
Case No.: UNDT/GVA/2013/001

Judgment No.: UNDT/2014/030

Date: 13 a!"# 2014

Introduction

!!"# \$ # #" % & ' (!"# \$ ')\$ # \$ #&
* # \$ & + , - (& # # & \$ # " # ! " \$ & \$ (
+. /-' # 0 # # 1 & # " & # 2 & 0 # \$
+. 1 /-' # # & \$ & 0 " !
+. /-' \$ (\$ # # & \$ (& & , !
2 # &)\$ # \$ #& * # \$ & ' ' \$ \$ \$ +. /-
,) *, , 3 ,4,)) +. (\$! /-

Facts

(\$! 5 0 & # # 0 6 & ' (!"# \$!"# & # & (# ((! 5 " \$ ' 1 ' ' "# ("" 5 # \$! \$ # 7 .!& # "# /' . \$ # \$ # /' .!" # & # 8 # /' . # ! & & \$ / . " & (#! / 1 "" 9 !"# \$ # 5 & 6 # 6 (& ! # 6 " : 4 & \$ * # \$ & (: # & # ; & +. : ; /-' (: ' ' 1 ' < # = !"# \$ 5 # (& 5 (# & !"# \$ # & # (& \$ & # !& \$

! 6 (: ; ' # = \$ # 5 & # # # "" (& "# # 0 # & \$! \$, 6 # & 0 # 5 ' # \$ " # (!"# \$ ' 5 (5 # & 0 # 5 * \$ 6 & 6 ! " (& 6 & +. (/-' 5 (# \$ (# \$ " (: ; > "" 5 # (# & 0 # 5 ' (" \$ \$ " ((!"# \$ # "" (& ? # & & (! 1 (5 (#" ("" 5 (# 0 & ? # & \$! \$ # ' (" ! & # "" (& (' 5 # ' .!& # "# /' ." & (#! / . # ! & & \$ / (# & \$ (& & (! # # * " \$ # 5 "" (& ? # & (! 5 (& \$ < (& 5 & # 6 & \$ 6 & (& " 4 0 # 5 & +. 4 /- 6 (# & \$ & ' 1 ' ' (& (

(: 4 &\$; 2 &0#\$ +. : 4 ; 2/- 6 (*

* > 6& & ' (&\$ # & #""# (! 5
& # (2 \$& & , & " * > 6& & ' (" \$ (&\$ \$ # . 6@ \$ (& 0# 5 (& " 4 0# 5 # /

> "" 5# # # > 6& & 3 ; &\$ (5 (#\$ (# (& 0# 5 (\$ ' (4 & ? "\$ &# # \$ # & (: ; (0 & " \$ # '# \$" # (\$\$ " \$ # '& ! \$ # 0 " 3 > 6& & !&#" : 5 0 &' (! \$ # \$ \$" &# # \$ # (4 (& (: ; & " (!!"#\$ A \$ # &

9 > "" 5# & \$ #! ("\$ &# # \$ # ' (4 & (& \$ # !& # ' '# !!" 0 " 5 6 # (2 \$& & , & " ' # ((\$ " !& \$ 5# ((# " \$ # ' 5 (#\$ ((#

% , # " B ' (: ; # & (!!"#\$ (\$ # # " \$ (&\$ # & (\$! '# !!"#\$" ' ((5 # \$" # (& & !& , !!" 0 \$ # & # #" & \$ #

3 * ' (!!"#\$ & ? # # & # 0 & 0# 5 (\$ # # " \$ (&\$ # & (\$!

