature, not the eventual filing of an enforcement petition. Sections 3 and 17 do not condition compliance upon the award-holder's decision to seek coercive recovery.[16] Otherwise, two identical awards would attract different practical obligations depending on whether the debtor paid voluntarily. Nothing in section 36 creates that distinction.

The absence of immediate judicial scrutiny is therefore not a fiscal holiday. A statutory

[14] The Indian Stamp Act, 1899 (2 of 1899) ss 38(1), 38(2), 40 and 42; *URC Construction* (n 3).
[15] The Indian Stamp Act, 1899 (2 of 1899) ss 2(12), 17 and 18; The Arbitration and Conciliation Act, 1996 (26 of 1996) ss 31(4) and 36.
[16] The Indian Stamp Act, 1899 (2 of 1899) ss 3 and 17; *URC Construction* (n 3) [268], [269].

obligation can exist before litigation exposes its breach. This explains how stamping may become an obstacle at enforcement even though the obligation arose earlier. The problem is one of sequencing, not necessarily a contradiction between statutes.

Consider an award signed in January, delivered shortly afterwards and challenged within the permitted period. Its stamping obligation does not await the outcome of that challenge. If enforcement is sought much later, the court examines the instrument's present capacity to be acted upon, but the appropriate cure depends upon its earlier history. Purchasing additional stamps at that point cannot be equated, without further analysis, with timely stamping in January. Conversely, the existence of a pending challenge does not make an application for fiscal regularisation a concession that the challenge lacks merit. Compliance and challenge can proceed independently. This separation allows a party to protect its position under both statutes rather than treating one proceeding as a reason to neglect the other.[17]

3.2 Reading M Anasuya Devi within its proper scope

M Anasuya Devi v M Manik Reddy concerned an award arising from family-property disputes. The Supreme Court rejected the treatment of stamping and registration objections as grounds for setting aside the award under section 34. Such objections were premature at that stage and could be raised when enforcement was sought under section 36.[18] Its reasoning preserves the limited statutory grounds of challenge.

The judgment does not establish that stamp liability originates only at enforcement. It answers where the objection belongs within arbitral litigation. Reading it as permission to delay payment would convert a holding about the scope of section 34 into an unstated amendment of section 17 of the Stamp Act. Neither the issue decided nor the statutory language supports that conversion.

This distinction also explains why surviving a challenge cannot certify fiscal compliance. A section 34 court determines objections within its statutory remit. Rejection of that challenge does not adjudicate every condition relevant to recovery. The resulting award may remain binding yet require a fiscal defect to be cured before the enforcement court acts upon it. *URC Construction* expressly adopts this limited understanding of *M Anasuya Devi*.[19]

Nevertheless, doctrinal clarity does not eliminate legitimate reliance concerns. A party may

[17] The Indian Stamp Act, 1899 (2 of 1899) ss 17, 32, 40, 41 and 42; The Arbitration and Conciliation Act, 1996 (26 of 1996) ss 34, 35 and 36.
[18] *M Anasuya Devi v M Manik Reddy* (2003) 8 SCC 565.
[19] *URC Construction* (n 3) [268], [269], [272(iii)].

have understood earlier judicial language as allowing payment at enforcement. Such reliance can be relevant where the applicable penalty provision permits consideration of conduct or mistake. It cannot itself create discretion in a court whose governing provision fixes the penalty. The appropriate response is to direct the explanation to the authorised decision-maker.

3.3 Certification periods and subsequent cure

Section 32 requires particular care. Its proviso restricts endorsement under that section where an instrument executed in India is brought to the Collector after one month from execution or first execution.[20] It does not replace section 17 with a universal one-month grace period. Nor does its text require the Collector to complete certification within one month if the instrument was brought within the permitted period. The timing of presentation and the duration of administrative processing must not be conflated.

URC Construction sometimes describes the provision as a relaxation and uses shorthand about endorsement after one month. That language should be read against the statutory condition concerning when the instrument is brought. The decision's broader conclusion, that unilateral late payment cannot bypass the cure machinery, does not require expanding section 32's restriction into a bar against every later endorsement.[21] Section 42 expressly supplies endorsement after payment under sections 35, 40 or 41.

