

The recent English High Court case of *Golden Ocean Group Limited v Salgaocar Mining Industries PVT Ltd* deals with the validity of a guarantee agreed in a series of emails and signed electronically. A guarantee arising this way was enforceable as long as the agreement being guaranteed was valid.

The facts involved a vessel owned by Golden Ocean Group. Trustworth Shipping was nominated by Salgaocar Mining Industries to charter the vessel. Negotiations about the terms of the charter were conducted by email to the effect that Trustworth would be guaranteed by Salgaocar. The guarantee was mentioned throughout the email exchanges. When Trustworth repudiated the charter contract, Golden Ocean enforced the guarantee against Salgaocar. Salgaocar argued that the guarantee was unenforceable under Statute of Frauds, which says that no claim can be made unless there is a memorandum or note in writing, signed by or for the guarantor.

The court held that a guarantee could be made by email. Email would be considered to be "in writing" and there was no need for it to be a separate document or for it to refer to or contain the full terms of the main contract which it guarantees.

Once the terms of the charter were accepted by the parties, the charter contract was made and the guarantee came into force.

It was also held that the agreement could be made by the electronically printed signatures of the person who accepted the terms by email. The judge said that the law should recognise agreements made through email. It was held that Golden Ocean had an arguable claim that the guarantee was a valid agreement in writing and Salgaocar could be liable for Trustworth's repudiation of the charter.

The case demonstrates the growing judicial recognition of email as a means of forming binding agreements, including those such as guarantees that must be "in writing".

So, be careful what you say in your emails, they may come back to haunt you.