

Advocate Harish Salve

Current Position

Advocate Harish Salve appointed as a member of Queen's Counsel. Also he is in private practice as senior counsel as well as an arbitrator.

Appointed as arbitrator by International Chambers of Commerce, the London Court of International Arbitration, and the Singapore International Arbitration Council. Appeared as lead counsel before International Arbitral Tribunals with their seat in Geneva, London, Singapore, The Hague, Paris etc. Appointed a member of the courts of the Singapore International Arbitration Chamber and of the London Council of International Arbitration. Also appointed by a Committee set up by the Government of Singapore to give a report on establishing an International Commercial Court in Singapore.

In July 2013, admitted to the Bar of the United Kingdom and Wales, on the basis of his Indian qualifications and experience at the Bar, waiving the requirement of pupillage or possessing English qualifications. Now a full tenant of Blackstone Chambers.



Professional Experience

Started work as a Chartered Accountant, doing exclusively taxation work. Joined J.B. Dadachanji & Co. as a trainee, and then as an associate.

Shifted to counsel practice and joined the Chamber of Mr. Soli Sorabjee (former Attorney General of India) in 1980. Set up independent chambers in 1986. Designated a Senior Advocate in 1992.

Practice mostly in the Supreme Court of India and Delhi High Court. Appeared in almost all High Courts of India. Became the Solicitor General of India in 1999 – youngest ever Solicitor General at the age of 43 years. Returned to private practice in November 2002.

Work Experience

International Court of Justice

Jadhav Case: He represented India before the International Court of Justice in May 2017 in the Jadhav case (India v Pakistan) and successfully obtained an Order restraining Pakistan from executing Mr. Jadhav pending the final decision of the Court.

Republic of Martial Islands: Represented India before the International Court of Justice (ICJ) in 2016 in the case filed by the Republic of Marshall Islands relating to nuclear weapons. The Court upheld India's objection to jurisdiction.

Constitutional Law

Freedom of Speech & Expression: Defended the right to freedom of speech and expression, appearing for the national Daily THE HINDU, which was issued notice for breach of Privilege by the Tamil Nadu Legislative Assembly and had more than 20 criminal complaints filed against it for reporting about the Chief Minister. Also appeared for filmmaker Prakash Jha, in various cases against the ban imposed by the State against his movie.

The Ninth Schedule to the Constitution: The power of the Parliament to put laws beyond judicial scrutiny on the ground of violation of fundamental rights was challenged. The Court held that if such law infringes the essence of any of the fundamental rights or the basic structure it would be struck down as void.

Right to Privacy:

Represents industrialist Ratan Tata before the Supreme Court of India, where Tata's right to privacy is being argued. The case arises out of the contents of the "Nira Radia tapes" - transcripts of tapped conversations of lobbyist Nira with Tata and several bureaucrats, politicians and journalists - and will have far reaching consequences on the right to privacy in India.

Water Disputes:

Article 131 of the Constitution of India gives the Supreme Court of India the exclusive jurisdiction to hear and decide disputes between two or more States, or between the Government of India and one or more State Governments. Under this provision, a number of important inter-state disputes have been brought before the Supreme Court, concerning the sharing of inter-state river waters. Appeared in a number of these cases, including the disputes between the State of Andhra Pradesh and the State of Karnataka in their dispute over the waters of the River Krishna, as also the disputes between the State of Punjab and the State of Haryana (inter alia in respect of the Sutlej Yamuna Link Canal).

TMA Pai Case: Appeared before a Constitution Bench of 11-Judges of the Supreme Court of India on the question of scope of right of minorities to establish and administer educational institutions of their choice under the Constitution. The matter dealt with the rights of and permissible restrictions upon minority (aided and unaided) institutions.

Reservation in Public Employment: Persuaded the Court to hold that before making reservation in public employment under Article 16 the State will have to show the existence of the compelling state interest, namely, backwardness, inadequacy of representation and ensure overall administrative efficiency.