Section 41 further demonstrates that late compliance is not governed by a single rule. It permits a person to produce an insufficiently stamped instrument voluntarily before the Collector within one year, disclose the deficiency and offer payment.[22] The Collector must be satisfied that the omission resulted from accident, mistake or urgent necessity before using this alternative to proceedings under sections 33 and 40.[23] It is a conditional statutory remedy, not a general amnesty.

The practical implication is precise: missing timely stamping changes the available procedural route; it does not necessarily destroy the award or foreclose cure. Advice should identify the applicable route and its conditions, instead of relying on the imprecise assurance that stamping can always be dealt with later.

[20] The Indian Stamp Act, 1899 (2 of 1899) s 32(3) proviso (a).
[21] ibid ss 32(3) and 42; *URC Construction* (n 3) [46], [118], [272(vi)], [272(xii)], [272(xiii)].
[22] The Indian Stamp Act, 1899 (2 of 1899) s 41.
[23] ibid s 42.

IV. URC Construction: Clarifying the Obligation and Its Procedural Consequences

4.1 The competing positions

In *URC Construction*, the enforcement proceedings concerned an award dated 26 March 2019, corrected on 7 May 2019. It initially bore stamp duty of ₹100. The award-holder subsequently paid a deficiency of ₹25,850 and argued that the revenue objective had consequently been satisfied.[24] The relevant controversy concerned the legal effect of that later payment, rather than the merits of the underlying contractual dispute.

The award-holder relied on curability, earlier Delhi decisions and arbitration's objective of prompt enforcement. The opposing submission distinguished payment from statutory cure: the instrument still required treatment under the impounding and penalty provisions. The Court also received assistance on the relationship between the statutes and the limits of judicial power.[25]

4.2 The Court's approach

The Court rejected the proposition that section 36 postpones stamp liability until enforcement. It linked the fiscal obligation to signing and treated the enforcement restriction as a subsequent consequence of non-compliance. It also distinguished the court's prescribed penalty under section 35 from the Collector's discretion under section 40.[26] These conclusions prevent curability from becoming a licence to substitute informal payment for statutory endorsement.

The judgment is strongest where it separates powers. A court may recognise that an explanation deserves sympathy without possessing authority to waive the prescribed penalty. The Collector's different jurisdiction becomes relevant precisely because the statute distributes discretion unequally. Referral is therefore not necessarily pointless duplication; it may provide access to an evaluative power unavailable on the court-admission route.

The judgment nevertheless requires careful reading. Its references to enforcement after three months from the award's date should not displace section 34(3)'s receipt-based rule. Similarly, its observations about waiver must be read with the particular statutory power invoked, rather than as an unrestricted Collector's authority to forgive every penalty.[27] These qualifications

[24] *URC Construction* (n 3) [1]–[4].
[25] ibid [4]–[43].
[26] ibid [244]–[253], [268]–[272].
[27] The Arbitration and Conciliation Act, 1996 (26 of 1996) s 34(3); The Indian Stamp Act, 1899 (2 of 1899) ss 39, 40 and 41; *URC Construction* (n 3) [269], [272(xv)].

strengthen, rather than undermine, the distinction between judicial interpretation and legislative text.

4.3 The effect on enforcement procedure

The directions require declarations identifying the award date, payment date, awarded amount and duty payable, together with verified proof of payment and registration where applicable. They require registry office notes and distinguish petitions filed on or before 13 August 2026 from later filings. Deficient instruments are to be placed before the Joint Registrar for the appropriate statutory route; future defective filings are returned under objections.[28]

The Court also directed that petitions should not be disposed of merely for want of stamp duty and that existing interim orders should continue during cure. In the particular case, it requested the Collector or SDM to complete the process preferably within six weeks of receiving the award.[29] The six-week period is an expedition request, not a statutory deadline after which the deficiency disappears.

