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

CHAMBER SUMMONS NO. 76 OF 2013
IN
EXECUTION APPLICATION (LODG.) NO. 263 OF 2012
IN
ARBITRATION AWARD OF SHRI SALIL M. SHAH

M/s. Sino Ocean Limited .. Applicant

<u>IN THE MATTER BETWEEN :</u>

M/s. Sino Ocean Limited .. Claimant
Vs.
M/s. Salvi Chemical Industries Ltd. .. Respondent

Shri Rahul Narichania, senior advocate a/w. Shri P. Ranjan i/b M/s. Halai and Co. for applicant/claimant.

Shri S.J. Mishra a/w. Ms. Pushpa Tiwari i/b SRS Legal for respondent.

CORAM : K.R.SHRIRAM, J.
DATE : 13TH DECEMBER 2017

P.C.

1 This chamber summons is taken out by applicant for various reliefs. Due to passage of time, only prayer clause (a) with a rider as below and prayer clause (f) remain to be considered. Prayer clause (a) reads as under :-

> *"(a) that from the funds deposited into Court by the Respondent, this Hon'ble Court be pleased to order and direct the Prothonotary & Senior Master, High Court, Bombay to pay to the Claimant in US $ currency the decretal amount of US $ 6,57,850/- together with interest at 8% from 13th April 2009 to 5th July 2010 and further interest on the total amount @ 8% till payment and/or realization by making payment into the Claimant's Bank Account, viz., SINO OCEAN LIMITED, BANK OF INDIA, HONGKONG BRANCH, RUTTONJEE CENTRE, 2ND FLOOR, 11 DUDDELL STREET, HONG KONG*

(ACCOUNT NNO.; 0 2 3 3 0 3 7 2 3 0) SWIFT CODE : BKIDHKHHXXX."

Though the prayer is for payment of US $ 657,850/- together with interest at 8% from 13th April 2009 to 5th July 2010 and further interest on the total amount at 8% per annum till payment and/or realization by making payment into the claimant's bank account, on or around 31st July 2013, a sum of US $ 662,362/- has been paid over by Prothonotary and Senior Master, High Court, Bombay to claimant. According to claimant, this amount as on 31st July 2013 had increased to US $ 900,107/- and that left a short fall of US $ 237,475/- which, as on 23rd November 2017, has increased to US $ 319,816/- and it keeps increasing at the rate of US $ 144 per day until payment/realization.

Prayer clause (f) reads as under :-

"(f) that in the event of the Respondent failing to comply with prayer clause (c)(ii) above,

> *(i) this Hon'ble Court be pleased to order and direct the attachment of the movable and immovable assets of the Respondent.;*
>
> *(ii) that this Hon'ble Court be pleased to order and direct the arrest and detention the Directors of the Respondent in civil prison for failure of the Respondent in depositing the balance decretal amount to the Claimant.;*
>
> *(iii) that this Hon'ble Court be pleased to order and direct the Directors of the Respondent to be present in Court for ascertaining as to what debts are due to the Respondent and for production of their books of accounts and documents*

> *pertaining to the properties.;*
>
> *(iv) that this Hon'ble Court be pleased to attach the immovable properties and movable properties standing in the name of the Respondent as per Schedule to the Execution Application.;*
>
> *(v) that this Court be pleased to order and direct the Respondent to disclose on oath within 7 days hereof the current list of assets both movable and immovable of the Respondent."*

2 Though it reads *in the event of respondent's failing to comply with prayer clause (c)(ii)*, since the Prothonotary and Senior Master has already remitted the amount available with him leaving a shortfall, according to Shri Narichania, counsel for claimant, prayer clause (f) has to be moulded to read *in the event of respondent failing to pay them balance amount of US $ 319,816/- increasing at the rate US $ 144 per day from 24th November 2017, Items (i) to (v) of prayer clause (f) be granted.*

I am inclined to agree with Shri Narichania.

3 The facts in brief are :-

Consignments of Sodium Saccharin were shipped to respondent in pursuance of three sales contracts dated 6th May 2008, 2nd June 2008 and 16th July 2008. The contract dated 6th May 2008 was for a total quantity of 20 MT at a unit price of US $ 20.4 per kg, the total contract value being US $ 409,000. The contract dated 2nd June 2008 was for a quantity of 7 MT at a unit price of US $ 21.30 with a total contract value of US $ 149,100. The contract dated 16th July 2008 was for a quantity of 20 MT at a unit price of US $ 19.25 with a total contract value of US $ 385,000. Subsequently, on 24th September 2008 an agreement was entered into and signed between the parties. The record of the agreement is reduced to a document which is styled as an "Agenda Of Meeting" (AOM). The agreement between the parties as reflected in the document was that respondent had agreed to give a discount of US $ 4.5 per kg. to respondent towards each of the above three shipments/invoices. The disputes arose as to whether the discount was given or not given but the fact is goods were shipped by the claimant and received by respondent.

