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# **Exciting Courses Challenging Careers 2020**

## **CERTIFICATE COURSE IN ARBITRATION**



**DIRECTORATE OF ADVANCED STUDIES  
THE INSTITUTE OF  
COST ACCOUNTANTS OF INDIA**

Statutory Body under an Act of Parliament

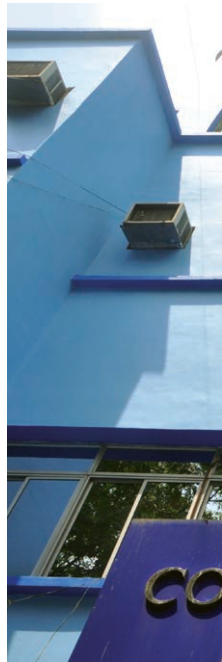
Behind every successful business decision, there is always a **CMA**

# THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

**T**he Institute of Cost Accountants of India is a statutory body set up under an Act of Parliament in the year 1959. The Institute as a part of its obligation, regulates the profession of Cost and Management Accountancy, enrolls students for its courses, provides coaching facilities to the students, organises professional development programmes for the members and undertakes research programmes in the field of Cost and Management Accountancy. The Institute pursues the vision of cost competitiveness, cost management, efficient use of resources and structured approach to cost accounting as the key drivers of the profession. In today's world, the profession of conventional accounting and auditing has taken a back seat and cost and management accountants are increasingly contributing toward the management of scarce resources and apply strategic decisions. This has opened up further scope and tremendous opportunities for cost accountants in India and abroad.

After an amendment passed by Parliament of India, the Institute is now renamed as "The Institute of Cost Accountants of India" from "The Institute of Cost and Works Accountants of India". This step is aimed towards synergising with the global management accounting bodies, sharing the best practices which will be useful to large number of trans-national Indian companies operating from India and abroad to remain competitive. With the current emphasis on management of resources, the specialized knowledge of evaluating operating efficiency and strategic management the professionals are known as "Cost and Management Accountants (CMAs)". The Institute is the 2<sup>nd</sup> largest Cost & Management Accounting body in the world and the largest in Asia, having approximately 5,00,000 students and 85,000 members all over the globe. The Institution headquartered at Kolkata operates through four regional councils at Kolkata, Delhi, Mumbai and Chennai and 105 Chapters situated at important cities in the country as well as 10 Overseas Centres. It is under the administrative control of Ministry of Corporate Affairs, Government of India.

The Institute apart from being a member of International Federation of Accountants (IFAC), South-Asian Federation of Accountants (SAFA), Confederation of Asian & Pacific Accountants (CAPA), National Advisory Committee on Accounting Standards (NACAS), and National Foundation for Corporate Governance (NFCG) is also a member of Government Accounting Standards Advisory Board (GASAB).



## THE DIRECTORATE OF ADVANCED STUDIES

**T**he Directorate of Advanced Studies has been constituted by the Institute in order to provide advanced knowledge and specialized training on various areas of Cost & Management Accountancy, including finance and other allied subjects.

The Directorate shall design, develop and deliver advanced courses that are of interest to Management Accountants and other professionals. It will also take up research in the area of Management Accounting and allied field of study.

Advanced courses will be designed for up-gradation of existing knowledge and skills and for acquiring new knowledge and skills. The courses shall aim to prepare practicing members and professionals to take up new areas of practice and consultancy and for members/professionals in industry to shoulder higher responsibilities.

### ABOUT THE COURSE

Arbitration is a consensual means of dispute resolution, and it has a binding effect only by a virtue of complex framework of national and international law. The international conventions and the national arbitration legislation along with the institutional arbitration rules provide a specialised legal regime for arbitrations. The legal regime enhances the enforceability of both arbitration agreements and arbitral awards and seeks to insulate the arbitral process from interference by national courts or other governmental authorities.

### WHO CAN BE BENEFITTED FROM THE COURSE

The course is meant for the candidates, who are desirous of consolidating their expertise and skills in Arbitration to position them as multi disciplinary consultants in the global service market.

# COURSE OBJECTIVES

Arbitration is a form of alternative dispute resolution (ADR), is a technique for the resolution of disputes outside the courts, the parties to a dispute refer it to Arbitration by one or more persons (the arbitrators' arbiters or arbitral Tribunal), and agrees to bound by the arbitration decision (the award). A third party reviews the evidences in the case and imposes a decision that is legally binding on both sides and enforceable in the courts. In fact, Arbitration is a process in which disputants can resolve dispute amicably. This method can bring solutions disputes as well as among disputants. The objective of this course is to make familiarize the participants with legal framework of arbitration, arbitration procedures, and arbitration practice. It is also designed to cover practical aspects covering case analysis and mock arbitral proceedings.

