

NEGOTIABLE INSTRUMENT

INTRODUCTION

Negotiable means transferable whereas instrument means document.

NI which is a transferable document that can be passed on from one entity to another creating convenience and ease. Negotiable instruments in India are governed under the NIA 1881. it means a promissory note, bill of exchange or cheque payable either to order or to bearer. An instrument can be negotiated any number of times.

Meaning & Definitions of NI

- **MEANING:** NI is a transferable, signed document that promises to pay to a certain person or to the bearer of the instrument, a certain sum of money at a future date or on demand.
- **Definition:** Acc. to sec. 13(a) the NIA “NI means a promissory note, bill of exchange or cheque payable either to order or to bearer, whether the word order or bearer appear on the instrument or not”

FEATURES:

- **Property:** NI is the property like other valuable assets. The person for whom the instrument is drawn is the holder and owner of that property.
- **Defects in Title:** The holder in good faith and for value called the holder in due course gets the instrument free from all defects of any previous holder.
- **Payable to certain person:** Certain person is a person whose name is mentioned in negotiable instrument. The NI instructs to pay only to the certain person.

- Right: The holder in due course is not affected by certain defenses which might be available against previous holder, For ex: fraud to which he is not a party.
- Payable to order: all the NI are payable to order which is expressed to a particular person.
- Payable to Bearer: the NI is expressed to be payable to bearer when it is blank endorsement.
- Payment: a NI may be made payable to two or more payees, or it may be payable in alternative to one or two payees.

PRESUMPTIONS OF NI

- Consideration: Every NI is made or drawn for a consideration.
- Date: NI is drawn on the date shown on the face of it.
- Acceptance before maturity: NI is accepted before its maturity.
- Transfer before maturity
- Order of endorsement: endorsement appearing upon a negotiable instrument were made in the order in which they appear.
- Holder in due course: the holder of NI is the holder in due course except where the instrument has been obtained from its lawful owner or its lawful custodian by means of offence.

KINDS OF NI

1. Promissory Notes

2. Bills of Exchange

3. Cheques

4. Certificate of Deposits

5. Commercial papers

6. Treasury Bills

1. PROMISSORY NOTES

- A promissory note is an instrument in writing containing an unconditional under-taking signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument.
- There are two persons in PN, like one is maker or drawer and another one is payee.
- Maker who make the PN and also promises to pay.
- Payee for whom the PN is drawn and finally receives the money.

Features/ Essentials

- PN must be in writing.
- It is not necessary to use the word promise but the intention must to pay the amount.
- It must contain definite and an unconditional undertaking to pay.
- The instrument must be signed by the maker thereof.
- The maker and payee of the instrument must be a definite person.
- The maker of the PN promises to pay a certain sum of money only.
- The amount is payable on demand of payee.
- PN are chargeable with stamp duty.

Promissory Note

Singapore, 31.01.2000

Amount US\$ 250,000

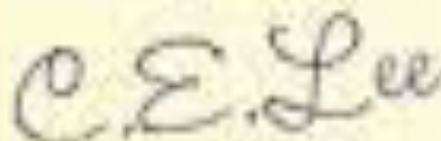
On 25 April 2000 we promise to pay against this Promissory Note
the sum of US Dollars Two hundred and fifty thousand
to the order of UK Export Company Ltd
for value Received

Payable at:

UK Export Banking Company plc
Sterling Street
London, UK

For and on behalf of:

Import Buyer Company
Singapore



Managing Director

2. Bills of Exchange

- Section 5 of the NI act as “ an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of certain persons or to the bearer of the instrument”.

Parties of BOE

- Drawer
- Drawee
- Acceptor
- Payee
- Endorser
- Endorsee
- Holder: any person who is legally entitled to the possession of it and to receive or recover the amount due thereon from the parties.

Features of BOE

- Instrument in writing
- Bill must be signed by the drawer
- It must contain definite and an unconditional order to pay.
- It must contain an order by the drawer to the drawee to pay under any circumstances.
- It may be made payable to two or more payees jointly or in alternatives.
- The sum payable may be certain.
- The amount is payable on demand of payee.
- BOE are chargeable with stamp duty.

Bill of Exchange

London, 31 January 2000

Amount US\$ 250,000

At 60 days after sight

pay against this Sole Bill of Exchange

to the order of Ourselves

the sum of US Dollars Two hundred and fifty thousand

for value Received

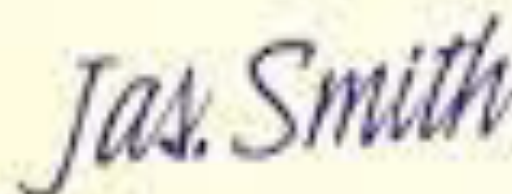
To:

Singapore Import Banking Company
Bank Street
Singapore

Drawn under UK Export Banking
Company Ltd, Documentary Credit
N° 12345, Dated 29 September 1999

For and on behalf of:

UK Export Company Ltd



James Smith, Director

Advantages

- It fixes the date of payment.
- It is a NI and can be used in settlement of debts.
- It is a written and signed acknowledgement of debt.
- A creditor can convert the bill into cash by getting it discounted with the bank.
- A debtor is free from worries and enjoys full period of credit, as he can never be called upon to pay the amount of the bill before the due date.