


Name:			
Enrolment No:			
UPES End Semester Examination, December 2023			
Course: International Commercial Arbitration (Hons. 8) Program: BBA LL. B (ITIL) Course Code: CLIN 5003		Semester: IX Time : 03 hrs. Max. Marks: 100	
Instructions: All questions are compulsory.			
SECTION A (5Qx2M=10Marks)			
S. No.		Marks	CO
Q 1	Explain default award.	02	CO1
Q 2	Discuss the meaning of trade usages in an international business transaction.	02	CO1
Q 3	Compare orders and awards.	02	CO1
Q 4	Discuss the meaning of pre-hearing security in International Commercial Arbitration.	02	CO1
Q 5	Discuss the meaning and significance of stabilization Clauses in an international arbitration agreement.	02	CO1
SECTION B (4Qx5M= 20 Marks)			
Q 6	Explain the principle of separability and doctrine of <i>competence-competence</i> .	05	CO2
Q 7	Discuss the criteria in selection of an arbitral institution for resolving an international commercial dispute through arbitration	05	CO2
Q 8	Explain the formulation of the UNCITRAL Model Law 1985 and its significance.	05	CO2
Q 9	Discuss the concept of Mandatory Law with examples.	05	CO2
SECTION-C (2Qx10M=20 Marks)			
Q 10	Explain the concept of non-domestic award under the New York Convention 1958 with simple examples.	10	CO3
Q 11	Discuss in brief the general principles of law applicable in International Commercial Arbitration.	10	CO3

SECTION-D
(2Qx25M=50 Marks)

Q 12	<p>Arbitration provides a swift resolution of disputes, procedural flexibility, confidentiality, neutrality, and, most importantly, the execution of arbitral awards in nations that have ratified the New York Convention. It is the most practical and preferred method for resolving commercial disputes globally. It must be ironed out by the Courts since it is not impervious to unresolved problems. Whether frauds are arbitrable is one of these complex problems. Or, to put it another way, should a dispute involving significant accusations of fraud be resolved by arbitration instead of going before a court with appropriate jurisdiction? The Supreme Court of India has dealt with the problem of fraud in arbitration differently in different cases. In the past, it has not taken any consistent approach towards dealing with instances of fraud reported by one of the parties in arbitration. The current scenario tells us how difficult it has been to resolve the issue of arbitrability of fraud and, more crucially, how it has been overburdened with several tests, increasing the likelihood of judicial intervention. A step towards the goal of a pro-arbitration regime has undoubtedly been made by the Supreme Court's recent judgements, which clarified its position on the issue of the arbitrability of disputes involving serious allegations of fraud and their relation to Indian public policy.</p> <p>In the context of the above position of the arbitrability of fraud, discuss the issues, contentions of the parties, findings, and orders of the Supreme Court of India in the case Avitel Post Studioz Limited & Ors v HSBC PI Holdings (Mauritius) (2020) SCC Online 656.</p>	25	CO4
Q 13	<p>Claimants across the world are increasingly seeking recourse to third-party funding ("TPF") in order to help them bring cases cost-effectively. As a result, various jurisdictions are starting to grapple with the challenges raised by TPF, producing a number of noteworthy decisions and developments of interest to both third-party funders ("Funders") and arbitration users. In May 2023, Nigeria expressly permitted TPF in the arbitration context, whilst in India, the High Court of Delhi ruled Funders would not be held liable to pay adverse costs where they were not party to the arbitration agreement or arbitral proceedings. In another notable development, two 2022 court decisions in Mainland China ("China") upheld TPF arrangements in the context of arbitration, while a third court decision offered guidance on TPF in relation to litigation proceedings, which may also apply to arbitrations.</p> <p>In view of the conflicting positions of courts on the permissibility of third-party funding in arbitration across the countries, discuss factual matrix and decision of the Delhi High Court in the case</p>	25	CO4

	Tomorrow Sales Agency Private Limited v. SBS Holdings, Inc. & Ors FAO(OS) (Comm) 59 of 2023 and CM Nos. 14792 of 2023 & 14794 of 2023.		
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