

# Aneeta Hada v. Godfather Travels & Tours (P) Ltd., (2012) 5 SCC 661

Debt, Financial and Monetary Laws

Negotiable Instruments Act, 1881

Ss. 141, 138, 7, 139, 118 and 140 - Criminal liability for dishonour of cheque drawn by company - Officers of company when may be implicated - Extent of deeming fiction in S. 141 - Mandatory requirement of impleading company as one of the accused - Director or authorised signatory of cheque - Prosecution against, without arraigning of company as accused, held, not maintainable - Only exception would be in a case applying principle of *lex non cogit ad impossibilia* i.e. if for some legal snag, company cannot be proceeded against without obtaining sanction of a court of law or other authority, trial as against the other accused may be proceeded against if ingredients of S. 138 as also S. 141 are otherwise fulfilled - In such an event, clarified that it would not be a case where company had not been made an accused but would be one where company cannot be proceeded against due to existence of a legal bar - A distinction must be borne in mind between cases where a company had not been made an accused and the one where despite making it an accused, it cannot be proceeded against because of a legal bar - Held, criminal liability on account of dishonour of cheque primarily falls on drawer company and extends to its officers only when conditions incorporated in S. 141 stand satisfied - Explaining import of words "as well as the company" occurring in S. 141, held, for maintaining prosecution under S. 141, arraigning of company as accused is imperative - Sheoratan, (1984) 4 SCC 352, overruled on this point and Anil Hada, (2000) 1 SCC 1, partly overruled and partly affirmed on this point, (2012) 5 SCC 661-A

Corporate Laws

Company Law

Company - Nature of its entity and applicability of criminal liability to it - Reiterated, company is a juristic person, and can be fastened with criminal liability, (2012) 5 SCC 661-B

Essential Commodities and Services

Essential Commodities Act, 1955

S. 10 - Prosecution of person in charge of company only without arraying the company - Held, not permissible, (2012) 5 SCC 661-C

Precedents

Supreme Court vis--vis itself - Larger Bench's decision, reiterated, is binding precedent - Judgments which had not followed the same, overruled, (2012) 5 SCC 661-D

Information Technology, Internet, Computer and Cyber Laws

Information Technology Act, 2000

Ss. 85 and 67 - Offence by company - Criminal proceedings against Director for, without impleading Company as accused, held, not maintainable, (2012) 5 SCC 661-E

Information Technology, Internet, Computer and Cyber Laws

Information Technology Act, 2000

S. 85 - Provisions of, held, are in pari materia with S. 141, Negotiable Instruments Act, 1881, (2012) 5 SCC 661-F

Debt, Financial and Monetary Laws

Negotiable Instruments Act, 1881

Ss. 7 and 141 - ``Drawer" - Scope - Authorised signatory of company, held, covered, (2012) 5 SCC 661-G