

MHYC Wednesday Afternoon Series 2024

Bluetack v Deep Philosophy

Hearing at MHYC, on 17 July 2024 at 17:00, and reopened hearing by email between 18 July 2024 and 22 July 2024.

Bluetack was represented by: Brent Lawson

Deep Philosophy was represented by: Peter Sorensen

Witness(s) for Bluetack: Tim Clare (Onya)

Witness(s) for Deep Philosophy: Tony Levitt (Deep Philosophy)

Conflict of interest

Protest Committee members declared that they had no conflicts of interest and no party objected to the members hearing the protest.

Other Procedural Matters

Reopening

On 18 July 2024, before the written decision was provided to the parties, Bluetack requested that the hearing be reopened to consider video and photographic evidence that she believed she had been misled into believing that she was not permitted to present at the original hearing.

The protest committee decided to reopen the hearing in accordance with RRS 66.1 and to conduct the reopened hearing by exchange of emails, including email containing the video and photos that Bluetack wished to have considered.

The parties were advised and:

- Bluetack provided a video and two stills clipped from the video, together with background material and comments on the vision.
- Deep Philosophy provided comments on the vision and the comments from Bluetack.
- Parties were given the opportunity to make final closing submissions. Bluetack provided a detailed summing up and Deep Philosophy advised that she wished to make no further submission.

The protest committee carefully considered the video and still pictures and the written submissions made by both parties.

This written decision is the decision of the final reopened hearing.

Validity

1. Bluetack delivered a Hearing Request containing the information required by rule 61.2 to the race office within the protest time limit.
2. Bluetack hailed 'protest' and displayed red flag at the first reasonable opportunity.
3. At the time of the incident it was also obvious that serious damage had resulted to Bluetack.
4. The protest is valid.

FACTS FOUND

1. The race was sailed in wind SW 15 kts.
2. Bluetack, Onya, and Deep Philosophy were reaching on starboard tack to the RB mark to be rounded to starboard.
3. At 5 boat lengths from the mark Bluetack was overlapped outside Onya, Onya was overlapped outside Deep Philosophy. Bluetack was advanced on Onya, Onya was advanced on Deep Philosophy
4. When Bluetack reached the zone there was doubt that she was clear ahead of Onya.
5. At 2 boat lengths from the mark, Deep Philosophy hailed for mark-room.
6. Onya bore away astern of Bluetack.

7. Bluetack changed course to windward to round close to the mark.
8. Deep Philosophy was not aware of the position of Bluetack until after she was less than 1 boat length from the mark.
9. Less than 1 boat length from the mark Deep Philosophy hailed Bluetack in an attempt to avoid contact.
10. The helm of Bluetack was not aware of the position of Deep Philosophy until she was less than 1 boat length from the mark.
11. Bluetack attempted to bear away to avoid contact without success.
12. Deep Philosophy luffed slightly to pass between the mark and Bluetack.
13. The bow of Deep Philosophy then made contact with the starboard midships of Bluetack piercing the hull making a hole about one third of a metre in diameter.
14. Both boats continued to race and finished.

CONCLUSION AND RULES THAT APPLY

- A. **Deep Philosophy overlapped to windward on the same tack did not keep clear of Bluetack. Deep Philosophy broke RRS 11.**
- B. **There is doubt that Bluetack broke the overlap between her and Deep Philosophy before she reached the zone and it shall be presumed that she did not and boats were overlapped when the first of them reached the zone in accordance with RRS 18.2(e).**
- C. **Bluetack overlapped outside when the first of them reached the zone did not give Deep Philosophy mark-room. Bluetack broke RRS 18.2(b).**
- D. **Deep Philosophy sailing within the mark-room to which she entitled is exonerated for breaking RRS 11 by RRS 43.1(b).**
- E. **Bluetack a right of way boat did not avoid contact when, at the time it was clear that Deep Philosophy was not keeping clear, it was reasonably possible to do so. Bluetack broke RRS 14.**
- F. **Deep Philosophy a boat entitled to mark-room did not avoid contact when, at the time it was clear that Bluetack was not giving mark-room, it was reasonably possible to do so. Deep Philosophy broke RRS 14.**

DECISION

Bluetack and Deep Philosophy are both disqualified in Race 5.

Kerry Burke
Chairman

Protest Committee: John Allan NJ, Kerry Burke RJ, John Crawford, Catherine Rofe