



jsa

advocates & solicitors

# THE 3<sup>rd</sup> KIIT UNIVERSITY NATIONAL MOOT COURT COMPETITION, 2015

Moot Problem drafted by J. Sagar Associates



Organised by :

School of LAW  
KIIT UNIVERSITY

Competition Information & Invitation Brochure



# ABOUT KIIT UNIVERSITY



KIIT University is situated in Bhubaneswar, capital of Odisha, and is one of the premier self-financing Universities of the country. It caters to more than 20000 students from all across the nation and 22 other countries through more than 100 academic programmes like MBA, Engineering, Law, Bio- Technology, Rural Management etc., in more than 28 constituent campuses involving more than 1800 academic and research staff. The University has been accorded 'Category A status' by the Ministry of HRD, Govt. of India, and is accredited as 'A' Grade by NAAC and Tier 1 accreditation as per Washington Accord for Engineering streams by NBA of AICTE. The University has alliance with over 105 globally reputed foreign institutions, and had achieved the 16th position among all national level universities, and 5th position among all national level Self-financing Universities, more details of which are available at [www.kiit.ac.in](http://www.kiit.ac.in).

## SCHOOL OF LAW, KIIT UNIVERSITY

The School of Law, an integral part of KIIT University, was established in the year 2007, and since then, we have consistently grown in stature and strength, and today we cater to a talent pool of over 1100 students from all across the country. We are one of the few law schools in India to provide conjoint degrees in the form of BA.LLB / BBA.LLB / BSc.LLB, and one of the very few Law schools providing for separate honours specialisations involving eight separate papers each in Business Laws, Intellectual Property Law, Taxation Law, Constitutional Law, Crime and Criminology and International Law, more details of which are available at [www.kls.ac.in](http://www.kls.ac.in).



## DIRECTOR'S MESSAGE



Dear Students,

Greetings from School of Law, KIIT University, Bhubaneswar.

It gives us immense pleasure to announce the 3rd edition of The KIIT University National Moot Court Competition, hosted and organized by the School of Law, KIIT University.

As one of the upcoming law schools in India, we have constantly undertaken measures to provide holistic and meaningful legal education to bright young talent from across the country. In course of such endeavors, we have observed that strong advocacy skills, ability to think logically and rationally, combined with acumen for drafting, are some key characteristics that are very necessary for a lawyer in the present scenario.

Keeping in mind these requirements, we have tried to nurture these attributes in our budding talent pool of students and likewise, we have always encouraged students to participate actively in national and international co-curricular and extra-curricular events like moot court competitions, wherein we believe they can correctly assess, evaluate and nurture their potential to best serve the interests of the profession and the fraternity in the times to come.

In 2011, the School of Law was proud to be the host of the 52nd Phillip C. Jessup International Moot Court Competition (North India Rounds) and also the 1st Bar Council of India International Moot Court Competition. In 2013, we undertook the initiative to host our own national moot court competition, the KIIT University National Moot Court Competition, and buoyed by this success, we continued with the next edition of the event in 2014, wherein Nishith Desai Associates, one of the country's leading law firms, was kind to draft the problems for the event.

Encouraged by the overwhelming response of the past competitions, we are proud to declare that we will be hosting the 3rd KIIT University National Moot Court Competition, 2015, from the 18th to 20th of September, 2015, to be hosted and organized at the KIIT University campus. J Sagar Associates, an exceedingly reputed law firm of the country, has drafted the problem for this competition, and we expect this to be a great learning opportunity for the upcoming legal talent of the nation.

We hereby extend a warm and cordial invitation to participate in this event, and we look forward to your enthusiastic participation.

Wishing you the very best

A handwritten signature in black ink on a light-colored background. The signature is stylized and appears to read 'N.K. Chakrabarti'.

