



MAJESTY LEGAL

Advocates & Solicitors

SUPREME COURT:- “UNSTAMPED ARBITRATION AGREEMENTS ARE NOT VALID UNDER LAW.”

(N.N. GLOBAL MERCANTILE V. INDO UNIQUE FLAME¹)

The Constitutional Bench of Apex Court delivered a judgement by 3:2 majority, that unless the instrument is validated under the Stamp Act 1899, the arbitration agreement in such an instrument would be deemed legally null and void because of the provisions of sections 33² and the bar under section 35³ of the Stamp Act, which apply to instruments chargeable to stamp duty under section 3⁴ ready with the schedule to the Stamp Act.

THE HON'BLE COURT HELD THAT:

- The dispute is related to the conjuring of a bank guarantee in an agreement for coal transportation between Indo Unique Flame Ltd. and N.N. Global Mercantile Pvt. Ltd. thereafter approached the Apex Court and asserted the agreement was unstamped and unenforceable.
- The minority believes that an enforceable document for the appointment of an arbitrator is a certified copy or unstamped or insufficiently stamped copy of the arbitration agreement at the pre-reference stage. It was also noted that deciding on the threshold stamp duty also stalls the process, resulting in procedural complexity and litigation delays.
- The majority made it clear that certified copies can only be made at the Section 11⁵ stage if it indicates the stamp duty paid. If it is not mentioned, the Court ought to no follow up on the said certified copy.

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¹ CA NO. 2802 AIR 2020

² Examination and impounding of instruments.

³ Instruments not duly stamped inadmissible in evidence.

⁴ Instrument chargeable with duty.

⁵ Use of adhesive stamps.

⁶ Majesty legal is a LAW FIRM established in 2013 by Ms. Mahi Yadav. Objective of this legal update is to provide insights on law, statutes and is personal in nature, not to be deemed as legal advice.