4.4 Critical assessment

These measures make compliance visible and preserve procedural continuity. Their success, however, depends on the relationship between the prohibition on listing without proof and the necessary listing before the Joint Registrar to address deficiency. The directions should operate as a route to regularisation, not an administrative barrier preventing the party from obtaining an authoritative decision about the objection.

The judgment also identifies the beginning of cure more clearly than its completion. Transmission alone does not secure recovery. Someone must monitor receipt, answer revenue queries, obtain endorsement and return the matter for judicial consideration. The remaining institutional gap lies in assigning those tasks and establishing an escalation process when they are delayed. A prohibition against disposal protects the petition's existence; an organised return procedure protects its practical usefulness.

A further concern is the transition between earlier practice and stricter scrutiny. The judgment distinguishes earlier Delhi decisions partly by their facts and the questions actually considered, rather than establishing that every previous instance of late payment was legally identical.[30]

[28] *URC Construction* (n 3) [277]–[279(v)].
[29] *URC Construction* (n 3).
[30] ibid [265]–[270].

That distinction matters when assessing the award-holder's conduct. A reasoned penalty decision should identify the legal position reasonably relied upon, the timing of discovery and the steps taken thereafter. Reliance does not negate duty, but treating all delay as intentional avoidance would make the statutory discretion insensitive to the uncertainty that prompted the litigation. The enforcement court can record the explanation for consideration by the authorised authority without deciding in advance what remission or reduction must follow.

V. A Curable Defect with Continuing Consequences: The Principal Enforcement Problems

5.1 Fragmented responsibility for compliance

Responsibility for organising stamping should be distinguished from responsibility for bearing its expense. The tribunal controls preparation and signature; an institution may administer circulation; the parties usually provide funds; the award-holder later seeks enforcement. A process can fail even where substantive liability is ascertainable, because no participant has been expressly tasked with obtaining and preserving proof of compliance.

Section 29 of the Stamp Act addresses who bears the expense of providing the proper stamp, subject to agreement and applicable amendments. Its current central text includes a residual provision for instruments not otherwise specified.[31] The correct analysis therefore begins with the applicable expense-allocation rule, not an assumption that stamp law is silent. Yet identifying the person legally chargeable with expense does not by itself create an operational procedure for obtaining stamps before signature.

A tribunal need not become the parties' tax adviser to address this gap. It can require a compliance arrangement before completing the award, identify who will arrange payment, how the amount will be calculated and where the evidence will be retained. An institution can administer that arrangement without conclusively determining disputed fiscal liability. Any allocation between parties remains subject to mandatory law and does not bind the revenue authority.

The distinction also prevents an undesirable remedy. Failure to follow an institutional checklist should not become a new ground to set aside the award. *M Anasuya Devi* protects the boundary of section 34.[32] Administrative responsibility can improve compliance without making an otherwise valid adjudication vulnerable to another merits challenge.

[31] The Indian Stamp Act, 1899 (2 of 1899) s 29(m).
[32] *M Anasuya Devi* (n 18) [4], [5].

5.2 Penalty exposure and procedural choice

The difference between sections 35 and 40 creates a substantive consequence through procedural routing. Under the Delhi framework considered in *URC Construction*, the court-admission route ordinarily requires the statutory tenfold penalty where ten times the deficiency exceeds the specified nominal amount. Section 40 gives the Collector discretion within its statutory limits.[33] It is consequently inaccurate to describe a tenfold penalty as inevitable whenever an award is insufficiently stamped.

Trustees of HC Dhanda Trust v State of Madhya Pradesh confirms that maximum penalty under section 40 cannot be imposed mechanically. The authority must exercise its discretion rationally, considering the circumstances and conduct involved.[34] This supports differentiation between deliberate evasion and an explained error, but it does not transfer the Collector's discretion to the enforcing court.

The framework can nevertheless produce unequal practical burdens. A claimant choosing prompt admission may have to fund a substantial penalty immediately. Another may pursue the Collector route for individualised consideration but face an additional administrative interval. Section 39 also permits specified refunds of penalty following the section 38(1) route.[35] That safeguard does not eliminate the financing cost of initial payment or the need to pursue another administrative decision.