Prof. (Dr.) N.K. Chakrabarti  
Director,  
School of Law, KIIT University





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## ABOUT 1<sup>st</sup> KIIT UNIVERSITY NATIONAL MOOT COURT COMPETITION, 2013

The 1st KIIT University National Moot Court Competition, 2013, was our first initiative at organizing a national level moot court competition and it turned out to be very successful and encouraging, for which we thank the twenty four participating teams for their enthusiasm and participation.

The competition's objective was to nurture academic excellence amongst the students, and it was to our pleasure and honour to have a seven-panel bench for judging the final round of the competition. The competition was weaved around two moot problems, one for the preliminary and quarterfinal rounds and another problem for the semi-final and final rounds, and the active participation of the



02.09.2013 : (L to R) Prof. N. K. Chakrabarti, Director, KIIT School of Law, Mr. Ashok Parija, Member, Bar Council of India, Hon'ble Shri Justice B. K. Nayak, Judge, Orissa High Court, Hon'ble Shri Justice C. Mookerjee, Frm Chief Justice, Bombay High Court, Hon'ble Shri Justice Sanjib Bannerjee, Judge, Calcutta High Court, Hon'ble Shri Justice B. K. Mishra, Member, OHRC and Prof.(Dr.) P. C. Mishra at the valedictory function of 1st KIIT University National Moot Court Competition – 2013.

teams were of great motivation to us in our decision to organize this moot competition in a slightly different format.

The final round of the event witnessed a stiff competition between National Law Institute University, Bhopal, and Christ University, Bengaluru, and the success of the event encouraged us to host and organize the next edition of the moot in 2014.





## ABOUT THE 2<sup>nd</sup> KIIT UNIVERSITY NATIONAL MOOT COURT COMPETITION, 2014

The 2nd edition of the competition upheld the essentials of the first moot which were challenging mootings, erudite judging, high stake prizes and great hospitality and at the same time, there were significant improvements based on our learning experience from the past edition. One of India's best know law firms, Nishith Desai Associates, drafted the problems for the competition, while SCC Online and Lawctopus also



partnered with us in different capacities like the earlier edition, the competition had two problems – one for the preliminary and quarter final rounds, and another problem for the semi-final and final rounds. Participation by teams from across the country had increased substantially for this event and by the conclusion of the moot, KIIT University National Moot Court Competition had made a name for itself and had become a much-awaited mootings event.

Before a panel of eminent judges like Justice Altamas Kabir, Former Chief Justice of India, Justice Pinaki Chandra Ghose, Judge, Supreme Court of India and other Justices of the Orissa and Calcutta High Court, the grand finale witnessed some intense advocacy by Hidayatullah National Law University, Raipur and Rajiv Gandhi National University of Law, Patiala, pleading on behalf of petitioner and respondent respectively.





# OFFICIAL RULES FOR THE COMPETITION

## 1. COMPETITION FORMAT

1.1 The Competition is structured as per the following format:

- a) Preliminary Rounds
- b) Quarter Finals
- c) Semi finals
- d) Grand Finale

## 2. ELIGIBILITY

Students of three year and five year law degree courses from any University / Law School / College / Department are eligible to apply for registration of their team. However, a maximum of One team shall be allowed to participate from any one University / Law School / College / Department.

## 3. TEAM COMPOSITION

3.1 Each team shall consist only of three members, comprising of two speakers and one researcher.

3.2 Any alteration of the names of the team members shall be informed in writing to that effect, addressed to the Director, School of Law, KIIT University, by the Vice Chancellor / Dean / Director / Head of the Department of the University / School / Department / College of Law, of the team requesting such alteration. However any such alteration shall be permitted only once.

3.3 Once the Competition commences, the team composition cannot be altered under any circumstances whatsoever. Inability of any team member to participate in accordance with the rules of this Competition shall lead to immediate disqualification of the team from the Competition.

