

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**SUIT NO.2428 OF 2010  
WITH  
NOTICE OF MOTION NO.2775 OF 2010**

SBI Global Factors Ltd. ....Plaintiff  
V/s.  
Paranthaman Spinning & Weaving  
Mills (P) Ltd. & Ors. ....Defendants

**WITH  
NOTICE OF MOTION NO.1127 OF 2010  
IN  
SUIT NO.2563 OF 2009**

SBI Global Factors Ltd. ....Plaintiff  
V/s.  
Willy Agrotech Ltd. & Anr. ....Defendants

**WITH  
NOTICE OF MOTION NO.2225 OF 2010  
IN  
SUIT NO.1729 OF 2010**

SBI Global Factors Ltd. ....Plaintiff  
V/s.  
Sri Pamba Spinning Mill Pvt. Ltd. & Ors. ....Defendants

**WITH  
NOTICE OF MOTION NO.1191 OF 2013  
IN  
SUIT NO.1905 OF 2010**

SBI Global Factors Ltd. ....Plaintiff  
V/s.  
Bhagavathi Textile Mills ....Defendants

**WITH  
NOTICE OF MOTION NO.2710 OF 2011  
IN  
SUIT NO.2429 OF 2010**

SBI Global Factors Ltd. ....Plaintiff  
V/s.  
Kundrakudi Kandha Spinning

Mills Pvt. Ltd. & Ors.

....Defendants

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Mr. Dhawal A. Patil i/b. K. Ashar & Co. for the plaintiffs in all suits.  
None for the defendants.

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**CORAM : K.R.SHRIRAM,J**  
**DATE : 15<sup>th</sup> JULY, 2016**

**P.C.:-**

**SUIT NO.2429 OF 2010**

1           The plaintiff has filed this suit claiming a sum of Rs.17,89,77,298.97/- in respect of the Trade Finance Facility given by the plaintiff to the defendants with further interest at 18% p.a. with monthly rests on the said amount from the date of the suit till decree and payment and/or realisation and the defendant nos.1,2 and 3 be directed to jointly and severally pay the decretal amount.

2           The plaintiff is a subsidiary of State Bank of India and engaged in the business of providing Factoring and other trade finance services. The defendant nos.2 and 3 are the guarantors, who have severally and jointly guaranteed the due repayment on demand of the Trade Finance Facility granted by the plaintiff to the defendant no.1. The defendant no.1 had also created a Registered Mortgage and Charge over its Immovable Properties in favour of the plaintiff as security for the entire dues claimed in the suit.

3           Vide a letter dated 18<sup>th</sup> March, 2008, the plaintiff sanctioned to defendant no.1 Trade Finance Facility. The defendant no.1 has executed various documents as listed in the plaint. The defendant nos.2 and 3 have also signed and issued the documents and letters as stated in the plaint. The plaintiff granted Trade Finance Facility to defendant no.1, which has been utilised from time to time by defendant no.1.

4           The defendants despite repeated demands from the plaintiff failed and neglected to repay the amount due under the Trade Finance Facility. According to the plaintiff the amount outstanding as on the date of the suit was Rs.17,89,77,298.97/-.

5           On 4<sup>th</sup> February, 2011 an ad-interim order was passed by this court in the notice of motion bearing no.2774 of 2010 taken out by the plaintiff. As the defendants did not even enter appearance or file any defence to the motion, the ad-interim order came to be confirmed as the order in the notice of motion.

6           The defendants though served have neither filed any written statement nor entered appearance. The plaintiff has also filed

affidavit in lieu of examination in chief of one Krutika Parmar and affidavit of documents both dated 22<sup>nd</sup> April, 2016 and compilation of 48 documents. The same are taken on record and marked **Exhibit P-1** collectively. The statements in the affidavits are also accepted.

7 Under Order 8 Rule 5 of the Code of Civil Procedure, every allegation of fact in the plaint, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the defendant, shall be taken to be admitted except as against a person under disability. Rule 5 of Order 8 also provides that where the defendant has not filed a pleading, it shall be lawful for the court to pronounce judgment on the basis of the facts contained in the plaint, except as against a person under a disability. There is nothing on record to show that the defendants were under any disability.

8 In the circumstances, the suit is decreed in terms of prayer clauses – (a), (b), (c), (d) and (e), which read as under :-

*“(a) that it be declared that there is now due and payable by the defendants to the plaintiff a sum of Rs.17,89,77,298.97/- (Rupees Seventeen Crores Eighty Nine Lakhs Seventy Seven Thousand Two Hundred Ninety Eight and Ninety Seven paise only) in respects of the Trade Finance Facility as per particulars of claim being Exhibit Y hereto with further interest hereon at the rate of 18% with monthly rests (inclusive of penal/additional interest and interest tax) on the said amount from date of the suit till decree and payment and/or*

*realization thereof and the defendant nos.1 to 3 be ordered and directed to jointly and severally pay the same to the plaintiffs;*

*(b) that it be declared that the repayment of the aforesaid Trade Finance Facilities in prayer (a) above with outstanding interest thereon, is duly secured by valid and subsisting mortgage on the said Immovable Properties of defendant no.1, described in Schedule to Exhibit J (supra);*

*(c) that the defendants be ordered and decreed to pay to the plaintiffs their outstanding dues with interest as set out in their prayer (a) above by such date, as may be fixed for redemption by this Hon'ble Court and in the event of their failure to make such payment by that, the said Immovable Properties of defendant no.1 described in Schedule to Exhibit J (supra), be sold by and under the order and direction of this Hon'ble Court, in enforcement and realisation of the mortgage thereon and the net sale proceeds or realisation thereof be paid over to the plaintiffs, in or towards the satisfaction of the entire dues claimed in the suit;*

*(d) that in the event of any deficiency on such sale or realisation, personal decree be passed against the defendant nos.2 and 3 to the extent of deficiency arising upon such sale realisation;*

*(e) that for all the purpose aforesaid such orders, decrees and direction be passed and enquires be made as this Hon'ble Court may deem fit and proper."*

The mortgage to be redeemed within 12 weeks.

9           The decree be drawn up accordingly.

10           The Court Receiver stands discharged without passing of accounts. The counsel for the plaintiff undertakes on behalf of the plaintiff that the plaintiff will pay the Court Receiver's charges within two weeks of receiving the communication from the Court Receiver.

11           The suit stands disposed. Ad-interim application if any, also stands disposed.

12           Rest of the suits are adjourned to 29<sup>th</sup> July, 2016.

13           All parties to act on a copy of this order duly authenticated by the Associate of this court.

**(K.R.SHRIRAM,J)**