4 As respondent did not make payment, petitioner filed a petition for winding up of respondent under the provisions of Companies Act, 1956. The said petition was disposed by an order dated 7th April 2010 whereby respondent was directed to deposit a sum of Rs.1,50,00,000/- with the Prothonotary and Senior Master, High Court, Bombay within a period of four weeks and dispute between the parties was referred to arbitration. The order of course also provided for consequences of default which is not relevant because the amount of Rs.1,50,00,000/- was deposited by respondent. The Arbitrator published an Award dated 21st February 2011 in

favour of claimant. Operative part of the Award reads as under :-

"AWARD

> (1) The *Respondents are directed to pay to the Claimants, the sum of US $ 658,150 with interest thereon @ 8% from 13th April 2009 to 5th July 2010 and at the same rate on the total amount from 6th July 2010 till payment and/or realisation. The Respondents are also directed to pay to the Claimants, the sum of Rs.8,00,000/- as costs of the Arbitration. The said amount of Rs. 8,00,000/- to be paid within a period of 6 weeks from the date of the award.*
>
> *(2) The Claimants are directed to pay to the Arbitral Tribunal, the sum of Rs. 5,000/- towards stamp paper, stenographer charges, printing and miscellaneous expenses. The aforesaid sum of Rs. 5,000/- to pay to the Arbitral Tribunal within a period of 3 weeks from the date of the Award."*

5 Immediately, claimant filed a petition under Section 9 of the Arbitration and Conciliation Act, 1996 (the said Act). In the meanwhile, respondent also challenged the Award by filing a petition under Section 34 of the said Act. This Court, in its order dated 13th June 2011 while deciding the application of claimant under Section 9 of the said Act at the ad-interim stage, was pleased to direct respondent to deposit the additional amount as required under order dated 7th April 2010. On 22nd July 2011, respondent, without prejudice to their rights and contentions, deposited a sum of Rs.1,46,40,725/- with the Prothonotary and Senior Master, High Court, Bombay. Further sums were also deposited, i.e., Rs. 35,00,000/- on 23rd August 2011 and Rs. 10,00,000/- on 17th September 2012.

6 The petition filed by respondent under Section 34 of the said Act came to be dismissed. Impugning that order, respondent preferred an intra-Court Appeal being Appeal No. 670 of 2011 which came to be dismissed by an order dated 16th August 2012. While dismissing the Appeal, the Division Bench of this Court modified the Award whereby the amount of US $ 658,150/- as awarded, came to be reduced to US $ 657,850/-, a reduction of US $ 300/-. Against this order of dismissal of appeal by the Division Bench, respondent preferred a Special Leave Petition No.33571 of 2012 before the Supreme Court of India. The Special Leave Petition came to be dismissed summarily by an order dated 26th November 2012.

7 After respondent reached a dead end, in its challenge to the Award, the present chamber summons was taken up for hearing on 7th May 2013. Respondent agreed, without prejudice to their rights and contentions, for payment of the amounts deposited by them with the Prothonotary and Senior Master to claimant, except an amount of Rs.10 lakhs, which, according to respondent, would cover the Tax that they had to deduct (TDS) on the interest component awarded by the Arbitrator. This Court was pleased to pass the following order on 7th May 2013 :-

> *"1 Heard.*
>
> *2 Without prejudice to the rights and contentions of both the parties, the following order is passed by consent as a present*

arrangement between the parties:

> i) *The Prothonotary and Senior Master, High Court, Bombay is directed to retain/withhold a sum of Rs.10,00,000/- from the amounts deposited in Court by the Respondent and remit forthwith the balance amount together with all accrued interest that is admittedly due to the Applicant in US $ currency into the Applicant's bank account viz. Sino Ocean Limited, Bank of India, Hongkong Branch, Ruttonjee Centre, 2nd floor, 11 Duddell Street, Hong Kong A/c No.0233037230, Swift Code: BKIDHKHHXXX in accordance with law.*
>
> *ii) All issues between the parties in the Chamber Summons are expressly kept open and will be decided at the final hearing of the Chamber Summons.*
>
> iii) *Chamber summons to come up for hearing on 17th June 2013.*
>
> *iv) Liberty to apply.*
>
> (emphasis supplied)

Subsequently, Prothonotary and Senior Master remitted, on 31st July 2013, a sum of US $ 662,362/-.