## 4. PARTICIPATION AND REGISTRATION PROCEDURE

4.1 The teams interested to participate are required to confirm their participation by sending an email attaching the scanned copy of Annexure-A (Registration form), duly filled, to [kiitmoot2015@kls.ac.in](mailto:kiitmoot2015@kls.ac.in) by the 5th of August, 2015. Please note that such email has to be sent only through the University / School / College / Department official email address. Emails sent through personal / non-official email addresses and emails sent to any other address other than [kiitmoot2015@kls.ac.in](mailto:kiitmoot2015@kls.ac.in), will be ignored. Annexure A is available at [www.kls.ac.in](http://www.kls.ac.in) and is also attached herewith this brochure.

4.2 The teams shall then send -

- (a) the printed copy of Annexure A and
- (b) a non-refundable participation fee of Rs. 3000/- (Rupees Three Thousand only) in the form of a Demand

Draft drawn in favour of KIIT, and payable at Bhubaneswar (clearly stating the name of the institution at the reverse side of the demand draft), addressed to:

Mr. Sudipta De Sarkar  
Faculty Convenor  
3rd KIIT University National Moot Court  
Competition, 2015

School of Law, KIIT University, Patia  
Bhubaneswar, Odisha. PIN – 751024

such to be received by the 10th of August, 2015.

4.3 On receipt of the printed copy of Annexure-A and the Demand Draft, the team shall be formally registered as a participant for the event, and a team code shall be generated and a confirmatory email, together with the team code, shall be sent to such team on the 13th of August, 2015. Thereafter, for all further correspondence with the organizers of the Competition and otherwise, all the registered teams shall identify and refer themselves using the allotted team code only.

4.4 The teams shall also send a soft copy of Annexure – B (Travel details), duly filled, to [kiitmoot2015@kls.ac.in](mailto:kiitmoot2015@kls.ac.in) by the 10th of September, 2015. Annexure – B is available at [www.kls.ac.in](http://www.kls.ac.in) and is also attached herewith this Brochure.

## 5. MEMORIALS

5.1 All memorials submitted for all purposes of the Competition shall strictly adhere to the rules as stated below.

5.2 Teams have to prepare memorials for both the sides, i.e., Petitioners and Respondents.

5.3 The registered teams shall submit the pdf copy of their memorial for both sides by email to [kiitmoot2015@kls.ac.in](mailto:kiitmoot2015@kls.ac.in) by 23:59 hours of the 5th of September, 2015 and shall send twelve printed copies (for each side) of such memorials by the 10th of September, 2015, addressed to:

Mr. Sudipta De Sarkar  
Faculty Convenor  
3rd KIIT University National Moot Court  
Competition, 2015

School of Law, KIIT University, Patia  
Bhubaneswar, Odisha. PIN – 751024

5.4 When sending the memorials by email in pdf format, please name the file pertaining to the memorial for the respondent as R accompanied by the team code and the file pertaining to the memorial for the petitioner as P accompanied by the team code. For example, for a team assigned a code of 100, the pdf file for the respondent should be named as 'R100' and the pdf file for the petitioner should be named as 'P100'.



5.5 The cover page of the memorials sent, for both the soft and printed copies, shall clearly mention the word “P” for memorials on behalf of the Petitioner, and the word “R” for memorials on behalf of the Respondent, followed by the team code for both the instances, such being clearly inscribed on the top right hand corner of the cover page of the memorial for the Petitioners and Respondents. For example, if a team had been assigned a code of 100, the memorials sent by such team shall have “P100” and “R100” clearly marked on the top right hand corner of the cover page of the respective memorials. The teams should not disclose the identity of their institution anywhere on the memorial. Violation of this rule will result in immediate disqualification

5.6 The memorials have to be submitted on A4 size paper and must contain the following sections in the order as stated below-

- Cover Page;
- Table of Contents;
- Index of Authorities;
- Statement of Jurisdiction;
- Statement of Facts;
- Statement of Issues;
- Summary of Arguments;
- Arguments Advanced; and
- Prayer.

Non-compliance with above criteria shall result in penalty of two marks per missing section.

