



Aviation Contracts & Tenders CHALLENGES

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FUNDAMENTALS OF LAW OF CONTRACTS (RECAP)



Essentials of Law of Contracts

- Introduction to Indian Contract Act 1872
 - General principles of the law of contract are expressed by sections 1 to 75
 - The contracts of Indemnity and Guarantee are given under Section 124-147
 - Principles of Contract regarding Bailment and Pledge – Section 124 – 147
 - Principles of Contract regarding Contracts of Agency – Section 182 - 238
- Agreement & Contract – Meaning
 - Agreement



Essentials of Law of Contracts

- Legal Obligation
- Agreements which are not Contracts
- Essential Elements of Valid Contract – An Overview
 - Offer and acceptance:
 - Intention to create legal relations:
 - Consensus ad idem
 - Competency of Parties
 - Lawful consideration
 - Free Consent



Essentials of Law of Contracts

- Lawful object:
- Written and Registered:
- Certainty
- Possibility of Performance:
- Kinds of Contracts
 - Valid contract
 - Void contract
 - Voidable contract



Essentials of Law of Contracts

- Unenforceable contract
- Illegal Contract

- Government Contracts
 - Contract-Meaning of the term
 - Government Contract
 - Position in Britain
 - Position in India
 - Contracts' and 'Government contracts'



Essentials of Law of Contracts

- Formation of Government Contracts
- Implied Contract with the Government
- Principles Underlying Government Contracts
Reasonableness, Fairness
- Public Interest
- Equality, non-arbitrariness
- Contractual Liability
- Judicial Review in Contractual Matters



Offer and Acceptance

- o Offer
- o Acceptance



Consideration

- Concept and Meaning of Consideration
- Essentials of a Valid Consideration
- Exception to Consideration Rule



Capacity to Contract

- o Minor
- o Unsound Mind
- o Other Incompetent Persons



Consent

- Elements which affect the Consent of the Parties
- Mistake
- Misrepresentation
- Fraud
- Coercion



Discharge and Breach of Contract

- Discharge by Mutual Agreement or Consent
- Discharge by Impossibility of Performance
- Discharge by Lapse of Time
- Discharge by Operation of Law
- Discharge by Breach of Contract
- Remedies for Breach of a Contract



Global Aviation Industry Trends

- State of the Industry and Global Economic Outlook: Pandemic Effect
- Shocking death of business class
- Digital Security System
- · Robot Helpers in Airports
- · Bio metric Entertainment



TRENDS

- Book a Taxi in the Sky
- The growth of Low-Cost Airlines
- Use of AI/ML pushes last-minute upgrades
- Green Airports
- Aerotropolis/Aero Cities
- Flying Cars
- Drones



TENDERS CONTRACTS

- Meaning and Concept
- Provisions under the Constitution
- Delegation
- Competent Authority
- Mistakes
- Financial Regulations



TENDERS, CONTRACTS

- *Kasturilal Vs. Jammu & Kashmir* 1980(4) SCC —Every activity of the Government has a public element in it and it must, therefore be informed with reason and guided by public interest. Every action taken by the Government must be in public interest. The Government cannot act arbitrarily and without reason and if it does, its action would be liable to be invalidated



TENDERS, CONTRACTS

- Siemens public communication Net Work(P) Ltd Vs. Union of India AIR 2009 SC 1204
“The decision making process of Government or its instrumentality should exclude remote possibility of discrimination, arbitrariness and favouritism. It should be transparent, bona fide and in public interest”.



CONTRACTS

- Open Tender
 - Global Tender
 - Limited Tender
 - Single Bid
-
- Govt E-Commerce Platform (GeM)



CONTRACTS

- o Process of Tender
- o EOI
- o Pre-Bid Meeting
- o RFP
- o Two stage and Single stage



CONTRACTS

- Tech Bid and TEC
- Financial Bid
- L 1 Concept and the Disadvantages
- EMD
- Award of Contract



CONTRACTS: TRANSPARENCY

- transparency in tendering system,
- Receipt and Opening of Tenders,
- Members of Tender Committee,
- Tender Process,
- Tenders,
- Shortcomings in Bid Documents,
- Irregularities in the Award of Contracts,



CONTRACTS: TRANSPARENCY

- Notice Inviting Tenders,
- Clause about submission of samples,
- Delays in Payments,
- Appointment of Consultants,
- Mobilization of Advances,



CONTRACTS: TRANSPARENCY

- Back to back Tie up by Public Sector Undertakings,
- Works/Purchase/Consultancy Contracts awarded on Nomination basis and
- Transparency through effective use of Websites.



Online Bidding

- Use of Technology
- Initial Training
- Multiple rounds
- Identities Kept Confidential
- Cartelisation
- Tech Glitches



CHALLENGES : RUNWAY RELAYING CONTRACT

- Challenges in capturing the essentials
- Scope for minor changes
- Unforeseen occurrences
- Coordination on site and Project Management
- Operational issues and contractual obligations
- Safety issues and contractual obligations
- Security issues and Contractual Obligations



INTERNATIONAL CONTRACTS



Tenders and Tendering Procedures

- Tender Concept and Procedures
- Tendering Procedures
- Bidding Process



International Contractual Negotiations

- Pre-Contractual Liability
- Ascertaining Credit-Worthiness of the Foreign Party
- Choices to be made by the Parties



Pointers for Drafting of International Commercial Contracts

- Important Norms And Conditions Of International Trade Contracts
- Standard Form Contracts
- Commercial Contracts
- Engineering Contracts
- International Transfer of Technology Agreements
- International Commercial Agency / Franchise Contracts



International Commercial Contracts

- o Role of International Contracts in International Commerce
- o Parties to the transactions
- o Drafting of International Contracts for Sale of Goods



DISCUSSION ON GLOBAL TENDERS

- o Govt Global Tenders
- o Corporates and Tendering
- o Tendering and transparency
- o Cartelisation and other wrong practices



AIRLINE CONTRACTS

- Aircraft Purchase Contracts
- Aviation Insurance Contracts
- Airline Lease Agreement
- Airline Purchase and Sales Agreement
- Contract for Carriage by Air
- Aircraft Maintenance, Repair and Overhaul Agreement
- Ground Handling Agreement
- Code-Sharing and Interline Agreement



AIRCRAFT LEASE FINANCE AGREEMENT

- Lease Agreement
 - Fine Print
 - Inbuilt additional clauses
 - Taxation
- Financial and technical issues to be captured
- Difficulties in case of Sub-lease



AIRPORT CONTRACTS

- Airport Lease Agreement
- PPP in Airport Infrastructure
- Airport In-Terminal Concession Agreements



THANK YOU