8 According to Shri Narichania, payments made by respondent with the Prothonotary and Senior Master are not payments in terms of Order 21 Rule 1 of the Code of Civil Procedure, 1908 (CPC) which prescribes specific modes for satisfaction of a money decree but it is only a deposit made for stay of execution pending dismissal of the challenge to the Award to avoid payment of decretal amount. Therefore, according to Shri Narichania, respondent has to pay a further sum of US $ 319,816/- as on 23rd November 2017 and the said amount, from 24th November 2017, is increasing at US $

144 per day until payment/realization. Shri Narichania also relied upon a judgment of the Delhi High Court in ***Hindustan Construction Corpn. Vs. Delhi Development Authority***[1].

Shri Narichania also submitted that there is nothing in the Income Tax Act which supports the plea that in respect of the amount payable under a judgment-debt of the nature sought to be enforced, the debtor is entitled to deduct income-tax. Shri Narichania further submitted that if the amount is paid as interest to a non-resident in the usual course of business then at the time of credit of such amount to the account of the payee, the payer would be bound to deduct income tax at the rate in force. However, when such amounts becomes part of a judgment debt, they lose their original character and assume the character of a judgment debt. Once such an amount assumes the character of a judgment debt, the decree passed by the Civil Court must be executed subject only to the deductions and adjustments permissible under the Code of Civil Procedure and therefore the question of deducting any tax at source does not and cannot arise. Shri Narichania, in support of his submission, relied upon a judgment of a Single Judge of this Court in ***Islamic Investment Company vs Union Of India (UOI) And Anr.***[2].

9 Per contra, Shri Mishra appearing for respondent submitted that the

1 2002 DGLS (AHC) 1851
2 2002 (4) BOMCR 685

legislative intent in enacting sub-rules 4 and 5 of Order XXI Rule 1 sub-clause (b) is clear to the pointer that interest should cease to run on the deposit made by the judgment debtor and notice given or on the amount being tendered outside the Court. Applying the same principle, Shri Mishtra submitted that in this case, respondent had deposited Rs.1,50,00,000/- on 28th April 2010, Rs.1,46,40,725/- on 22nd July 2011, Rs. 35,00,000/- on 23rd August 2011 and Rs. 10,00,000/- on 17th September 2012 which would mean the amounts have been paid under the Award by the judgment debtor and the rates of exchange to be applied, should be the date on which these amounts were deposited. Mr. Mishra added, when those rates are applied, that would result in claimant having to refund a sum of US $ 12,387.52 to respondent. It will be useful to reproduce the statements given by Shri Narichania for claimant and Shri Mishra for respondent.

(I) The statement given by Shri Narichania reads as under :-

M/s Sino Ocean Ltd.,			
Amount to be received from M/s Salvi Chemicals			
			Amount (in US $)
<u>Particulars</u>	<u>Opening Balance</u>	<u>Interest</u>	<u>Balance</u>
Opening Balance as on 13.04.2009	657,850.00	--	657,850.00
Add: - Simple Interest @ 8% p.a. for 448 days i.e., from 13.04.2009 to 05.07.2010	657,850.00	64,595.00	722,445.00

Add: - Simple Interest @ 8% p.a. for 1122 days i.e., from 06.07.2010 to 31.07.2013	722,445.00	177,662.00	900,107.00
Balance payable as on 31.07.2013			900,107.00
Less : - Amount paid by M/s Salvi Chemicals on 31/7/2013	662,362.00		
Amount due as on 31.07.2013	237,475.00		
Add: - Simple Interest @ 8% p.a. for 1575 days i.e., from 31.07.2013 to 23.11.2017	237,475.00	82,071.00	319,816.00
Balance due as on 23.11.2017	319,816.00		
Note: Actual amount remitted to Sino Ocean Ltd., account with Bank of India, Hong Kong Branch : 1037230 USD 2007002270-01 on 31/7/2013 : USD 6,62,362:00 - 23.04 = 6,62,338:96			

II) The statement given by Shri Mishra for respondent (corrected by Court) reads as under :-