This certificate course aims to develop a thorough understanding in the working mechanisms of Alternate Dispute Mechanisms through a host of webinars, class room lectures and simulated exercises of arbitration.



## ELIGIBILITY

- CMA/CA/CS/Lawyers/ Graduates from any discipline
- Working Experience of 1- 2 years will be preferred



## LEARNING OUTCOMES

- After successful completion of the course the participants will understand the legal and regulatory framework that governs the development of Arbitration process, both domestically and internationally.
- Develop an understanding of the legal framework and a dispute settlement strategy required to give effect to the arbitral awards secured.
- Develop an understanding Arbitration, negotiation, arbitration clauses in contracts, and to be effective in avoidance of disputes and drainage of resources through courtroom battles and to understand the structuring arbitration for speedy and fair resolution.

## COURSE DURATION AND MODALITIES

- Total: 3 Modules (100 marks)
- Course Duration: 3 months
- Course Fee: INR. 20,000/- (including registration and study material) + Applicable GST
- Special Discount for CMA Members & Students: 20% special discount on the course fee
- Examination: Four times in a year
- Minimum pass mark: 50 Marks and above 60 in a module will qualify for exemption in that subject
- Re-registration with a fee of INR 3,000/- after 3 years of initial admission.
- Study Materials and sample question papers for each subject will be provided.
- 20 hours or more Webinar/Recorded Classes for each module



## PEDAGOGY

In the Practical Training classes there would be

1. Mock Session/Role Play
2. Mediation/Arbitration skills
3. Interviewing/counselling Skills
4. Negotiation Skills
5. Drafting of Clauses/Notices/Terms of Reference/Awards

## FACULTY MEMBERS

Faculty will be drawn from academicians associated with top academic institutions, practitioners engaged in Arbitration and mediation including government officials and regulators.

## EVALUATION MECHANISM & FEES

- Participants will be evaluated through MCQ Examination.
- The participants will be evaluated for each module of the course.
- The participants who will score **50 percent** or **more** in the examination for each module will be awarded the **Certificate Course in Arbitration** by the Institute.
- **Examination fee** (excluding Project) is **INR 1,500/- per attempt**.



## REGISTRATION PROCEDURE

- Registration will be online and the link will be provided to applicants.
- For Registrations please visit the Institute's website **[www.icmai.in](http://www.icmai.in)**
- Please download the application from the website, complete it and send the same to the Directorate of Advanced Studies, along with the specified fee.

## ALLIED LAWS AND RULES

- Indian Contract Act, 1872
- Indian Evidence Act, 1872
- Limitation Act 1963
- IBA Rules on Taking of Evidence in International Commercial Arbitration
- Arbitration and Conciliation Act, 1940
- Arbitration and Conciliation Act, 1996
- Legal services Authorities Act, 1987
- Lokpal Bill
- UNCITRAL Model Law



# SYLLABUS

## COURSE CONTENTS

### MODULE – I

Principles of ADR  
and  
Domestic Arbitration

(100 Marks)

### MODULE – II

Principles of  
Commercial Arbitration

(100 Marks)

### MODULE – III

Principles of International  
Commercial Arbitration

(100 Marks)

## MODULE - I

### PRINCIPLES OF ADR AND DOMESTIC ARBITRATION

100

- **Fundamentals of Alternative Dispute Resolution**
- **Concept & Meaning of ADR**
- **Historical Development**
- **Arbitration**
  - a. Methods of Arbitrations
  - b. Institutional, Adhoc & Statutory Arbitration
  - c. Mediation - Objective, Models, Approaches, Stages, Role/Mandate/Duties
  - d. Responsibilities of Arbitrator
  - e. Conciliation - Appointment of Conciliator, Rights & Duties of Conciliator, Confidentiality in communication - Part III - Arbitration & Conciliation Act, 1996 Negotiation - Theories, Strategies of Negotiation, Duties & Responsibilities of Negotiators
  - f. Professional Ethics in ADR - Principle of Equity, Justice, Fairness, Neutrality & confidentiality
- **Advantages of Alternate Dispute Resolution- legislative and judicial sanction for ADR, negotiation, mediation and conciliation and position of Lokpal and lokayukta and Lok Adalat.**
- **Information Technology and ADR**
  - a. Online Dispute Resolution - Kinds, Methods, Challenges in India
  - b. WIPO, ICANN and Uniform Domain Name Dispute Resolution Policy (UDRP)-IN Domain Name Dispute Resolution Policy (INDRP).
  - c. Chapter I to V - Information Technology Act, 2000 Electronic Evidence in Arbitration
  - d. Use of Information Technology in Arbitration Mechanism Formation of Online Contracts - Methods, Challenges Click Wrap, Shrink Wrap & Browse Wrap Agreements
- **Cases**



- **Domestic Arbitration**

- a. Arbitration & Conciliation Act, 1996.
- b. Arbitral Tribunals - Appointment of Arbitrators - Eligibility and qualifications of
- c. Arbitrators - Powers and functions - Competency and Jurisdiction of Arbitrators.
- d. Arbitral proceedings - Procedural justice for parties - Rules of procedure and Evidence, Statement of Claims and Defence; Hearings and Written proceedings - Interim Measures - Settlement Awards.
- e. Awards - Kinds of Awards - Rules of Guidance - Form and contents of awards
- f. Correction and Interpretation of award - Additional award - Setting aside of
- g. Awards - Appealable Orders - Enforcement of Awards - Legality and Fairness of Arbitral Awards - Reasoned Awards.