The criticism is therefore structural, not simply that penalties are excessive. Access to proportionate treatment may depend on procedural knowledge, available liquidity and willingness to tolerate delay. Reform should bring reasoned penalty assessment closer to the point at which the deficiency is identified, without authorising courts to disregard the existing allocation of powers.

5.3 Administrative delay and the value of the award

Referral may require transmission of the original, scrutiny by a revenue authority, an opportunity to respond, payment, endorsement and return. Each step can be legally justified; unassigned intervals between them are harder to defend. *URC Construction* recognises the risk of an additional adjudicatory process delaying enforcement and seeks expedition.[36] It does not supply empirical evidence of typical waiting periods, and none is assumed here.

[33] The Indian Stamp Act, 1899 (2 of 1899) ss 35 proviso (a) and 40(1)(b); *URC Construction* (n 3) [246]–[250].
[34] *Trustees of HC Dhanda Trust v State of Madhya Pradesh* (2020) 9 SCC 510.
[35] The Indian Stamp Act, 1899 (2 of 1899) ss 38(1) and 39; *HC Dhanda Trust* (n 34) [18], [19], [20].
[36] *URC Construction* (n 3) [254], [258]–[262], [283].

Post-award interest is an incomplete answer. Section 31(7)(b) addresses interest subject to the award's directions, but accrued interest remains a claim requiring recovery.[37] It cannot ensure present liquidity, prevent all asset dissipation or reimburse every additional procedural expense. For a creditor unable to finance operations, a larger future entitlement may provide little immediate relief.

There is also an incentive problem. A debtor can benefit from delay even where the stamping objection is legally correct. The solution is not to prohibit valid objections, but to contain their procedural effect. Revenue compliance should pause only those steps that law prevents and should end that interruption when the statutory condition has been satisfied. Reopening unrelated aspects of the dispute would exceed the purpose of cure.

5.4 Registry scrutiny and access to judicial consideration

Registry scrutiny can identify missing documents and arithmetical discrepancies. Determining classification, territorial applicability or the legal effect of an endorsement may require adjudication. Section 33(2)(b) permits specified delegation of examination and impounding by a High Court judge; it does not justify assuming that every registry official possesses all adjudicatory powers.[38]

A procedural framework should distinguish an incomplete filing from a disputed fiscal position. The former can receive a defect notice. The latter should have access to the designated judicial or statutory decision-maker. Otherwise, a party may be asked to produce proof of compliance that it cannot obtain until the very dispute blocking listing is resolved.

Preserving a filing record and a defined route for curing defects would reduce this circularity. Such arrangements must remain subject to governing limitation and filing law. They should not promise that every defective petition is legally instituted or that a court can enlarge limitation administratively. Their immediate purpose is traceability: the record should show when the party approached the court, the objection raised and the action required.

5.5 Differences between state stamp regimes

Delhi's procedure cannot be detached from its applicable stamp legislation and exported wholesale. *Seetharama Shetty v Monappa Shetty* illustrates this caution: the Supreme Court analysed impounding, admission and revenue-authority powers under the Karnataka Stamp Act

[37] The Arbitration and Conciliation Act, 1996 (26 of 1996) s 31(7)(b).
[38] The Indian Stamp Act, 1899 (2 of 1899) s 33(2) proviso (b); *URC Construction* (n 3) [279(ii)]–[279(v)].

1957, whose relevant provisions have different numbering and statutory context.[39] Similar functions do not make statutory texts interchangeable.

Enforcement geography adds complexity. *Sundaram Finance* permits execution where the debtor's assets are located without first obtaining transfer from the court connected with the arbitration.[40] That procedural mobility does not conclusively determine territorial stamp liability, credit for earlier payment or additional local requirements. Parties must examine the relevant local provisions. Coordination can standardise information and transmission without pretending that stamp rates or territorial rules are uniform.

