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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CS(OS) 2846/2015

PHARMA VENTURES (INTERNATIONAL) LLP..... Plaintiff

Through: Ms. Padma Priya & Mr Ravi Kumar, Advocates.

versus

M/S SOUTHEND INFRASTRUCTURE PRIVATE LIMITED ..... Defendant

Through:

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

O R D E R

% **29.03.2016**

1. Despite service, the defendant has not put in appearance. The present is a suit filed by the plaintiff under the provisions of Order XXXVII CPC. Consequently, I proceed to judgment.

2. The suit has been filed by the plaintiff to seek recovery of Rs.5,23,00,000/- along with *pendente lite* and future interest @ 18% per annum. The case of the plaintiff is that the plaintiff applied for subscription of equity shares and paid a sum of Rs.4,60,000/- to the defendant in the following manner:

a. By way of RTGS against cheque No.707566 dated 07.10.2013 by United Bank of India, GK-I, ND-48 for a sum of Rs.40,00,000/-

(Rupees Forty Lakhs only).

b. By way of RTGS against cheque No.809801 dated 22.03.2014 by United Bank of India, GK-I, ND-48 for a sum of Rs.50,00,000/- (Rupees Fifty Lakhs only).

c. By way of RTGS against cheque Nos.809831, 809832 and 809833 vide UTR Nos.UTBIH15146754489/ UTBIH15147023714 and UTBIH15148106399 dated 26.05/27.05 and 28.05.2015 respectively by United Bank of India, GK-I, ND-48 for a sum of Rs.50,00,000/- (Rupees Fifty Lakhs only) each.

d. By way of RTGS against cheque No.707564 vide UTR No. UTBIH13269414231dated 26.09.2013 by United Bank of India, GK-I, ND-48 for a sum of Rs.50,00,000/- (Rupees Fifty Lakhs only).

e. By way of RTGS vide cheque No.707565 dated 07.10.2013 by United Bank of India, GK-I, ND-48 for a sum of Rs.60,00,000/- (Rupees Sixty Lakhs only).

f. By way of RTGS against cheque No.809802 vide UTR No. UTBIH14086343508 dated 25.03.2014 by United Bank of India, GK-I, ND-48 for a sum of Rs.10,00,000/- (Rupees Ten Lakhs only).

g. By way of RTGS against cheque No.809820 vide UTR No.UTBIH15022469128 dated 22.01.2015 by United Bank of India, GK-I, ND-48 for a sum of Rs.25,00,000/- (Rupees Twenty

Five Lakhs only).

h. By way of RTGS against cheque No.809821 vide UTR No. UTBIH156022468563 dated 22.01.2015 by United Bank of India, GK-I, ND-48 for a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only).

i. By way of RTGS against cheque No.809817 vide UTR No. UTBIH15012021307 dated 12.01.2015 by United Bank of India, GK-I, ND-48 for a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only).

j. By way of RTGS against cheque No.809816 vide UTR No. UTBIH15008672209 dated 08.01.2015 by United Bank of India, GK-I, ND-48 for a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only).

3. The defendant acknowledged receipt of the said amount by issuing receipts. The plaintiff has also placed on record the certificates issued by the plaintiff's bank certifying that the said payments have been made to the defendant. The defendant, despite receipt of the subscription amount, failed to issue the shares to the plaintiff. The defendant expressed its inability to allot equity shares to the plaintiff, and consequently, sought to refund the amount of Rs.4,60,00,000/- by issuing the following cheques;

a. Cheque bearing No.167830 for Rs.40,00,000/- dated 30.06.2015

b. Cheque bearing No.167831 for Rs.50,00,000/- dated

30.06.2015

c. Cheque bearing No.000130 for Rs.50,00,000/- dated 01.07.2015

d. Cheque bearing No.000131 for Rs.50,00,000/- dated 01.07.2015

e. Cheque bearing No.000132 for Rs.50,00,000/- dated 01.07.2015

f. Cheque bearing No.167828 for Rs.50,00,000/- dated 30.06.2015

g. Cheque bearing No.167829 for Rs.60,00,000/- dated 30.06.2015

h. Cheque bearing No.167832 for Rs.10,00,000/- dated 30.06.2015

i. Cheque bearing No.000104 for Rs.25,00,000/- dated 01.07.2015

j. Cheque bearing No.000103 for Rs.25,00,000/- dated 01.07.2015

k. Cheque bearing No.000102 for Rs.25,00,000/- dated 01.07.2015

l. Cheque bearing No.000101 for Rs.25,00,000/- dated 01.07.2015

4. The said cheques, when deposited, were dishonoured upon presentation. The plaintiff has placed on record the original dishonoured cheques along with the banker's certificate stating that all the aforesaid cheques were dishonoured upon presentation on account of insufficient funds. The submission of the plaintiff is that in terms of Section 42(6) of the Companies Act, 2013, the plaintiff would be entitled to interest @ 12% per annum on the expiry of 60th day on which the share application money was deposited by the plaintiff with the defendant.

5. From the aforesaid, it is evident that the defendant is indebted to the plaintiff in the principal sum of Rs.4,60,00,000/-. The liability to refund the amount along with interest arose on the expiry of 60 days of each deposit of the subscription amount by the plaintiff with the defendant. Interest calculated @ 12% per annum from the due dates, i.e. expiry of 60 days of payment of each instalment by the plaintiff, till the date of dishonour of the cheques, i.e. 10.08.2015 comes to Rs.49,20,000/- as disclosed in the plaint. The suit is, accordingly, decreed for Rs.5,09,20,000/- along with interest @ 12% per annum on the amount of Rs.4,60,00,000/- from 10.08.2015 onwards till the passing of the decree, and thereafter till realisation at the same rate.

VIPIN SANGHI, J

MARCH 29, 2016
B.S. Rohella