STATEMENT OF CALCULATION AMOUNT DUE UNDER AWARD AS ON 31.5.2016

Sr. No.	Particulars		Corrected Amount	Amount in US$	Corrected Amount

1.	Principle amount under the Award			657850.00	
3.	Add : Interest on US$657850 at 8% p.a. from 13.04.2009 to 27.04.2010 (380 days)			54790.79	
4.	Total			712640.79	
5.	Less : Rs.1,50,00,000/- Paid on 28.04.2010 (Rs.1,50,00,000/- divided by 44.60 i.e. the rate of USD$ on the date of payment. * The said part payment is firstly adjusted towards interest of US$ 54790 and balance rate of USD as on 17.09.2012 i.e. amount is adjusted towards the principle (657850-281532.08 =376317.92)	54790.79 281532.08		336322.87*	
6.	Total			376317.92	
7.	Add : Interest on USD 376317.92 at 8% p.a. from 28.4.2010 to 5.7.2010 (i.e. the date of award) (69 days)			5691.16	
8.	Decretal amount as on the date of Award 5.7.2010			382009.08	
9.	Add : Interest on USD ~~376317.92~~ *(382009.08)* at 8% p.a. from 6.7.2010 to 21.7.2011 (i.e. one day prior to next payment on 22.7.2011) (381 days)			31425.12	*-31900.37*
10.	Total			413434.20	*(413909.45)*
11.	Less :	37116.28	*(37591.53*	329969.01	

	Less : Rs.1,46,40,725/- Paid on 22.7.2011 (Rs.1,46,40,725/- divided by 44.37 i.e. the rate of USD$ on the date of payment. * The said part payment is firstly adjusted towards interest of ~~37116.28~~*(37591.53)* and balance amount ~~292852.73~~*(292377.48)* is adjusted towards the principle ~~(376317.92 – 292852.73= 83465.19)~~ *(376317.92 -292377.48 = 83940.44)*	292852.73	*292377.48)*		
12.	Total			83465.19	*(83940.44)*
13.	Add : Interest on USD 83465.19*(83940.44)* at 8% p.a. from 22.7.2011 to 22.8.2011 (i.e. the date of award) (32 days)			585.39	*(588.73)*
14.	Total			84050.58	*(84529.17)*
15.	Less : Rs.35,00,000/- paid on 23.8.2011 (Rs.35,00,000/- divided by USD 44.37 = 78882.12 The said part payment is firstly adjusted towards interest*(588.73)* and balance amount of USD ~~78296.73~~*(78293.39)* is adjusted towards principle ~~(83465.19 – 78296.73 = 5168.46)~~ *(83940.44 – 78293.39= 5647.05)*	585.39 78296.73	*(588.73 78293.39)*	78882.12	
16.	Total			5168.46	*(5647.05)*

17.	Add : Interest on USD ~~5168.46~~ *(5647.05)* at 8% p.a. 23.8.2011 to 16.9.2012 (391 days)			442.93	*(483.94)*
18.	Total			5611.39	*(6130.99)*
19.	Less : Rs.10,00,000/- paid on 17.9.2012 (10,00,000 divided by 54.00 I.s. the rate of USD as on 17.9.2012). The said payment is adjusted towards interest			18518.52	
20.	Total			- 12907.13	-*12387.52*

10 Shri Mishra relied upon a judgment of the Apex Court in ***Forasol Vs. Oil & Natural Gas Commission***[3] to submit that in an action to recover an amount payable in a foreign currency, one of the dates for selection by the Court as the proper date for fixing the rate of exchange at which the foreign currency amount has to be converted is the date when the decretal amount is paid or realized. Shri Mishra submitted that since respondent has deposited from time to time the decretal amount with the Prothonotary and Senior Master, the date on which those amounts were deposited will be the proper date for fixing the rate of exchange and it is immaterial when claimant got the money in their bank accounts.

In effect, what counsel for respondent Shri Mishra submitted was it is

3 1984 AIR SC 241

too bad that the dollar rate fluctuated to such an extent that claimant got almost 40% less than what they were entitled to. Shri Mishra also relied upon a judgment in ***Bharat Heavy Electricals Ltd. Vs. R.S. Avtar Singh & Co.*** [4] to submit that as per the provisions of Order 21 Rule 1 of the CPC, the moment respondent deposited the decretal amount with the Prothonotary and Senior Master, their responsibility is over and any risk on currency fluctuation would be to the account of claimant. Shri Mishra also submitted even though these amounts were deposited from time to time, claimant never made an application to the Court to permit them to withdraw the amount and therefore cannot ask for anything more than what they have received.

11 Indisputably, the amounts deposited by respondent from time to time was not in satisfaction of a decree or an Award. It must be noted that the Arbitrator has awarded payments in United States Dollars, which was the currency in which respondent was to pay to claimant under the sale contract and the claim was also preferred. Under the award, as coverred by the Division Bench, respondent was to pay US $ 657,850/-. Respondent did not pay but kept challenged the award.