5.7 The memorials must be printed in Times New Roman font with 12 font size and with 1.5 line spacing. The footnotes must be in Times New Roman font with 10 font size and with 1.0 line spacing. The memorials should have a margin measuring one inch on all sides of each page. To conserve paper, teams may print their memorials on both sides of the A4 sheet and submit accordingly.

5.8 The 'Arguments Advanced' section should not exceed 15 pages.

5.9 The memorials as a whole should not exceed 30 pages including the cover page.

5.10 The numbering should be on the bottom-centre of each page.

5.11 The cover page of the petitioner's memorial shall be printed on Blue colour A4 size paper, and the cover page of the respondent's memorial shall be printed on Red colour A4 size paper.

5.12 The teams have to use the citation method as stated in the 19th edition of the Harvard Blue Book, for citation throughout the memorial.

5.13 There shall be no speaking footnotes in the memorial.

5.14 The maximum scores for the memorials shall be

100 marks. The memorials shall be evaluated on the following criteria:

Knowledge of Law and Facts	: 30 Marks
Proper and Articulate Analysis	: 30 Marks
Extent and Use of Research	: 20 Marks
Clarity and Organization	: 10 Marks
Grammar and Style	: 10 Marks

## 6. PRELIMINARY ROUND

6.1 To determine the order of participation in the preliminary rounds of the event, all the registered and present teams shall participate in a draw of lots to be conducted for that purpose. Such draw of lots shall take place on the 18th of September, 2015, immediately after the inaugural function. The exchange of memorials and orientation of the teams shall be conducted immediately after the draw of lots.

6.2 For the preliminary rounds, every team shall argue twice: once for petitioner and once for respondent ( Prelims-I and Prelims-II round).

6.3 No two teams shall face each other more than once in the preliminary rounds.

6.4 In determining the scores in the preliminary rounds, memorial scores will be added to the oral scores.

## 7. QUARTER-FINALS, SEMI-FINALS AND FINALS

7.1 The top eight teams of the preliminary rounds shall qualify for the Quarter-final rounds.

7.2 From the Quarter final rounds, winning teams from each round shall proceed to the subsequent stages of the Competition on a knock-out basis, with the memorial scores of the teams taken into consideration at all stages, as per the formula stated below -

(I) Quarter Finals = Preliminary Round Oral Scores + Memorial Scores

(ii) Semi-Finals = Quarter Final Round Oral Scores + Memorial Scores

(iii) Finals = Semi-Final Round Oral Scores + Memorial Scores

In case of a tie between two teams in any of the rounds, memorial scores will be taken into consideration to break the tie. In case the tie still subsists, the oral score of the best speaker of each team will be considered to break the tie. If the tie continues, the oral score of the other speaker of the team will be considered to break the tie. In case of further subsistence of the tie, the result will be decided by draw of lots.

## 8. RESULTS

8.1 The results shall be announced shortly after each round.



8.2 The results of the final round shall be announced at the valedictory and award ceremony, to be held on the 20th of September, 2015.

## 9. ORAL ROUNDS

9.1 Each team will get a total of 60 minutes during the preliminary rounds (30 minutes for Prelims I & 30 minutes for Prelims II) to present their case. For the Quarter final rounds, each team will be permitted a total time of 45 minutes, while for the Semi-final and Final rounds, each team will be permitted a total time of 60 minutes. The time stated above includes the time required for rebuttal and sur-rebuttal.

9.2 Any team exceeding the time limit stated above shall be penalised with a deduction of one mark for every two minutes exceeded.

9.3 The division of time per speaker is left to the discretion of the team subject to a minimum of 10 minutes per speaker.

9.4 The oral arguments should be confined to the issues presented in the memorial.

9.5 The researcher shall be present with the speakers during the oral rounds.

9.6 Passing of notes to the speaker by the researcher is allowed.

9.7 Maximum scores for the oral rounds shall be 100 points per speaker, and which shall be judged on the following criteria:

Knowledge of Law	:20 Points
Application of Law to Facts	:20 Points
Ingenuity and Ability to Answer	:20 Points
Style, Poise, Courtesy and Demeanour	:20 Points
Time Management	:10 Points
Organization	:10 Points

## 10. SCOUTING

10.1 For the preliminary rounds, apart from the participant teams for any round, the members of the other teams are not allowed to observe such round. Scouting is strictly prohibited and scouting by any team shall entail instant disqualification.