VI. The Limits of Harmonious Interpretation: What Courts Can and Cannot Resolve

6.1 Curability does not eliminate statutory procedure

Re Interplay between Arbitration Agreements under the Arbitration and Conciliation Act 1996 and the Indian Stamp Act 1899 distinguished inadmissibility from invalidity. The seven-judge Bench held that inadequate stamping is curable and that stamping objections should not be determined by referral courts under sections 8 and 11; those objections fall within the tribunal's remit.[41] Its conclusions concern the arbitration agreement and the allocation of decision-making at the referral stage.

The decision cannot simply be transposed to completed awards. At referral, the question is whether a fiscal objection should obstruct constitution of the tribunal that can address it. At enforcement, the court is asked to deploy coercive machinery on the basis of the award itself. Deferring scrutiny to a tribunal no longer supplies an equivalent institutional answer. The relevant object, procedural stage and statutory functions have changed.

Its reasoning nevertheless remains useful. An insufficiently stamped instrument need not be treated as legally nonexistent merely because its use is restricted. Applied carefully, this distinction supports preservation of the enforcement proceeding during cure. It does not establish authority to execute the award before the restriction has been lawfully removed. *URC Construction*'s preservation of petitions reflects that narrower form of coordination.[42]

[39] *Seetharama Shetty v Monappa Shetty* 2024 INSC 650 [3], [14]–[17]; Karnataka Stamp Act 1957, ss 33, 34, 37 and 39, as considered in that decision.
[40] *Sundaram Finance* (n 8) [20], [21], [22].
[41] *Re Interplay between Arbitration Agreements under the Arbitration and Conciliation Act 1996 and the Indian Stamp Act 1899* (2024) 6 SCC 1.
[42] *URC Construction* (n 3) [279(vi)].

6.2 The strongest defence of strict compliance

Strict compliance has a credible institutional justification. Fiscal liability should not depend upon whether the debtor resists payment. Consistent application prevents parties who postpone stamping from gaining an advantage over those who comply on time. Impounding and endorsement also create an auditable connection between the instrument, assessed duty and payment, reducing uncertainty about whether the obligation has actually been discharged.

The judicial-power argument is equally strong. Courts cannot substitute preferred penalty rules for express statutory requirements. A general commitment to efficient arbitration does not identify the amount of a lawful penalty or the circumstances of exemption. Those choices involve revenue policy and the statutory distribution of authority. *Seetharama Shetty* emphasises fidelity to the method and manner prescribed by fiscal legislation.[43]

Strictness, however, must attach to requirements that the law actually imposes. It cannot justify repetitive document demands, unexplained inactivity or automatic maximum penalties where discretion exists. Nor should a revenue measure become a tactical means of defeating an opponent after lawful cure. The fiscal purpose and the availability of cure require precision about both the obligation and the point at which its procedural consequences end.

6.3 The boundary between interpretation and reform

Courts can clarify which authority must act, preserve proceedings where lawful, require reasoned decisions and manage relisting. They can identify the statutory distinction between fixed and discretionary penalties. They can also encourage expedition without treating an administrative target as deemed certification. These measures organise existing powers rather than create substantive exemptions.

Even document retention should be distinguished from the bar on use. Section 42(2) gives an endorsed instrument the stipulated capacity to be admitted and acted upon, yet its proviso imposes a separate restriction on delivery back of an instrument admitted on payment under section 35.[44] A protocol should therefore ask whether the next enforcement step requires physical return, rather than assuming that every period of lawful custody suspends all judicial activity. This is an example of useful interpretation: identifying the particular consequence of a provision can remove unnecessary delay without weakening its command or inventing a new exception.

[43] *Seetharama Shetty* (n 39) [17.2], [17.3], [17.4].
[44] The Indian Stamp Act, 1899 (2 of 1899) s 42(2) proviso (a).

By contrast, a general power for enforcement courts to reduce the section 35 penalty would require legislative authority. So would a broader entitlement to voluntary correction outside existing statutory conditions. Permitting coercive enforcement notwithstanding an uncured deficiency would require a defensible statutory basis, not merely a judicial preference for speed. Harmonious interpretation is most persuasive when it coordinates legal consequences within the available text. Once a proposal alters the charge, penalty or condition of admissibility, it should be defended openly as reform.

