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THOUGHT FOR THE MONTH

“Have the courage to follow your heart and intuition. They somehow know what you truly want to become.”

Steve Jobs



We are indeed proud and privileged to inform our readers, subscribers and well-wishers, that our Partner, Adv. Joy Thattil, has been appointed by the Government of Kerala, as a Special Public Prosecutor for the conduct of prosecution on behalf of the Crime Branch Crime Investigation Department (CBCID).

The case pertains to the Thekkady Boat Tragedy. The incident occurred on 30th September 2009, when the double-decker passenger tourist

CONGRATS!!! JOY THATTIL!

boat Jalakanyaka, owned by the Kerala Tourism Development Corporation (KTDC), sank in Thekkady Lake, along the Periyar National Park, in Kerala, India. When the boat capsized, 45 passengers died, most of them tourists visiting Kerala. A total of 95 people were on the boat, as per official records.

The boat's helmsman and another crew member were arrested on 5th October. The Government also appointed an Enquiry Commissioner, who provided a detailed report of the incident on 25th August 2011. A Charge Sheet was prepared on 31st May, 2013. However, on a discharge application, an Engineer and employee at the Indian Register of Shipping (IRS), was discharged by the Court; who issued the hull construction certificate to the ill-fated boat. The Court has also directed the investigating officer to further investigate the case and submit split up charge in the case against the accused.

In view of the intrinsic developments and the nature of the case, the Council of Ministers, during their meeting took a call to appoint Mr. Joy Thattil as special public prosecutor to proceed with the matter on behalf of the State. This honor was conferred on Adv. Joy Thattil based on his expertise, experience and legal knowledge in the said field. We wish Adv. Joy Thattil, all the very best in handling the prestigious task assigned to him.

THE IMPACT OF BREXIT ON SHIPPING



A recent and highly discussed topic by the people across the globe is the exit of Britain from the European Union (EU). The European Union is made up of 28 member states and on June 23rd 2016, the people of Britain voted for the exit of Britain (also referred as the “BREXIT”) from the European Union, after being with EU for almost 43 years. Though the exit of the Britain from the European Union would take a minimum of two years to finalise, this is the perfect time for individuals and companies engaged in shipping to have a better understanding of the “Impact of BREXIT”.

European Union is said to be the Hub of Shipping Industry. The world's largest Container / Passenger Ports namely Rotterdam, Hamburg, Antwerp, and

Piraeus are located in the territory of European Union. As aforesaid the European Union consisted of 43 member states and these member states were allowed to trade with no taxes or duty with other member or co-member states (that comewithin the European Economic Area – not required) However, with the exit of Britain from the European Union, it is not clear, whether this would still be applicable to British Companies.

Further, contracts / agreements entered into by Companies (worldwide/British) prior to Brexit with Companies in the European Union may have to be amended. For example, the Shipping Contracts, that allow trading to certain geographical areas in EU, should now specifically define if this area in EU now includes Britain or not. Since Contracts are binding on the parties to it, the amendment of same has to be done with due care in order to avoid confusion or ambiguity that may arise in the future.

In the past, when a dispute arose and the parties wanted to approach the Courts, they were prohibited to have parallel proceedings for the same issues in the

Courts of more than one European Union Member State. The concept was that the Defendant shall be protected from being sued in relation to the same dispute in two separate EU Jurisdictions. This concept is also known “RES SUBJUDICE”, wherein the latter suit instituted in a Court that has the same matter directly and substantially in issue as in the previous suit and thus, the latter suit is stayed. However, with the exit of Britain from the European Union, it is not clear, whether Britain would continue applying the same previous applicable laws/rules to the parties, both inside and outside the European Union. In order to avoid any such ambiguity in the future, it is advised to have a clear mention of the Jurisdiction Clause, in all the legal documents.

Conclusion:

Though process for the exit of Britain would take a minimum of two years, to come into effect, these two years can be used wisely to understand the twoWs, “WHO” & “WHAT” shall be affected with the exit of Britain? With this understanding to take possible and necessary steps to overcome and/or avoid any negative impact.

The importance of comprehension skills in the world of Business

HALLEY'S COMET

From: General Manager

To: Departmental Heads

On Friday evening at 5 p.m., Halley's Comet will be visible in this area-an event which occurs only once every 76 years. Please have the employees assemble in the park area outside the building and I will explain this rare phenomenon to them.

In case of rain, we will not be able to see anything, so assemble the employees in the canteen and I will show them a film of it.

From: Departmental Heads

To: Deputy Departmental Heads

By order of the General Manager on Friday at 5p.m., **Halley's Comet will appear above the area outside the building**. If it rains, please assemble the employees and proceed to the canteen, where this rare phenomenon will take place, something which occurs only every 76 years.

From: Deputy Departmental Heads

To: Superintendent

By the order of the General Manager, at 5 p.m. on Friday, the phenomenal Halley's comet will appear in the canteen. In case of rain in the area outside the building, **the General Manager will give another order, something which occurs only once every 76 years.**

From: Superintendent

To: Foreman

On Friday at 5 p.m., **the General Manager will appear in the canteen with Halley's Comet, something which happens every 76 years. But if it rains, the General Manager will order the comet into the area outside the building.**

From: Foreman

To: Team Leader

When it rains on Friday at 5 p.m., **the phenomenal 76 year old Bill Halley, accompanied by his comets, will drive the General Manager through the area outside the building into the canteen.**

SHIPPING GIANT GUILTY ON CARTEL CHARGE



A global shipping company has become the first company successfully prosecuted by Australia's corporate regulator under the criminal cartel provisions of the Competition and Consumer Act.

Japan-based shipping group Nippon Yusen Kabushiki Kaisha on Monday pleaded guilty to criminal cartel conduct in the Federal Court following an investigation by the Australian Competition & Consumer Commission.

"This is the first criminal charge laid against a corporation under the criminal cartel provisions of the Competition and Consumer Act," ACCC chairman Rod Sims said on Monday in a statement.

The charge was laid by the Commonwealth Director of Public

Prosecutions - which is responsible for prosecuting criminal cartel offences - on July 14, 2016.

The case relates to alleged cartel conduct in connection with the transportation of vehicles, including cars, trucks, and buses, to Australia between July 2009 and September 2012, according to Mr Sims.

NYK wasn't immediately available for comment.

NYK is one of the world's largest shipping companies, with offices across Europe, Africa, East Asia, South Asia, China, Oceania and North and South America. The group, headquartered in Tokyo, has more than 33,000 employees. It also operates an Australian subsidiary, NYK Line (Australia) Pty Ltd, according to the ACCC.

For corporations, the maximum fine for each criminal cartel offence will be the greater of \$10 million or three times the benefits obtained in the commission of the offence, the ACCC said.

If the total value of the benefits cannot be determined, the penalty is 10 per cent of the corporation's annual turnover connected with Australia.

The ACCC said its investigation into other alleged cartel participants is continuing.

The matter is next scheduled for a directions hearing in the Federal Court on September 12.

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