B " & B *\$ 6 & & (&, 2 \$& & , & " & ; '\$ # \$ (!!"#\$ 6 , # " *\$ 6 & ' (" & 5 # & ((\$ \$ # # 5 ! ("

* % & ' (!!"#\$ 6 # (& !!"#\$ # (& # 6 " 1 (& 6 # # ' (& ? ((4 ! !& 0# \$ & & # (" \$ # !& \$

* 3 & ' (!!"#\$ # 5 & 0 (4 ! % > 6& & ' (6 # (# & !" ' " 5# (# 0 = #"

" & (4 ! " & \$ #& (4 # & (# (6 (#
#" (#0 = 6

* ; &\$ (' (!!"#\$ #" 6 # # #" .4 ?
& & (!& \$ # 0# \$ /' 5(#\$(" \$ # (& \$ (
4 ! A & !"

* % ; &\$ (' (4 ! C & " 0 \$ (
!!"#\$ A 6 # # ; &\$ (' 5(#\$(5 & 6 *& &
% + - !&#"

* ; ' (4 ! #" (# \$ ' " 5#(("#
? # C (\$ # &# (# &0# 5 ' 6 (
"\$ # (!!"#\$ A 6 # # ; &\$ (

*& & + - *\$ 6 & ' (" & & (
(!!"#\$ 6 & \$\$ (#0 = ' 5#(= '
% 6 # (& 5#((&# & \$ & (# ' (!!"#\$
5 #0 (!! & # #" \$ (= 6 9 *\$ 6 &

9 * 9 *\$ 6 & ' # 6 # # #" .4 ? & & (

(\$C (&# 0# 5 (\$ ((& 5 \$" \$(6 5 (@ 6
\$&#! # "# # ((& ? "#\$ # 2(5 \$ # &
" ! &# "" # (\$! \$.!& # "# / !# (&"
&0#\$ <

\$ ((\$ \$! \$ F. #
! & & \$ / F 5(#\$((" (" " ! &# ""
' # # \$ & # \$ # 5# ((& : # C # \$\$ (&
!& 0# =! &# \$ < (# & & ((#& \$! \$ F
." & (#!/<

(5(" " \$# !& \$ 5 " 5 6 \$ (\$# #
& \$ (& \$ # .("& 6 / & (6 # #
' (\$ ' (& \$ # \$.5 & "" 6 # &# " \$ # & /<
0 & (# 5 .6 #", ! \$ # (&/ (: ; "
(& 6 & (" (C 5&# #0
\$ 6 (& ! & & \$ (# &0# 5<

(\$! & #0 " # & ! & (&# &0# 5 . \$ # 6

(& ! 6"# \$ # D5 & E & "" & " (5 & C 6 ! & & 6
(! ## /<

(4 & # 6 (& " &# (" \$ # !& \$ ' C (: ; & =!" # 5((& \$ # 5#(! # #0
0 " # & \$ & 5 \$ # & " ! & # "" # (!
& ? #& < (& 5 \$ # # #' &' (& ! & \$ & & (&
& =! &# \$! # #0 0 " # # .!& \$# " (6 #0
! "# \$ & 6 \$ 0 & 6 (! / 5 60# " C #
\$\$ <

(2(& ? & " &# " \$! # & (6& \$((& &# ("" #& \$ # & # & !& # ' & ("
. ! # "" # "/ \$(\$ & . \$ & & 0 \$ & (#& &
& 0#\$ (/' & (. # ## \$ 6" 5 D(& E "
!(# \$ " (" (/ 2(C 6 !" \$ (& & \$ #
!& , ! !& 0 & # # " & \$ #

(4 ! A !&# \$#! " \$ # & 7

(" \$ # !& \$ 5 . \$ && \$ " \$ &&# /' (\$# #
& \$ (!!" \$ & (! .5 " 5 "/<

5 & "" 5 ("A 0 " # (\$! \$# (
 !!"\$ 5 "" 5 @ ## 6
 6@ \$#0 & < # # ("A & " 6 # (\$ &
 5 & 6 ! " & 0# 5 & 5(= # (\$ # &# (
<