VII. A Coordinated Compliance and Cure Framework

7.1 Preventing deficient stamping

The first intervention should occur before signature. Institutional rules and procedural orders should identify the applicable stamp regime, the person arranging compliance, the funding arrangement and the record to be retained. The tribunal or administering institution should verify that this task has been completed, leaving contested fiscal determinations to the competent authority. In ad hoc proceedings, a named representative can perform the administrative function under an agreed protocol.

Such arrangements should distinguish advance funding from final allocation of expense. One party may provide funds provisionally without conceding ultimate responsibility. Any adjustment must follow the agreement, applicable stamp law and available costs powers; it should not be assumed that every payment is automatically recoverable from the other party.[45] This reduces the risk that a dispute over expense prevents timely compliance by everyone.

Delivery requires a separate safeguard. The signed award and a compliance record should be circulated together where possible, but the protocol must not purport to restart or postpone section 34 limitation. Receipt of the signed award remains governed by the Arbitration Act.[46] A later endorsement is not a new award merely because it resolves a fiscal defect. Compliance should support delivery, rather than become a device for manipulating challenge periods.

7.2 Making existing cure procedures predictable

Once a deficiency is identified, the party should receive a standard notice stating the instrument concerned, the proposed classification, duty already credited, alleged deficiency and available

[45] The Indian Stamp Act, 1899 (2 of 1899) s 29; The Arbitration and Conciliation Act, 1996 (26 of 1996) ss 31(8) and 31A.
[46] The Arbitration and Conciliation Act, 1996 (26 of 1996) ss 31(5), 33 and 34(3).

statutory route. The notice should identify whether the dispute concerns calculation, timing, proof of payment or absence of endorsement. That specificity prevents a generic objection from becoming an indefinite barrier.

The notice should also explain the material difference between the section 35 route and referral under section 38(2), without presenting either as universally preferable. Section 41 should be identified where its conditions remain available. The decision must account for applicable law, procedural posture and the party's response; a form cannot itself confer eligibility for a remedy.[47]

Transmission should generate an acknowledgement linking the court file and revenue proceeding. Electronic records and tracking can supplement the process where legally permitted, but should not replace an original or endorsement that the statute still requires. The court should nominate responsibility for monitoring receipt; the revenue authority should identify a contact for procedural queries. These modest allocations address delay between institutions without altering fiscal liability.

Administrative targets should distinguish acknowledgement, initial scrutiny and final determination. *URC Construction*'s preferred six-week period provides a Delhi-specific starting point, not a universal statutory limit.[48] Missed targets should trigger recorded reasons and escalation rather than deemed payment or automatic admissibility. On completion, the endorsed instrument should return through a specified channel, followed by relisting without requiring the award-holder to begin the enforcement process afresh.

7.3 Reforming penalty rules

Legislative reform should start from existing relief rather than assume its absence. Sections 39, 40 and 41 already provide different forms of refund, discretion and conditional voluntary correction.[49] Their limitations concern accessibility, timing and fragmentation. An improved framework could make the consequences of prompt disclosure clearer and reduce unnecessary movement between the court and revenue authority.

A graduated scheme could distinguish prompt self-disclosure, explained misclassification, repeated neglect and deliberate concealment. It should preserve full payment of duty and require reasons for the selected penalty. Safeguards should prevent parties from using nominal initial payments as a routine means of deferring liability. Any concession should depend on

[47] The Indian Stamp Act, 1899 (2 of 1899) ss 35, 38(2), 40, 41 and 42.
[48] *URC Construction* (n 3) [283].
[49] The Indian Stamp Act, 1899 (2 of 1899) ss 39, 40 and 41.

complete disclosure, cooperation and compliance within the authorised period, with stronger consequences for misleading information.

An expanded voluntary-correction mechanism could also accommodate genuine errors discovered beyond section 41's existing window. That would be a legislative proposal, not an interpretation of the current provision. Lawmakers would need to specify eligibility, applicable financial consequences and interaction with pending impounding proceedings. A predictable route offers a stronger incentive to correct mistakes than uncertain expectations of sympathy at enforcement.