## 11. AWARDS

11.1 Winning Team Award -The winning team will receive a trophy and a cash prize of Rs. 1, 00,000/- (Rupees One Lac Only).

11.2 First Runners-Up Team Award –The first runners up team will receive a trophy and a cash prize of Rs. 50, 000/- (Rupees Fifty Thousand Only).

11.3 Second Runners up Team Award -The Second runners up team will receive a trophy and a cash prize of Rs. 25, 000/- (Rupees Twenty Five Thousand Only).

11.4 Best Student Advocate/Counsel -The Best Student Advocate/Counsel will receive a trophy and cash prize of Rs. 10,000/- (Rupees Ten Thousand Only).

11.5 Best Memorial -The team submitting the best Memorial will receive a trophy and a cash prize of Rs. 10, 000/- (Rupees Ten Thousand Only).

11.6 SCC Online and Eastern Book Company, as the exclusive knowledge partners for the Competition, have declared the following awards amounting to more than Rupees Two Lacs in equivalent value, in the form of- SCC Online Web Edition- Special Student Access Card for each of the individual members of the winning team; SCC Online Web Edition- Special Student Access Card for each of the individual members of the first runners up team;

SCC Online Web Edition- Special Student Access Card for the Best Mooter (male), Best Mooter (female) and the Best Memorial.

## 12. ANONYMITY

The student counsels shall not state their names during the oral rounds and must use the assigned team code for all correspondence. All team members must refrain from disclosing the identity of their institutions at any time and in any manner during the entire Competition. Non-compliance with this Rule will result in immediate disqualification of the team.

## 13. FINALITY OF DECISIONS

The decision of the judges with regard to the outcome of the rounds shall be final. For all purposes and in any dispute, the decision of the Chairman of the Organizing Committee of the Competition shall be final and binding.

## 14. ACCOMMODATION, FOOD AND TRANSPORT

The University shall provide for pick-up from the airport/ railway station / bus terminus for all teams participating in the Competition, along with accommodation and food in the University premises from the afternoon of the 17th of September, 2015, till the forenoon of the 21st of September, 2015. Participating teams must make their own arrangements for their departure from the University premises.

## 15. CLARIFICATIONS.

Any query pertaining to the Moot Problem should be sent to [kiitmoot2015@kls.ac.in](mailto:kiitmoot2015@kls.ac.in) by the 16th of August, 2015. Questions submitted / clarification sought through any other means other than by e-mail shall be not be entertained. A consolidated response for all questions and clarifications shall be emailed to all the participating teams on the 27th of August, 2015.



## TIMELINE FOR THE COMPETITION

SL. NO.	PARTICULARS/ EVENTS	DATE/TIME
1.	<b>Last Date of Registration (Soft Copy of Annexure “A”) along with Scanned Copy of the demand draft</b>	<b>05<sup>th</sup> August, 2015</b>
2.	<b>Last Date of Registration (Hard Copy of Annexure “A”) along with the original demand draft</b>	<b>10<sup>th</sup> August 2015</b>
3.	<b>Confirmation of registration/participation, together with allotment of team-codes.</b>	<b>13<sup>th</sup> August 2015</b>
4.	<b>Clarification for Moot Problem (Last Date)</b>	<b>14<sup>th</sup> August 2015</b>
5.	<b>Release of Clarification</b>	<b>27<sup>th</sup> August 2015</b>
6.	<b>Memorial submission (Soft copy)</b>	<b>05<sup>st</sup> September 2015</b>
7.	<b>Memorial submission (Hard copy) (For Competition) &amp; Travel Plan (Hard Copy of Annexure “B”)</b>	<b>10<sup>th</sup> September 2015</b>
8.	<b>Inaugural function/draw of lots/exchange of memorials, etc (09:30 AM to 12:30 PM)</b>	<b>18<sup>th</sup> September, 2015</b>
	<b>Preliminary (Round 1) (03:00 PM to 06:30 PM)</b>	
9.	<b>Preliminary (Round 2) (09:00 AM to 12:30 PM)</b>	<b>19<sup>th</sup> September, 2015</b>
	<b>QuarterFinal Rounds (03:00 PM to 05:30 PM)</b>	
10.	<b>Semi-Finals (09:00 AM to 01:00 PM)</b>	<b>20<sup>th</sup> September, 2015</b>
	<b>Final Round (02:30 PM to 04:30 PM)</b>	
11.	<b>Prize Distribution/Valedictory Function (04:30 PM to 06:30 PM)</b>	<b>20<sup>th</sup> September, 2015</b>