4 & # (!!"\$ A \$ # (("A
 0 " # # \$ & #\$\$ 5#((& " , 2 & ! & ' &
 . # /' (" "& (" ((. \$ \$" #
 ! " \$ \$ & # !!"\$ A \$! \$# # & &
 (, 2 0 " # (# \$ # / + 39- (
 .! &! (# &0# 5 5 & (! " & # !
 6@ \$#0 !# # (!!"\$ A \$ # \$ /' . (!!"\$ A
 & ((& , 2 (5 (((& ? #& (
 \$! \$D EG!& # "# A(&# /<

(" \$ \$ # "" (& ? #& & (# (
 & (\$! 7 (6 # (# \$ # \$ # BB (
 6 5 &C# & # # & 0 & % & ' # \$" #
 & # (#0# # 1 & # " & > "" 5# (# &0# 5' (
 5 . 0 & "" & \$\$ "" (& ? #& & (
 ! ## /< # ' (5 (0 & . 6#"#
 !& \$#0 " 0 " ! & # \$\$!"# (6@ \$#0 (=! &# \$
 # \$ & # # &# \$ # # ! & & \$
 " & 6 & \$ " ' & # ! &0# & C#" /<

(& ! & (" (5 ((? # C
 &# (# &0# 5' \$ & & (!!"\$ A &# ' 5 & ?
 & # (# 6#"# \$ # & (! < & (& & ' 5# (
& & (!!"\$ A \$ # (("
 # & !4()-0.839844C /\$81(")-2.16.16797((8 0 T d [(&)3.00781()-2.16710.839844()-

& # /'6 # 0 \$(# & # '# (\$\$ &
\$ # .6# & & # \$ # / > & (& & ' .# # (
\$ # A & ! #6#"# & ? \$" &# \$ # \$" & ? # !
6 (" \$ 0 (# & (& 5 & # \$" &
\$ \$# & &# # &0# 5/ (& # # \$& ! \$ 6 5 (
C 6 (" 6 & 5# (& & (0 " # (&
&0# 5' (& 5 6"# # (0 # , C &<
 \$ #& 6 (@ &# !& \$ + B B -' .DE(

\$# # & \$ (& & " \$# # (& & !& \$ & "" " 5
6 =& #0 & 6# # (&

B (" & \$ "" (! & 6"# (@ &# !& \$ (
!! " "" . (2 \$& & , & " (6& # \$& # # &
!& # # # (\$# D (!! " E "" & (' #
(6 \$ 0# \$ 6# ' # \$&# # & !& \$#\$ &
6 # # @ & ((\$! \$## , C &/ +

\$ % + & , \$& # - !& 0# (!& # !& \$ & & ((& "# # \$ # ' "" 5 7

% !!"#\$!!"# @ 6 ! # 5#" 6 !& , \$& (6 # (# & # !& 0# # (#& !!"#\$ # & # 5((& ((# # & ? #& (@ 6 ! #

% *: 4 ; ' (" \$ " (& &\$ # \$ & (># " & " #0# # (! & ># " 2 !! & 5#" & " " \$ & # \$ "" ((#& # & + & ! # # , ! \$ # \$ @ 6 ! # - \$ \$! # " & ! & + & & \$ @ 6 ! # - ' 5# (# & (& " & ("# (@ 6 ! # ' (!!"#\$ # \$ # 5((0 \$ \$ "" ! (!& , \$& # !& \$ ' (& 5#((!& , !& 0 "# #6" \$ # ' & \$ # & # & " \$ #

H

% ((#& # & \$ \$! # " & ! & ("" & (& 0 " "" !!"#\$ & " (# (& ("" !& !& (& "# (5(!! & ? "# # & (@ 6 ! # 6 & 0# 5 (#& \$ #

1 \$\$ & \$ 5# ((& " ' "" 5# & " (!& , \$&

Conclusion

3 1 0# 5 (& # ' (") 1)27

(!!"#\$ # # # # # # # #&

+ -

(I C &

(# (; &\$(\$

) & # (4 # & (# (; &\$(\$

+ -

4 J ; & ; ' 4 # & &' 0