7.4 Coordinating courts, registries and revenue authorities

A common protocol should allocate functions explicitly. The registry records and identifies defects; the designated authority determines contested procedural questions and the applicable route; the Collector exercises the fiscal jurisdiction entrusted to that office; the court resumes enforcement when compliance is established. Existing protective orders should be preserved where lawful, subject to their terms and any superior order or independent statutory restraint.[50]

The protocol should also define how a party contests an erroneous registry objection. Preservation of the filing record and access to a reasoned decision protect judicial scrutiny without authorising execution on an uncured instrument. Coordination must not quietly transfer adjudicatory power to administrative staff.

The framework should be evaluated through records capable of exposing where delay occurs. Courts and revenue offices could record the dates of objection, referral, receipt, assessment, payment, endorsement and relisting. Aggregate reporting would distinguish time spent awaiting a party's response from time spent within public offices. It could also show whether disputed classification, missing originals or administrative transmission accounts for the greater burden. Such information would support later reform without making unsupported claims about present practice. Publication should exclude commercially sensitive details unnecessary to assessing the process.

A further safeguard is proportionality in the information requested. A monetary award with an undisputed classification should not require the same administrative inquiry as an instrument raising a genuine territorial or classification question. Standard forms can accommodate both by separating routine particulars from reasons for a dispute. This does not create different legal standards of compliance; it calibrates the administrative work needed to apply the same

[50] *URC Construction* (n 3) [279(vi)], [279(vii)], [279(viii)].

governing requirements. The proposed protocol should remain open to correction when practical experience reveals duplication, bottlenecks or insufficient safeguards. Its value depends on improving actual completion, not simply producing another layer of mandatory paperwork.

The proposed arrangement also makes accountability visible. A party can identify whether an outstanding step belongs to counsel, the registry or the revenue authority, and seek an appropriate response from that actor.

7.5 Testing the proposals against both statutory objectives

Each recommendation should secure legally due revenue, reduce avoidable delay and preserve access to the proper decision-maker. Checklists and tracking ordinarily concern administration; changes to substantive penalty entitlements require legislation. The framework therefore does not depend on identical state rates. Its common element is responsibility: every transition should identify who acts next, what legal condition must be satisfied and how completion returns the award to enforcement.

VIII. Conclusion: Making Fiscal Compliance Compatible with Effective Recovery

The relationship between stamp duty and arbitral enforcement is best understood as a problem of institutional coordination. An award can survive a challenge and remain subject to a fiscal restriction on its use. That result is not inherently contradictory. Section 34 addresses the grounds for setting aside the award; stamp legislation addresses obligations attached to the instrument and the conditions for relying upon it. Confusion arises when success under one framework is assumed to establish compliance under the other.

The distinction between liability, objection and cure produces a broader finding. Effective enforcement requires more than a legal statement that defects are remediable. It requires an identifiable actor, an accessible procedure and a verifiable point of completion. Without those elements, curability describes a possibility rather than a reliable remedy. *URC Construction* clarifies the need for statutory compliance and protects procedural continuity, but its practical promise depends on the administrative connections supporting referral and return.

Responsibility must therefore extend across the award's lifecycle. Early arrangements can prevent a foreseeable omission, precise defect notices can direct parties towards the appropriate statutory power, and monitored transmission and relisting can prevent a necessary fiscal

process from becoming an indefinite interruption. These measures improve enforcement without treating revenue collection as dispensable. They also preserve the distinction between arranging compliance and deciding who ultimately bears its cost.

Penalty reform presents a different question. Proportionality cannot be achieved by attributing discretion to a court that the statute has withheld. It requires proper use of existing revenue powers and, where those powers are inadequate, expressly authorised legislative change. The resulting synthesis is neither unconditional enforcement nor procedure for its own sake. Fiscal restrictions should remain effective until lawfully cured, and procedural arrangements should ensure that their consequences end when their statutory purpose has been fulfilled. Arbitration's commercial value depends on both parts of that proposition.

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