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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 713/2015 & IA Nos.5470/2015 & 8741/2015**
HOTEL EXCELSIOR LTD. Plaintiff
Through: Ms. Malini Sud with Ms. Vidhi Goel
& Ms. Shagun Parashar, Advs.
Versus
SAHARA Q SHOP UNIQUE PRODUCTS
RANGE LTD. Defendant
Through: Mr. B.S. Bagga, Adv.
CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
ORDER
% **19.07.2016**

1. The plaintiff instituted this suit for ejectment (after determination of tenancy) of the defendant from immovable property and for recovery of arrears of rent and maintenance charges together with interest, for future *mesne profits* and for mandatory injunction to deliver the TDS Certificate.
2. The suit was entertained and vide *ex parte* order dated 20th March, 2015 the defendant was directed to pay / deposit the arrears of rent, maintenance charges and service tax then due till 20th February, 2015 in the sum of Rs.90,96,547/- and to continue to pay future occupation charges month by month. The defendant was further directed to deposit TDS and furnish the requisite certificates to the plaintiff.
3. On 19th August, 2015, the counsel for defendant, before this Court offered to vacate the property on the same day and the counsels state that possession was so delivered. The monetary claims of plaintiff survive.

4. The defendant neither complied with the said order nor filed the written statement despite repeated opportunity and vide order dated 19th August, 2015, the right of the defendant to file the written statement was closed. On 15th January, 2016, an additional affidavit filed by the plaintiff with respect to the amounts due was taken on record. Vide order dated 3rd February, 2016, the plaintiff was directed to lead its evidence.

5. The plaintiff has examined one witness and who has been cross examined by the counsel for the defendant and the suit is ripe for final hearing.

6. The witness of the plaintiff has proved the rate of rent and maintenance charges which the defendant had agreed to pay to the plaintiff. As per the evidence of the plaintiff and on which no cross-examination has been done, an amount of Rs.4,98,10,988/- is due towards arrears of rent, a sum of Rs.69,49,001/- is due towards service tax, a sum of Rs.37,14,930/- is due maintenance charges and a sum of Rs.5,18,593/- is due towards service tax on maintenance charges i.e. total sum of Rs.60,993,512/-. The plaintiff, after adjusting the security deposit received from the plaintiff, has claimed Rs.4,50,78,352/- together with interest at the rate of 18% per annum from the date of vacation of the premises till the date of payment.

7. The plaintiff has further proved that though the defendant had deducted tax at source from the rent paid from June, 2014 to October, 2014 but has neither issued certificates with respect thereto nor is found to have deposited the tax and a sum of Rs.26,27,857/- is due on that account.

8. I have satisfied myself that the suit claim is within time.

9. The counsel for the defendant though is present but has chosen not to address any arguments and states that Mr. Himanshu Gupta, Advocate for the defendant is not available and seeks adjournment.
10. Once the suit is listed before this Court, the counsel for the defendant if had to contend anything ought to have appeared before this court and adjournments cannot be sought and granted in this fashion.
11. The suit is accordingly decreed.
12. A decree is passed in favour of the plaintiff and against the defendant for recovery of Rs.4,50,78,352/- and Rs.26,27,85/-.
13. This being a commercial transaction, it is deemed appropriate to award interest @ 15% per annum on Rs.4,50,78,352/- from 19th August, 2015 till realisation.
14. The plaintiff shall also be entitled to costs of the suit.
15. Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J.

JULY 19, 2016

‘gsr’..