## MOOT PROBLEM

*Drafted By*

**J. Sagar Associates**

1. TrueTech Limited (“TrueTech”) is a public limited company registered under the laws of the Republic of Islandia. TrueTech has been listed on various stock exchanges since 1997 and has more than 400,000 public shareholders as on date.
2. Goodenough Jones (“Goodenough”) is a partnership firm registered with the Society of Chartered Accountants of Islandia (“SCAI”), established under the Chartered Accountants Act 1949 (“CA Act”). Goodenough was the statutory auditor for TrueTech for the period April 2003 to September 2013.
3. On 30th September 2013, Mr. Pradyuman, the Chairman of TrueTech issued a letter to the national stock exchanges confessing that the financial statements of TrueTech filed with the stock exchanges did not represent the correct financial position of the company. He revealed that the company had been showing inflated profits over the last several years, whereas in fact there were negligible profits that the company had made. Mr. Pradyuman admitted that the audited financial statements of TrueTech showed artificial (non-existent) cash and bank balances, fictitious assets and understated liabilities. Confessing to various financial wrong-doings in an emotional and telling letter, Mr. Pradyuman resigned from his post as Chairman of TrueTech and submitted himself to the laws of the land.
4. On 13th November 2013, pursuant to actions taken by Daya Bureau of Investigation (“DBI”), Mr. Pradyuman was arrested on allegations of fraud, forgery and conspiracy to commit fraud and forgery among other charges under the Islandian Penal Code 1860. Further, the ruling party of Republic of Islandia, the Islandia People's Party, also issued a press release that Goodenough should also be arrested for the irregularities and also for fraud and forgery. DBI initiated investigations against Goodenough, but no arrests were made. A number of other regulatory authorities including the SCAI, i.e. the professional chartered accountants' institute, the Serious Fraud Office under the Companies Act 1956 and the Enforcement Directorate commenced investigations into the fraud.
5. Upon receipt of Mr. Pradyuman's letter, the Securities and Investments Regulator of Islandia (“SIRI”) also initiated an investigation into the affairs of TrueTech in order to ascertain whether there had been any violation of the SIRI Act 1992. The SIRI Act provides for the establishment of SIRI to regulate the securities market in Islandia and to protect the interests of investors in the securities market. Orders passed by SIRI may be appealed before the Hon'ble Securities Appellate Tribunal (“SAT”) which is the appellate authority under the SIRI Act.
6. SIRI's investigation inter alia revealed substantial differences between the balance shown in the books of accounts of TrueTech, and the balance as per the official bank statements of TrueTech's 125 bank accounts. The investigation also revealed that sales/revenue figures in TrueTech's books had been inflated by the insertion of a large number of fictitious invoices raised in respect of fake customers over the period of the last six financial quarters. SIRI was of the view that the inaccurate financial statements of TrueTech published over several years had distorted the decision of millions of investors and induced them to invest and trade in the shares of TrueTech.
7. In view of the above, SIRI issued a Show Cause Notice dated 21st December 2013 (“SCN”) to Goodenough alleging that Goodenough had failed in its duties while auditing the financial statements of TrueTech. It was also alleged that the audit was not conducted in accordance with the Auditing and Accounting Standards prescribed by the SCAI. The SCN alleged that Goodenough's failure to independently verify the Bank Statements, Fixed Deposits, Debtors Position and Invoices of TrueTech, led to a false and misleading picture of the audited accounts of TrueTech being presented to investors. The SCN concluded that the above indicated Goodenough's complicity in misreporting and manipulating the financial statements of TrueTech and that Goodenough was therefore liable to be treated as having participated in the fraud perpetrated by Mr. Pradyuman and the management of TrueTech, or as having aided and abetted the same, in violation of the provisions of the SIRI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations 2003 (“FUTP Regulations”). Accordingly, Goodenough was called upon to show cause as to why appropriate action should not be taken against it for violation of the provisions of the SIRI Act 1992 and the rules and regulations made thereunder, including why directions should not be issued



