THE JUSTICE CYRIAC JOSEPH FOUNDATION INTERNATIONAL ARBITRATION LAW MOOT COURT COMPETITION

January 10-13, 2013

ORGANISED BY:
RIZVI LAW COLLEGE, MUMBAI
(AFFILIATED TO UNIVERSITY OF MUMBAI)

IN COLLABORATION WITH:
THE JUSTICE CYRIAC JOSEPH FOUNDATION
THE LONDON COURT OF INTERNATIONAL ARBITRATION, INDIA
ADVANI & CO., BARRISTERS-AT-LAW
INTERNATIONAL LAW STUDENTS ASSOCIATION
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MOOT PROBLEM
1. Lambert Pvt. Ltd. (hereinafter referred to as “LPL”), is a private company registered under the laws of UK. LPL is a renowned manufacturer of potato based food products in England and other parts of Europe. In Europe, LPL has a market share of 31% amongst potato based food manufacturers.

2. It primarily sources all its potato supplies from Carsten Pvt. Ltd (hereinafter referred to as “CPL”) a private company incorporated under the laws of the Netherlands.


4. In the meantime, due to adverse climatic conditions at the Netherlands, the Government of the United Kingdom imposed, on 1st August 2012, an embargo prohibiting imports of any food products from the Netherlands.

5. On 15th August, 2012 the Government of United Kingdom announced that the import embargo will be lifted by the second week of September 2012 and the same was lifted on September 15, 2012.

6. CPL not knowing about the import embargo had arranged for the supply of potatoes by the first week of September but due to the import embargo the same could not be shipped.

7. Meanwhile, there was still a concern in the market that the Dutch potato supplies in Rotterdam, from which port the shipment was sourced, were subjected to adverse conditions in the port’s storage facilities causing the potato supplies to deteriorate prior to loading.
8. CPL could arrange for the shipment only on the midnight of September 30, 2012. Nevertheless the supplier somehow managed to obtain a bill of lading dated September 30, 2012 and tendered the same as a part of his obligation.

9. The “Loading Quality Inspection Certificate” mentioned the date as October 1, 2012. It is noteworthy that the documentary exchange agreed between the parties did not include such certificate as an essential document to release payment.

10. On tendering of the documents, which somehow happen to include the “Loading Quality Inspection Certificate”, LPL refused to pay against documents claiming the alleged unsatisfactory quality of the shipped goods and alleging that the documents were forged & antedated and hence the documentary exchange had not been fulfilled.

11. Clause 12 of the agreement provides for compulsory mediation: “ In case of any dispute arising out of or in connection with this contract shall be resolved by mediation between the top management of the two parties and only after this remedy is fully exhausted the parties can invoke clause 13”

12. Clause 13 of the agreement between the parties provides for arbitration: “Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the LCIA India Arbitration Rules, which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be three. The seat, or legal place, of arbitration shall be Mumbai, India. The
language to be used in the arbitration shall be English. The governing law of the contract shall be determined according to private international law.

13. Senior executives from CPL offered to talk with the Managing Director of LPL, Ms. Victoria Aldrin, to sort out the issue by mediation but the General Manger of LPL, Mr. Alan McGwell, was furious at this attempt and said, “No talks can sort this out, crooks like you shall face heavy penalty.”

14. Nevertheless the Project Head of LPL, Mr. Richard Davenport met the Chairman of CPL, Mr. Sherry Goldsmith and after a few hours of deliberations both parties could not resolve the issue. LPL refused to pay and was not pleased with the talks.

15. Thereafter, CPL invoked the arbitration clause claiming complete price for the goods shipped along with the legal costs involved. On the other hand, LPL refused to pay for the goods shipped asking compensation for the alternate supply arranged by them as well as damages for the delay in production of its immensely popular potato based food product.

16. The matter is posted for hearing before the Arbitrators on January 13, 2013 at Mumbai.