

Constitutional Bench Update

Global Mercantile Private Ltd v. M/s Indo Unique Flame Limited

Validity of Arbitration Agreement in Unstamped Contract



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Bench

**Justices K.M. Joseph,
Ajay Rastogi, Aniruddha Bose,
Hrishikesh Roy, C.T. Ravikumar**

**Case Admitted on
November 23, 2020**

**Last Date of Hearing
September 29, 2022**

**Next Date of Hearing
December 6, 2022**

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Background

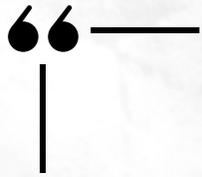
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Supreme Court in the case of N.N. Global Mercantile Pvt. Ltd. v. Indo Unique Flame Ltd. and Ors., MANU/SC/0014/2021, held that:

- There is no legal impediment to the enforceability of the arbitration agreement, pending payment of Stamp Duty on the substantive contract
- Since the arbitration agreement is an independent agreement between the parties, and is not chargeable to payment of stamp duty, the non-payment of stamp duty on the commercial contract, would not invalidate the arbitration clause, or render it un-enforceable, since it has an independent existence of its own
- Additionally, Supreme Court framed a question of law and referred the matter to 5 Judge Constitution Bench

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Issues under Consideration



- Whether the statutory bar contained in Section 35 of the Indian Stamp Act, 1899 applicable to instruments chargeable to Stamp Duty under Section 3 read with the Schedule to the Act, would also render the arbitration agreement contained in such an instrument, which is not chargeable to payment of stamp duty, as being non-existent, unenforceable, or invalid, pending payment of stamp duty on the substantive contract?



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+91-120-4014524



contact@manupatra.com