- **Procedures and Obligations in Arbitration**

- a. Drafting of Arbitration Agreement - Essentials - Rule of severability - Who can enter into arbitration agreement - Validity - Extent of Judicial Intervention- Power of Court to refer parties to arbitration - Interim measures. Terms of Reference, Notice Statement of Claim/Reply/Rejoinder Execution Application, Appeals & Affidavits
- b. Arbitration Agreement - Essentials - Rule of severability - Who can enter into arbitration agreement - Validity - Extent of Judicial Intervention- Power of Court to refer parties to arbitration - Interim measures
- c. Number of arbitrators - Appointment of arbitrators - Grounds for challenge - Challenge procedure - Court assistance.
- d. COMPOSITION and jurisdiction of ARBITRAL TRIBUNAL Number of arbitrators - Appointment of arbitrators - Grounds for challenge - Challenge procedure - Court assistance.
- e. Conduct of arbitral proceedings - Equal treatment of parties - Determination of rules of procedure - Place of arbitration - Language - Statement of claim and defence -Hearing and written proceedings - Expert appointment by arbitral tribunal.
- f. Making of arbitral award and termination of proceedings rules applicable to substance of dispute - Settlement - Form and contents of arbitral award - Termination proceeding.
- g. ENFORCEMENT Recourse against Arbitral Award - Finality and Enforcement of Arbitral Awards - Appeals
- h. CONCILIATION - Appointment of Conciliator - Role of Conciliator - Commencement of conciliator proceedings termination of conciliation proceedings.

- **Arbitral Process**

- a. Fundamental Principle of Arbitral Process.
- b. Discrepancies in Arbitration Agreement.
- c. Commencement of Arbitration & Appointment of Arbitrator Challenge Procedures - Bias & Impartiality Challenge to Arbitrator Jurisdiction & Powers.
- d. Arbitration procedures - Meetings, Timetable, Submissions, Experts, Hearing, Disclosures etc.

- **Arbitration Award**

- **Cases**





- **International Commercial Arbitration**
  - a. Development of International Arbitration - Dispute resolution in international trade
  - b. Concept and nature of arbitration
  - c. Important terms used in international commercial arbitration
  - d. The hybrid nature of arbitral process
  - e. Types of arbitration
  - f. Enforcement as under Arbitration & Conciliation Act, 1996
  - g. Party Autonomy - Nationalities of Parties - Intervention of Domestic Court in International Arbitration
  - h. Determination of applicable law - Choice of Law - Proper law of Contract - Conflict of Law Principle -
    - Arbitrability
    - Comparative study of judicial decisions on arbitrability
  - i. Significance of agreement in arbitration
  - j. Forms of arbitration agreement
  - k. Functions of an arbitration agreement
  - l. Definition and Requirements of a valid arbitrations agreement
  - m. Foreign Arbitration Agreement Autonomy of an arbitration agreement
  - n. Indian position on autonomy of arbitration agreement
- **Types of laws applicable in international commercial arbitration**
  - a. Governing law of arbitration
  - b. Law applicable to the substantive issues
  - c. Law governing arbitration agreement
  - d. Law of enforcement and recognition of foreign arbitral award
  - e. Arbitration Rules
  - f. A comparison between institutional versus ad-hoc rules of arbitration
- **Choice of law (Seat Theory) - Party autonomy, Choice of national law. Choice of national principles**
- **Conflict Rules**
- **Enforcement of Arbitral Award – Geneva Convention 1927, New York Convention 1958 and Award as a Decree/Judgment**
- **The International Conventions for recognition and enforcement of arbitral awards**
- **Reciprocity and commercial reservation**
  - a. Indian law- scope and applicability
  - b. Foreign award- meaning
  - c. General policy for review foreign award in India
  - d. Grounds for refusal of recognition and enforcement of a foreign award
  - e. Recognition and enforcement of annulled awards
- **UNCITRAL Model Law, 1985 & UNCITRAL Arbitration Rules, 2010 LCIA, ICC, ICA – Rules of Major International Arbitration Institutions International Commercial Arbitration – Development in Indian Courts**
- **Cases**





**COURSE DIRECTOR**

**CMA (Dr.) Debaprosanna Nandy**  
Sr. Director - Advanced Studies

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