under section 11 and 11B of the SIRI Act prohibiting Goodenough from issuing audit certificates regarding compliance of obligations of listed companies and market intermediaries registered with SIRI and/or restraining Goodenough from accessing the securities market for a specified period.

8. In its reply to the SCN, Goodenough raised a preliminary issue of jurisdiction contending that SIRI lacked jurisdiction to enquire into the conduct of professional chartered accounts, who are members of the SCAI and could therefore properly only be regulated by the SCAI as per the provisions of the CA Act. Goodenough also requested SIRI to decide the question of jurisdiction as a preliminary issue before proceeding with the matter on merits.

9. Goodenough, in its reply to the SCN, contended that the issue of jurisdiction was a pure question of law and that under the settled law of the land it ought to be decided first before proceeding with the adjudication on the merits of the matter. SIRI rejected this contention of Goodenough and passed an order dated 23rd February 2014 holding that the present issue at hand was a mixed question of law and fact and that the jurisdictional fact can only be determined upon a complete inquiry on merits. It also held that a composite order on jurisdiction and merits would be passed upon completion of the inquiry. Accordingly, SIRI decided to proceed with the inquiry and issued a letter to Goodenough calling upon Goodenough to attend a personal hearing at SIRI's offices.

10. Goodenough filed a writ petition before the High Court of the State of Essos (being the court having jurisdiction) under Article 226 of the Constitution of Islandia, contending that SIRI ought to decide jurisdiction as a preliminary issue before proceeding with the enquiry on merits and in any case, challenging the jurisdiction of SIRI to issue the show cause notices to Goodenough. By an order dated 12th July 2014, the Essos High Court rejected the writ petition filed by Goodenough.

11. Being aggrieved, the Appellants, M/s Goodenough Jones have challenged the order of the Hon'ble Essos High Court before the Hon'ble Supreme Court of Islandia (the apex court of Islandia), by way of a special leave petition.

12. In its memorandum of appeal filed before the Hon'ble Supreme Court, Goodenough contended that the issue of jurisdiction ought to have been decided by SIRI as a preliminary issue before proceeding to hear the merits of the matter. Further, it contested the jurisdiction of SIRI in the present case to conduct an inquiry and pass orders against professionals like chartered accountants, which would tantamount to regulating the profession when there were statutory bodies specifically established to regulate professionals like Goodenough.

13. During the course of the preliminary hearing of the appeal, a question arose as to what would be the standard of care to be adopted by auditors while conducting an audit, and whether it was necessary for SIRI to establish mens rea for a violation of the SIRI Act and FUTP Regulations framed thereunder. Accordingly, on 20th March 2015, after hearing the parties, the Hon'ble Supreme Court issued the following directions:

*UPON hearing counsel, the Court made the following  
ORDER*

Leave granted.

