

Zaiwalla & Co. - Spearheading the Indian Legal Roots Globally

While the air today is of opening up of the Indian gates to foreign law firms, there are instances when one wonders if at all there are boundaries yet to be opened out. Lex Witness visits Zaiwalla & Co. a London firm of high repute founded by Sarosh Zaiwalla, Senior Partner in 1982.

Lex Witness Bureau

LONDON – CENTER FOR SETTLING INTERNATIONAL COMMERCIAL DISPUTES

The United Kingdom has been one of the legal business centers when it comes to mapping out the legal economy across the globe. Law firms operating out of this corner of the world control and govern a sizeable legal business chunk globally. Today 85-90% of the disputes before the Commercial Court in London has an international connection out of which around 40% originates from Russia and CIS countries. This is because of the high standing and independence of the British judiciary. One of the firms - Zaiwalla and Co. Solicitors - an international law firm with an Indian 'connection' is based in Chancery Lane in the heart of the legal district in the City of London and today commands worldwide respect for handling international arbitrations and high value quality commercial litigation in the English and European Courts.

A DIVERSIFIED NICHE

In an era of niches and specializations, Zaiwalla & Co. has yet managed to maintain a diversified portfolio not only as far as corporate entities are concerned, but extending its services to both corporations and state entities, as well as individuals across the

domestic and international markets. The firm has been covering both contentious and non-contentious cases. This firm has handled over 1000 international arbitrations, including from India, People's Republic of China, Middle East, Russia and Africa. This firm started off as a Maritime law firm having won for the Indian Government in 1983 the first commercial case from India in the House of Lords. This was a Shipping case concerning the vessel La Pintada which was a test case on the issue of whether compound interest can be awarded for late payment of debt. In the 80s when India was going through extreme foreign exchange crisis, the firm saved over GBP 50 million for India by their successes.

In the La Pintada case, this firm had instructed Tony Blair as the Junior Barrister and he went on to become the Prime Minister of the United Kingdom.

For two out of the last 5 years, cases handled by the firm were considered by the leading English legal magazine, The Lawyer, as the top litigation case of the year. The first of these was Hashwani v Jivraj, where the issue was whether the arbitration agreement can require a term where the Arbitrator must belong to a particular religious sect. The second was Bank Mellat v



*Sarosh Zaiwalla,
Senior Partner,
Zaiwalla & Co.*

HM Treasury, where Iran's leading private bank challenged its inclusion in the list of Iran Nuclear Sanctions by the British Government. Both these cases went up the UK Supreme Court.

Aside from this, the firm possesses an overshadowing presence when it comes to advising the biggies of the global crude oil market, to name a few are the NIOC and Petropars of Iran, Rosneft (Russian oil & gas), China National Petroleum Company, IOC and ONGC.

INTERNATIONAL SANCTIONS

International Sanctions has been one of the other subjects where the firm has earned quite a lot of accolades. The firm's sanctions team advised upon and challenged charges brought against its clients Bank Mellat and Bank Tejarat of Iran by The United Kingdom, The European Council, United States Office of Foreign Asset Control (OFAC) and The South Korean Government. The firm was asked by Bank Mellat to take over their litigation for the Supreme Court appeal from Stephenson Harwood Solicitors after Bank Mellat had lost in the Court of Appeal.

THE 'SECRET COURT'

Zaiwalla & Co. has developed an international good name for succeeding with an "out of box" daring litigation spirit when it comes to sizeable claims and the nature of parties involved. While there are many that can be cited, one that caught international news headlines is a matter where the firm is instructed by The Bank Mellat for a USD 4 Billion damages claim against the UK Government following a decision of the UK Courts setting aside an order made against the Bank under the Counter Terrorism Act 2008. The 2013 Supreme Court Case, Bank Mellat vs. HM Treasury, was the first time the Supreme Court had ever heard evidence in a 'Secret Court' procedure.

