

## M/s Home Trade Ltd. (HTL) — Two-Page Note on Validity of Contract Notes (despite “no screen enablement”)

### I. Issue

Whether contract notes issued by HTL. for **negotiated, principal-to-principal** debt trades are **valid and binding inter partes** when NSE says the member was **not enabled for screen-based trading** at the material time.

### II. Short Facts (defence lens)

- HTL. is the corporate successor to Lloyds Brokerage Ltd. → Euro Asian Securities Ltd. → **HTL**; all changes were **intimated** to NSE/SEBI; NSE **updated member records** after processing fee; **SEBI registration** issued to HTL.
- On HTL’s own request (pending additional refundable deposit), **screen/terminal access remained disabled**.
- HTL executed **off-market, negotiated, proprietary** debt trades with several co-operative banks and **issued NSE contract notes** (brokerage column blank, as principal).
- In some cases consideration was received but delivery failed; banks filed criminal/civil actions. NSE told police HTL. was a **member and SEBI-registered**, but “not enabled for screen trading.”

**Defence theme: Screen enablement relates to order-matching access**, not to the **existence or validity of negotiated debt contracts** documented by **contract notes**. The notes are **formally valid** and evidence **binding contracts**; any reporting/operational lapse is **regulatory**, not a ground of **nullity**.

### III. Controlling Legal Framework (hooks to cite in pleadings)

1. **SEBI Act, 1992 — ss. 11 & 12**
  - SEBI regulates the securities market and **registers/regulates stock-brokers**. Acting as a broker requires **SEBI registration**.
  - **Capacity to issue contract notes** flows from **member status + SEBI registration**, not from whether a trading terminal is temporarily enabled.
2. **Securities Contracts (Regulation) Act, 1956 (SCRA) — s. 9; Securities Contracts (Regulation) Rules, 1957 (SCRR)**
  - Exchanges frame **bye-laws** governing **forms of contracts** and member-counterparty relations.
  - **Brokers must issue and preserve contract notes** (duplicates/counterfoils).
  - A **contract note** is the exchange-prescribed **written memorial of the bargain**.
3. **NSE Bye-laws & Regulations (Debt/WDM/Negotiated trades)**
  - **Issuance of a contract note** by a member is **mandatory** and notes must state that the deal is **subject to exchange rules/arbitration**.
  - For **negotiated debt trades**, the operational model is **deal agreed → contract note issued → trade reported/confirmed** (separate from screen order-matching).
4. **Indian Contract Act, 1872 (ICA) — ss. 10, 11, 23, 37, 39, 65, 73**

- A contract is void **only if** its object/consideration is **forbidden by law** etc. (s.23).
  - **Performance and breach** are governed by **ss.37/39**; **damages** by **s.73**; **restitution** by **s.65**.
  - **Regulatory non-compliance** (e.g., delayed reporting) does **not** itself make a contract void inter partes.
5. **Indian Evidence Act, 1872 (IEA) — ss. 17, 21, 65B**
- **Admissions** (e.g., NSE acknowledging membership/SEBI registration) are provable against the maker.
  - **Electronic notes/confirmations** are admissible with **s.65B(4)** certification.

#### IV. Why the Contract Notes Remain Legally Valid (step-by-step)

##### 1) Capacity existed: member + SEBI-registered

HTL was an **admitted NSE member** (records updated post-change) and **SEBI-registered**. That is the **legal threshold** for issuing contract notes and entering trades. **Terminal enablement** is an operational switch for the **order-matching screen**; it does **not** extinguish broker capacity or the legality of **negotiated** trades.

##### 2) Negotiated debt trades are recognized; the contract note comes first

In the negotiated debt market (erstwhile WDM / current negotiated reporting), trades are **bilaterally negotiated** with **eligible participants** (like banks) and then **reported** to the exchange within a time window. The **contract note evidences the concluded deal**; **reporting** is a **post-contract compliance** step. **Conclusion:** “No screen enablement” has **no bearing** on the existence or validity of the negotiated contract documented by the note.

##### 3) The notes are in the correct form for proprietary (principal) trades

NSE prescribes a **separate contract note format** for “**negotiated trade in debt segment — trade as principal.**” In such proprietary trades, the **brokerage column is blank** (no agency service). C Ltd.’s notes match this pattern. Form compliance **supports** validity. (Need to be verified from NSE bye-laws)

##### 4) Compliance lapse (if any) ≠ Nullity

Even if any trade was **not reported** within the stipulated time, that is a matter of **exchange/SEBI compliance** (penalties or disciplinary action). Under **ICA s.23**, a contract is not void merely for violating an internal procedural rule where the underlying transaction is **not forbidden by law**. Inter partes, the notes remain **binding**; the remedy is performance/refund/damages — **not** criminalisation or automatic voidness.

##### 5) Incorporation of exchange terms & arbitration reinforces contractual status

Standard notes state the deal is “**subject to the Bye-laws, Rules and Regulations of the Exchange**” and provide for **arbitration**. Incorporation by reference is a valid drafting method

and **strengthens enforceability**; it does not suggest the note is contingent on a live screen terminal.

## 6) Evidentiary posture is strong

Paper notes are **primary documents**; electronic notes are admissible with **65B certification**. NSE's **acknowledgment** to police that HTL was a **member and SEBI-registered** is an **admission** (IEA ss.17/21). Together, these allow the Court to **read the notes as binding contracts**.

## V. Anticipated Objections & One-Line Rebuttals

1. “**No screen enablement ⇒ not eligible to trade.**”  
**Rebuttal:** Category error. **Screen** pertains to **order-matching**. **Negotiated trades** are **deal-and-report**; capacity stems from **membership + SEBI registration**, not terminal status.
2. “**Non-reporting ⇒ illegal/void.**”  
**Rebuttal:** At most a **regulatory breach**; **ICA s.23** not engaged. Inter partes contracts — **valid**.
3. “**Brokerage blank ⇒ defective note.**”  
**Rebuttal:** In **principal/proprietary** trades, brokerage is **blank by design** under the **negotiated-as-principal** format.
4. “**Membership continuity broken by ‘transfer’.**”  
**Rebuttal:** NSE **updated records** post-processing fee; **SEBI issued registration** to HTL; Capacity **continued**.

## VI. What to Put on Record (to clinch validity)

- **NSE member-master extracts/letters** showing **LBL>>>EASL>>>HTL** updates; proof of **processing fee** and **record update**.
- **SEBI registration** in HTL's name for the relevant period.
- **Specimen contract notes** (negotiated/principal format; brokerage blank), with deal sheets and settlement terms.
- (If available) **Reporting acknowledgments**; if not, a legal position that reporting is **post-contract** compliance.
- **NSE admission** to police on membership/SEBI registration (tender with **65B** certificate if electronic).

## VII. Bottom-Line Conclusions (lift directly into submissions)

1. **Authority to issue:** HTL, being an **NSE trading member** and **SEBI-registered**, had full **capacity** to issue contract notes; **screen enablement** is **irrelevant** to negotiated trades.

2. **Formal validity:** Notes are in the **prescribed form** for **negotiated principal** trades; **blank brokerage** is correct.
3. **Binding effect:** The notes **evidence concluded contracts** with all essential terms; any exchange-level non-compliance is **regulatory**, not a **Section 23** nullity.
4. **Admissibility:** Notes (paper/e-notes with **65B**) are **admissible**; NSE's acknowledgment of member/SEBI status is an **admission**.

**Therefore:** The **contract notes stand as valid, binding contracts** notwithstanding NSE's statement about screen disablement, and they defeat any claim that the transactions were inherently invalid or incapable of being performed.