

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

**CONTEMPT PETITION NO.4 OF 2015
IN
COMPANY PETITION NO.9 OF 2013**

M/s. Vipul Bright Steels Pvt. Ltd.Petitioner

Vs.

Gopal Patwardhan, Director of
M/s. Duke Corporation Ltd.Respondent

Mr. Sugandh B. Deshmukh for the petitioner.

Mr. Ajit Kocharekar for the respondent.

**CORAM : K.R.SHRIRAM,J
DATE : 14th JANUARY, 2016**

P.C.:-

1 This contempt petition has been filed alleging breach of an undertaking given by the respondent in the consent terms dated 18th March, 2014 that the post dated cheques that were handed over to the petitioner will be duly honored and the said cheques under no circumstances will be dishonored by the bankers. The respondent had given six post dated cheques for Rs.13,66,700/-. It is alleged that the first cheque for Rs.13,66,700/- was dishonored.

2 The counsel for the respondent agrees that it was dishonored but submits that the amount thereafter was paid by pay order before end of April, 2014 itself. The counsel further submits that the remaining five

installments were honored. The counsel for the petitioner also confirms having received the entire amount of Rs.82 lakhs.

3 In view thereof, though I do not have any cause to find that there was a deliberate and willful breach of the undertaking. Even assuming for the sake of argument there was a deliberate and willful breach of the undertaking given to this court, the respondents having paid all the six installments agreed in the consent terms, I would consider the respondent having purged the contempt.

4 In clause 3 of the settlement agreement dated 17th March, 2014, the respondent had agreed to pay the VAT component in the value of the machines, i.e., Rs.99,60,024/-. The counsel for the petitioner states that the VAT is 12.5% on this amount which works out a little less than Rs.12,50,000/- (approx).

5 The counsel for the respondent states that this amount of Rs.12,50,000/- or the actual amount, which may include interest to be paid by the petitioner to the department, will be paid in three equal monthly installments. The counsel confirms that he has instructions to make this statement to the court. Therefore, the court accepts the statement as an undertaking to the court.

- 6 The first installment to be paid by 31st January, 2016.
- 7 The contempt petition accordingly disposed.

(K.R.SHRIRAM,J)