

SYMBIOSIS NATIONAL MOOT COURT COMPETITION, 2014
(19th -21st September, 2014)

CLARIFICATIONS

1) Which standard of citation has to be followed in the memorials?

Answer: Bluebook 18th Edition

2) Please specify the bench strength of the Supreme Court bench which is hearing the said final arguments on Appeal via Special Leave granted.

Answer: The bench strength will be as per the rules of the Supreme Court for hearing a matter such as the present matter.

3) It is stated in paragraph 4 that Taka Flying Leap Ltd. was operating in India but the facts of the problem are silent regarding the fact that whether it is incorporated in India or outside. Can we assume that both the parties are incorporated in India?

Answer: The answer to this can be ascertained / deduced from the compromise.

4) If in case one of the parties is incorporated outside India, then the challenge under Section 34 is against the settled principle as per the Indian law. It would be kind of you if you can clarify whether we have to challenge the maintainability as per Section 28 of the Indian Contracts Act.

Answer: The problem provides reasonably sufficient information in this regard. Further, since the Supreme Court has not specified the issues that the parties will be heard on, the parties may assume to themselves the liberty to raise such issues as are justifiable in the circumstances of the case, subject to the rules of SNMCC and the discretion of the Hon'ble Judges to hear the parties on the same.

5) In paragraph 7 of the Compromis, it is stated that the Revised Share Purchase Agreement was signed on 7th September, 2014 and the effective date of the Agreement would be 1st April, 2014. Shouldn't the date of signing of the Agreement be 1st September, 2013 and not 1st September, 2014?

Answer: The words and figures "7th September, 2014", as appearing in the seventh paragraph ought to be read as "7th September, 2013".

Also, the figures "649" as appearing in the thirteenth paragraph ought to be read as "552". These are typographical errors and the author of the problem apologises for the same.

6) Here the validity of the Arbitration Agreement and the jurisdiction of the Arbitral Tribunal challenged before the Arbitral tribunal?

Answer: The answer to this can be ascertained / deduced from the compromis.

7) Was the furnishing of inaccurate returns for the AY 2002-03 and AY 2003-04 attributable solely to Mr. Ray or were other people in the management of FliyemOffacliffe at that time, aware of such inaccuracies and false returns?

Answer: This is unknown. However, if it can be deduced from the compromis conclusively, the same may be acceptable.

8) The Revenue department wants to re-open assessment after 11 years of the relevant assessment year. According to Section 149 of the Income Tax Act, 1961, this can be done only if the assessee's income escaping assessment is in relation to any asset located outside India. Does

FlyemOffacliffe have any assets or financial interest in relation to any asset located outside India?

Answer: This is irrelevant to the issues before the Supreme Court and is hence not provided for the sake of brevity.

9) Have any of the parties also initiated proceedings under Section 48 of the Arbitration and Conciliation Act 1996? What is the status of those proceedings?

Answer: The answer to this can be ascertained / deduced from the compromis.

10) What was the shareholding pattern of Wino HautuCheet Ltd and FlyemOffacliffe (both as a private limited company and after getting listed on the stock exchange).

Answer: This is unknown. However, if it can be deduced from the compromis conclusively, the same may be acceptable.

11) Kindly provide the clause of the Agreement that stipulates that indemnity is a condition precedent to the coming into effect of the Agreement. Currently clause 7.23 of the share purchase agreement on Indemnity doesn't seem to suggest that it is a pre-condition.

Answer: The clause stipulating conditions precedents is irrelevant to the issues before the Supreme Court and is hence not provided for the sake of brevity.

12) In its judgement did the District Court, Wankaner record any observations regarding the merits of the Section 34 petition before it?

Answer: This is unknown. However, if it can be deduced from the compromis conclusively, the same may be acceptable.

13) At what place(s) did the parties sign the Share Purchase Agreement and the Revised Share Purchase Agreements that they entered into?

Answer: This is irrelevant to the issues before the Supreme Court and is hence not provided for the sake of brevity.

14) How was the transfer of shares from Wino HautuCheet Ltd to Taka Flyingleap Ltd envisaged under the clauses/terms of the agreement? Were all the shares held by Wino HautuCheet Ltd to be transferred to Taka Flyingleap Ltd at once? If yes, then on what date? If no, was it to be transferred in phases? If not, how was the transfer to take place?

Answer: This is irrelevant to the issues before the Supreme Court and is hence not provided for the sake of brevity.

15) Paragraph 14 talks about the 'unsuccessful appeal under Section 37 of the Act. Should it not be Section 34* instead of Section 37?

Answer: No.

16) Was Taka Flyingleap served with a notice of hearing as per Section 148 of the Income Tax Act 2013 before being made liable to pay Rs. 124.43 crore for the assessment year 2002-03 & 2003-04?

Answer: This is irrelevant to the issues before the Supreme Court and is hence not provided for the sake of brevity.

17) When exactly was Taka Ltd. and Flying Leap Ltd. merged?

Answer: This is irrelevant to the issues before the Supreme Court and is hence not provided for the sake of brevity.

18) Is the share purchase agreement with Wino Hautu Ltd. entered with Taka Flying Leap or Being Blue Ltd.?

Answer: The answer to this can be ascertained / deduced from the compromis.

19) Where is Taka Flying Leap Ltd.'s registered office situated and where does its operations and management takes place? India or Abroad?

Answer: The answer to this can be ascertained / deduced from the compromis.

20) Under which Companies Act is Wino Hautu Cheet Ltd. registered and incorporated?

Answer: Wino Hautu Cheet Ltd is a company registered and incorporated under the Companies Act, 1956.

21) Are either Wino Hautu Ltd. Or Flyingleap Ltd. centrally managed or controlled from outside India?

Answer: Both Wino Hautu Ltd. and Taka Flyingleap Ltd. are neither centrally managed nor controlled from outside India.

22) Where is Being Blue Ltd's registered office situated and where do its operations and management take place- India or Abroad?

Answer: The answer to this can be ascertained / deduced from the compromis.

DISCLAIMER: THE ANSWERS TO ALL OTHER QUERIES MAY BE CONSIDERED AS UNKNOWN AND THE SAME HAVE NOT BEEN ANSWERED AS THEY ARE IRRELEVANT TO THE ISSUES BEFORE THE SUPREME COURT.