While the whole gamut of secrecy was one side of the sword – the sensitivity of the material that was presented to the Court by the UK Government was another. The matter led to a massive public outcry and compelled intervention of Liberty – a human rights group challenging the legality of the process in support of Bank Mellat. It was historic and a litigation triumph when the Supreme Court

pronounced in favour of Bank Mellat upholding sanctions imposed by the UK Government unlawful. Following this, in October 2015 the High Court held, in a test case, that the Bank's application to make a damages claim against the United Kingdom could proceed.

MAJESTY BEYOND UK GOVERNMENT

The firm has its litigation muscle present beyond matters against the UK Government as well. It manages Bank Mellat's litigation in South Korea against the South Korean's Government's 'copycat' imposition of US and EU sanctions. Yet another BFSI maestros in the bouquet are the Iranian bank, Bank Tejarat, and four subsidiaries of the Iranian oil group, Petropars, in litigations against the Council of the European Union in the General Court of the European Union. Uganda Commercial Impex Ltd, an African Trading company, had also instructed Zaiwalla to challenge European Union sanctions against their client for alleged involvement in buying gold from Congo rebels in breach of UN Security Council sanctions.

ACCLOADES & MORE

The firm won for Bank Mellat in the European Union Court of Appeal an appeal by EU Council, supported by the UK government, against the decision of the EU General Court which held that listing of Bank Mellat for allegedly supporting Iran Nuclear Proliferation was unsubstantiated and therefore unlawful.

The firm's dedicated Russia and CIS desk partnered with Rosneft's legal team to advise on a litigation strategy in its successful sanctions matter OJSC Rosneft Oil Company v Her Majesty's Treasury - another of the Lawyer's Top 20 Cases of 2015. The firm now has a 5 year accreditation to Rosneft's legal panel with a cost budget of US\$15million.

Through the firm's growing reputation in Russia, the well-known lawyer for the Russian Oligarchs, Alexander Dobrovinsky, has instructed the Zaiwalla team to defend him in an ongoing USD 330 million High Court dispute (Polonskiy -v- (1) Alexander Dobrovinsky & Partners LLP) in the English Court relating to commissions from the sale of a business involving billionaire and Chelsea Football Club owner, Roman Abramovich. In May 2016 Judge Gabriel

Moss QC dismissed Polonskiy's stay application which was premised on allegations that a detainee's rights to confidential communications with his legal advisors are not respected in Russia, and that Russian prosecutors and investigators had shared Polonskiy's privileged documents and information with the Second Defendant, Dr Alexander Dobrovinsky.

The firm's real specialty is acting in international arbitrations. Back in 2013 Zaiwalla & Co successfully set aside a multi-million dollar London GAFTA Arbitration Award against a Delhi based Indian Government company, PEC Limited. When a 2014 ruling by an International Tribunal ordered Russia to pay the largest ever arbitration award of \$50 billion in damages to the former shareholders of the Yukos Oil Company in Russia, Yukos' Russian legal advisors approached Zaiwalla & Co to advise upon an "out of box" strategy to challenge the award. The firm advised Yukos to challenge the award in the Dutch Court on the grounds that the original arbitrators lacked the jurisdiction to competently arbitrate the case hence the award was invalid under Russian law. This advice was taken and the award was set aside in April 2016.

The firm's Senior Partner, Sarosh Zaiwalla is a well-known international arbitrator. He has been a member of an international tribunal with Mr Harish Salve and Sir Anthony Evans in a multi-million dollar arbitration in Mumbai under Indian law, concerning a power project in the state of Karnataka. He is regularly appointed by the President of the Law Society to act as sole arbitrator in the international arbitrations. [W](#)



Zaiwalla & Co.

Chancery House
53/64 Chancery Lane
London, WC2A 1QS
DX: 42 Chancery Lane
Tel: +44 (0) 207 312 1000
Fax: +44 (0) 207 404 9473
E: info@zaiwalla.co.uk
Web: www.zaiwalla.co.uk