Preface

The development of contract law into its modern conception has its foundations in the Latin maxim ‘Pacta Sunt Servanda’ which means, all pacts must be kept, dating back to when trade first began in earnest. The binding strength of the contracts also has religious roots. In ‘Ramcharitmanas’, it is said that one has to honour his words even at the cost of life i.e. “Pran jaye par vachan na jaye.” Similarly another holy literature of Indians i.e. Bhagwad Gita also teaches and upholds the general principle of trade laws i.e. ‘Shuddhi of Vachna’ which means whatever is said should be done and respected. Therefore for many years man was held to be strictly bound by his contract and in absence of any express limitation of his liability, he was required to bear the consequences for not being able to perform his contractual obligation.

With the passage of time, the economic and political relations between the countries witnessed a tremendous change. With the increase in number of independent countries, the bilateral agreements and trade relations between the nations in the field of trade, commerce and economic co-operations touched epitome of its growth. This boost in bilateral ties is generally based on long term contractual relations. With the time, the concept of Pacta Sunt Servanda started giving way to the concept of Hardship, Impossibility or Unforeseeability in different legal systems. On one hand, the globalization witnessed the growth in trade activities and, on other hand the unilateral cancellation of treaties and International Contracts has been considerably on rise, so a need is felt to derive at a concept that can give a new dimension to the Trade Laws.

As trade continues to evolve, the legal structure for these commercial transactions must have the required flexibility to grow and remain relevant. Therefore, a strong urge is felt by the commercial societies to adapt to the rapidity of changes faced in this present era of globalization. The time has come to adopt a system of harmonization of trade laws to give a required boost to the economy facing last imprints of recession in a manner that, it emerges out with finer aspects of commercial law.