The following issues arise for consideration in the present proceedings:

1. Whether SIRI ought to have decided the question of jurisdiction as a preliminary issue before proceeding to adjudicate the matter on merits?
2. Whether a writ petition filed by Goodenough before the High Court of Essos was maintainable in view of the remedies envisaged under the SIRI Act?
3. Whether SIRI has jurisdiction to enquire into the conduct of a Chartered Accountant registered with the SCAI and issue directions against a Chartered Accountant?
4. Whether it is necessary for SIRI to establish mens rea for a violation of the SIRI Act and FUTP Regulations framed thereunder?

The laws of the Republic of India shall be applicable to the present proceedings, including the Securities and Exchange Board of India Act, 1992, SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations 2003, Chartered Accountants Act 1949, and the Companies Act, 1956 and/or Companies Act, 2013 (as applicable).

Parties to file their Written Submissions / Memorandums by 5th September, 2015.

List for hearing during 18th to 20th September, 2015.



# ORGANISING COMMITTEE

## **Chief Patron**

Dr. Achyuta Samanta  
Hon'ble Founder, KIIT & KISS

## **Patrons**

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Chancellor  
KIIT University

Prof. (Dr.) P.P. Mathur  
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Professor, School of Law, KIIT University

## **Faculty Convenor**

Mr.Sudipta De Sarkar

## **Faculty Members**

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Mr. Aswini Patro  
Mr. Nimain Charan Swain  
Ms. Jinia Kundu  
Mrs. Nidhi Chauhan  
Mrs. Parimita Dash  
Mrs. Pratiti Nayak  
Ms. Susmita Das

## **Student Committee**

Mr. Mojahid Karim Khan  
Student Convenor  
Mob : +918093127332

Ms.AshnaSiddiqui  
Student Co Convenor  
Mob : +9197789922522



## ABOUT KISS

Started with just 125 students way back in 1993 by eminent educational and social entrepreneur Achyuta Samanta, Kalinga Institute of Social Sciences (KISS), Bhubaneswar has today grown into the largest free Residential Tribal Institute of the world. KISS provides food, accommodation, health care and all other basic necessities of life to 25,000 tribal children of the poorest of the poor background absolutely free to pursue education from Kindergarten to Post Graduation (K.G. to P.G.). Students are enrolled from 62 tribes of Odisha, including 13 Primitive Tribes.

The course curriculum designed for KISS is unique, for it incorporates vocational training with formal education, thus making a child educated and self-sufficient. Achievements of KISS students in examinations and other academic events speak volumes about high quality of education at the institute. KISS students have been achieving cent percent pass record in annual examination for Class 7th, Class 10th and +2 Arts, Science and Commerce for consecutive ten years. Students of KISS have been representing State in the prestigious National Children's Science Congress every year since 2005. They have not only been qualifying in reputed institutions like NITs and IITs on the basis of their own merit, but have also been selected by top corporate names like Accenture, TCS and Wipro in campus placement. Students of KISS have proved their mettle not only in academics, but also in sports and cultural activities. Highpoints of these achievements have been their becoming Champion in Under 13 International Rugby Tournament held in Manchester, U.K. (19th June 2011) and participation of KISS students in Asian Games at Guanzhou (China) and Commonwealth Games (New Delhi). More details are available at [www.kiss.ac.in](http://www.kiss.ac.in)

KISS is the finest expression of KIIT's social commitment. It plans to educate 2,00,000 tribal children during the next decade.







School of Law, KiiT University  
School of Law, Campus-16,  
KiiT University  
Bhubaneswar, Odisha-751024  
E-mail: [Kiitmoot2015@kls.ac.in](mailto:Kiitmoot2015@kls.ac.in)

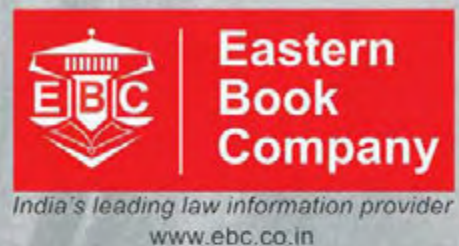
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