Amicus Curiae

Environment (Forest Matter)

Since 1996 appearing as *Amicus Curiae* assisting - what is now commonly known as the 'Green Bench' which has resulted in significantly improving the forest cover of the country. Described as '*one of the biggest wildlife conservation victories*', assisted the Court in bringing to an end a destructive open cast mining operations in South India. Argued for the imposition of Net Present Value, in addition to compensatory afforestation, every time natural forests are removed and used for non-forest purposes. Olding Played an instrumental role in holding a State Cabinet Minister, accountable for illegally permitting plywood units, leading to his imprisonment.

Environment (Clean Air) Matter: Assisted the Court in controlling and monitoring Delhi pollution through various initiatives – the latest being persuading the Court to bring about a ban on diesel cars above 2000 CC.

Police Reform Matter: Appointed *Amicus Curiae* to help and assist the court to implement guidelines and procedures in the Police Act for better day to day functioning by the police force.

Mental Health Reform Matter: *Amicus* in a public interest petition filed, whereby the Court is overlooking the implementation of health care, management of funds, medicines and other medical facilities by mental health institutions in India. Also, appointed *Amicus* in an election matter - pertaining to non-disclosure of criminal antecedents by an electoral candidate.

Criminal Matters

Uphaar Matter : Appeared pro bono as Special Public Prosecutor on behalf of the State (Central Bureau of Investigation) in the 1997 Uphaar Cinema Fire Case - right from the Trial Court to High Court and up to the Supreme Court. This was the tragic case where, a fire in the transformer room of Uphaar cinema in New Delhi, killed 59 people after it emitted toxic gases. This is the first case of conviction in a white collared crime in the country where two business tycoons (Sushil Ansal & Gopal Ansal) have been convicted for gross negligence in management of the Uphaar Cinema Hall.

Taxation and Commercial matters

Appeared for Vodafone International Holdings,BV - in what was perhaps the biggest and most contentious tax litigation in India, successfully contending that the Indian tax authorities did not have jurisdiction to tax the offshore transfer of a share of a Cayman Islands company by the Hutchison Group to the Vodafone Group.

In Azadi Bachao, appeared for the Government of India and successfully defended the India-Mauritius Double Taxation Treaty.

Represented Arcelor-Mittal before the Supreme Court in its bid against NuMetal for Essar Steel. The Supreme Court granted both parties a chance to submit their bids anew.

Represented ITC Limited before the Supreme Court of India. The Court allowed ITC to take possession of a luxury hotel which had been purchased by ITC in a public auction under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002

Arbitration Experience

Arbitration and Bilateral Investment Treaty (BIT) Disputes

Appeared for Reliance Industries Limited (RIL) in an arbitration relating to a production sharing contract for natural gas against the Government of India. The tribunal upheld the contractual right of RIL to produce all hydrocarbons resulting from Petroleum Operations conducted within its Contract area, including hydrocarbons that could have migrated from an adjacent block.

Representing Vodafone Plc and Vedanta Resources Limited in claims against the Government of India under BIT.

Successfully defended Devas Multimedia in an International Chamber of Commerce (ICC) tribunal against Antrix Corporation - the commercial arm of the Indian Space Research Organization (ISRO). The tribunal asked Antrix to pay \$672 million to Devas for unlawfully terminating a contract to use spectrum (airwaves) from satellites.

Domestic Arbitration

1. Elle Hotels
2. Hyatt Int'l-SEA (Pte) Ltd. v. Unison Hotels Ltd.
3. Prasar Bharti v. Buddha Films
4. RBT Shipping v. United India Assurance
5. Gannon Dunkerley v. ONGC
6. Jet Airways v. Sahar

Co-Arbitrator

1. Jindal Praxair Oxygen Company Ltd. V. Jindal Vijaynagar Steel Ltd.
2. United India Insurance co. v. Ranbaxy Laboratories
3. NALCO v. Gerald
4. Marc Rich & Co. Investment AG v. NALCO
5. Roger Shashoua & Ors. V. Mr. Mukesh Sharma & Ors.
6. ST-CMS Electric Company Pvt. Ltd. v. Tamil Nadu electricity Board
7. Global Steel Holdings and Global Infrastructure (Nigeria) Ltd. v. The Federal Govt. of Nigeria
8. Austrian de Zinc, S.A. v. Hindustan Zinc. Ltd.
9. Guardian International Corp. v. Modi Rubber Ltd.

Languages

English, Hindi