

Second volume of 'Derivative/Hedging Deals' released

■ **Nihal Sri Ameresekere sets out facts of dubious derivative/hedging deals, in two public interest litigations**

IN 'Derivative/Hedging Deals - Volume II' (published by AuthorHouse UK), author Nihal Sri Ameresekere has professionally lucidly set out facts of dubious derivative/hedging deals, in two public interest litigations instituted in Sri Lanka, seeking 'anti-suit injunctions', citing renowned authorities, to prevent foreign legal proceedings and for these transactions perpetrated collusively by Standard Chartered Bank, Citibank and Deutsche Bank on their customer, Ceylon Petroleum Corporation, to be adjudicated before the Supreme Court of Sri Lanka, as the most 'appropriate forum'.

According to the author, this has been mysteriously strenuously opposed by the attorney general of Sri Lanka, appearing for state agencies and for himself, on baseless objection of 'time bar', resulting in the supreme court questionably upholding such objection, with the author pointing out the 'ludicrous' of such order. As a consequence, the High Court of Justice of the United Kingdom had granted judgment in favour of Standard Chartered Bank. A three-member arbitral tribunal of the London Court of International Arbitration having recognised the true nature as wagering contracts had rejected the Citibank Claim, notwithstanding the UK. High



Derivative/Hedging Deals - Volume II

By Nihal Sri Ameresekere

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Court Judgment regarding the Standard Chartered Bank case having been adduced before them. A three-member arbitral tribunal of the International Centre for Settlement of Investment Disputes had a division, with two members awarding the Deutsche Bank's claim, with a 'gaming claim interpreted as

an investment' and one member dissenting pointing out that the winnings of a gaming claim cannot be an investment. This could open floodgates to prevent recovery of stolen assets stashed overseas.

Ironically, the attorney general of Sri Lanka had relied on persons, who had to be investigated and who had been compromised by these banks, to give evidence and with resultant settlements. What is emphasised is that 'economic terrorism' germinates 'armed terrorism', resulting in the violation of human rights. "Concerns of humanity, transcends interests of nationality," propounds the author.



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According to the author, this has been mysteriously strenuously opposed by the attorney general of Sri Lanka, appearing for state agencies and for himself, on baseless objection of "time bar," resulting in the supreme court questionably upholding such objection, with the author pointing out the "ludicrousness" of such order. As a consequence, the High Court of Justice of the United Kingdom had granted judgment in favour of Standard Chartered Bank. A three-member arbitral tribunal of the London Court of International Arbitration having recognized the true nature as wagering contracts had rejected the Citibank Claim, notwithstanding the U.K. High Court Judgment regarding the Standard Chartered Bank case having been adduced before them. A three-member arbitral tribunal of the International Centre for Settlement of Investment Disputes had a division, with two members awarding the Deutsche Bank's claim, with a "gaming claim interpreted as an investment" and one member dissenting pointing out that the winnings of a gaming claim cannot be an investment. This could open floodgates to prevent recovery of stolen assets stashed overseas.

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About the Author
Nihal Sri Ameresekere, a multi-disciplinary professional, well exposed to private and public sectors, is a public interest activist in Sri Lanka, with wide international exposure. Not a legal professional, yet has appeared in person before the Supreme Court of Sri Lanka, the highest judiciary, successfully advocating public interest litigations, with the expansion into human rights and civil society responsibility. He is a forensic accounting investigative specialist. Has extensively published incisive exposés and dispassionately spoken out on matters of national and public interest. Ardently upholds the sacred precept that public property and finance is solely of the people and managed in fiduciary trust by governments; transgression of which he has committedly combated, fearlessly standing up against powerful politicians, bureaucrats and businessmen; whilst castigating compromising and conniving professionals, who act in breach of the contractual responsibility to society, whilst pontificating otherwise.