
On August 1, 2023, the U.S. Court of Appeals for the Ninth Circuit (San Francisco) reversed an approximately $1.3 billion judgment entered by the U.S. District Court for the Western District of Washington (Seattle) confirming an international arbitral award rendered against India’s wholly owned space and satellite company, Antrix Corp. Ltd. Curtis represented Antrix in the district court and fully briefed Antrix’s appeals in the Ninth Circuit.

The Ninth Circuit agreed with Antrix’s argument that foreign states and their corporate instrumentalities are entitled to due process under the Foreign Sovereign Immunities Act and the due process clause of the Fifth Amendment. It further held that the plaintiff had not alleged sufficient contacts by Antrix in the United States to satisfy due process. The Ninth Circuit thus concluded that the district court lacked personal jurisdiction to enforce the award, without addressing Antrix’s other defenses or its subsequent appeal from a different order allowing third parties to register and enforce the judgment in another district pending appeal.

One of the many procedural complexities in this appeal was the Indian court’s intervening decision to set aside the award in India during the pendency of the appeal. While Antrix could have sought vacatur of the judgment on that basis pending appeal, it would have risked waiving its personal jurisdiction defense as had occurred in *Corporación Mexicana De Mantenimiento Integral, S. De R.L. De C.V. v. Pemex-Exploración Y Producción*, 832 F.3d 920 (2d Cir. 2016).

Antrix was able to avoid that risk by making a novel motion for a limited remand for consideration of the set-aside decision in the first instance under 28 U.S.C. § 2106 rather than proceeding directly to seek vacatur of the judgment in the Ninth Circuit or the district court. That strategy paid off because the Ninth Circuit ultimately ruled in Antrix’s favor based on lack of personal jurisdiction.

Not only is this a welcomed win for Antrix because it forecloses any further efforts to enforce this $1.3 billion judgment, it is also a significant decision for other foreign states and their corporate instrumentalities defending against the enforcement of international arbitral awards, which are extremely difficult to oppose on the merits.

The Curtis appellate team was led by Partner Joseph Pizzurro and included Partners Kevin Meehan and Juan Perla, and associate Marwa Farag.
About Curtis

Curtis, Mallet-Prevost, Colt & Mosle LLP is a leading international law firm. Headquartered in New York, Curtis has 19 offices in the United States, Latin America, Europe, the Middle East and Asia. Curtis represents a wide range of clients, including multinational corporations and financial institutions, governments and state-owned companies, money managers, sovereign wealth funds, privately owned businesses, individuals and entrepreneurs.

Centered in New York and Washington, D.C., Curtis’ appellate lawyers offer a sophisticated understanding of the unique needs of international clients pursuing appeals. We have appeared in courts of appeals across the United States including in the Supreme Court.

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Please feel free to contact any of the persons listed below if you have any questions on this important development:

**Joseph Pizzuro**  
Partner  
jpizzuro@curtis.com  
New York: +1 212 696 6196

**Kevin Meehan**  
Partner  
kmeehan@curtis.com  
New York: +1 212 696 6197

**Juan Perla**  
Partner  
jperla@curtis.com  
New York: +1 212 696 6084

**Marwa Farag**  
Partner  
mfarag@curtis.com  
New York: +1 212 696 6040