The first amount of Rs.1,50,00,000/- was deposited when the winding

4 2013 AIR (SC) 252

up petition was filed to show respondent's bona-fide. After the Award went against respondent, respondent first challenged the Award and in the meanwhile when claimant filed a petition under Section 9 of the said Act, pursuant to an order passed by this Court, respondent deposited a further sum of Rs.1,46,40,725/- and later Rs. 35,00,000/- and Rs. 10,00,000/-. Respondent lost its challenge to the Award before the Single Judge, carried the same on intra-court Appeal where again they lost and carried the same to the Apex Court where their challenge was dismissed. At no point of time, respondent paid any amount in satisfaction of the decree but the amounts were deposited only to avoid execution or any action being taken against respondent. Respondent never accepted the decree and therefore, the deposits made by respondent can never be accepted as payment in satisfaction of award or decree. It should be kept in mind that the first amount of Rs.1,50,00,000/- was deposited only to avoid a winding up petition being admitted against respondent. Even when respondent consented to release all amounts except Rs. 10,00,000/-, it is recorded in the order dated 7th May 2013 *"by consent as a present arrangement"*. It was only *protem*, not final

12 The amounts deposited by respondent, were not the decretal amount. As stated earlier, the first amount of Rs.1,50,00,000/- was deposited on 28th

April 2010, even before the arbitration was commenced. After the Award was given, respondent challenged the award but on an application made by petitioner, deposited a sum of Rs.1,46,40,725/- on 22nd July 2011. Further amounts were deposited later on 23rd August 2011 and on 17th September 2012.

13 Therefore, the amounts deposited by respondent under the orders of this Court cannot, by any stretch of imagination, be termed as payments as envisaged in Order 21 Rule 1 of CPC and as such the judgment debt. As per Order 21 Rule 1 of CPC, the modes of payment of a money decree are : (a) by depositing into the Court whose duty it is to execute the decree, or send to that Court by postal money order or through a bank; or (b) out of Court, to the decree-holder by postal money order or through a bank or by any other mode wherein payment is evidenced in writing; and (c) otherwise as the Court, which made the decree, directs. A deposit of any amount by a judgment debtor in the Court to purchase peace by way of stay of execution or to show bonafides for preventing an order of winding up is not a payment of decretal amount in terms of Order 21 Rule 1 of CPC which prescribes specific modes for the satisfaction of a money decree.

14 The payment made by the decree holder under Rule 1 of Order 21 of

CPC and a deposit made by the judgment debtor in Court for obtaining stay of execution of decree are altogether different courses adopted by the judgment debtor. Payment under Order 21 Rule 1 of CPC satisfies a decree holder whereas, a deposit in the Court to avoid execution keeps the amount beyond the reach of the decree holder and leaves him waiting for its release. The deposit of the decretal amount or any amount as part of the Award by a judgment debtor as a condition for obtaining stay of the execution of the decree cannot be treated at par as payment to the decree holder. The rationale behind this view is that a judgment debtor who files an Appeal to challenge a decree or an award and applies for stay of execution pending disposal of his appeal seeks to avoid payment of decretal amount to the decree holder and as such, upon getting stay of execution, even on deposit of decretal amount or non-remittance of deposited amount, succeeds in preventing payment of decretal amount to decree holder. I find support in the judgment of *Hindustan Construction Corpn.* (supra).

15 Further, nothing prevented respondent to apply to the Court or to apply to the Reserve Bank of India to permit them to open a dollar account or to have the rupees deposited converted into dollars and invested by the Prothonotary and Senior Master in a special dollar account or remit the award amount into an escrow account in claimant’s country, i.e., Hongkong,

to be released if ordered by this Court.

16 In the circumstances, claimant is well within its right to claim the difference in the amounts payable as on date of payment/realization and the amounts received, which works out to US $ 319,816/- as on 23rd November 2017 increasing at US $ 144 per day.

17 So far as the balance amount of Rs. 10 lakhs which is lying invested with the Prothonotary and Senior Master towards TDS, this Court in *Islamic Investment Company* (supra) has held that there is nothing in the Income Tax Act which supports the plea that in respect of the amount payable under a judgment-debt of the nature sought to be enforced, the debtor is entitled to deduct income-tax. The Court has also held that if the amount is paid as interest to a non-resident in the usual course of business then at the time of credit of such amount to the account of the payee, the payer would be bound to deduct income tax at the rate in force. However, when such amounts becomes part of a judgment debt, they lose their original character and assume the character of a judgment debt. Once such an amount assumes the character of a judgment debt, the decree passed by the Civil Court must be executed subject only to the deductions and adjustments permissible under the Code of Civil Procedure and therefore the question of deducting any tax

at source does not and cannot arise. Paragraphs 8 and 9 of *Islamic Investment Company* (supra) read as under :-

> *"8 Before the Supreme Court, the issue was that if the amount payable to Datar was treated as salary, it would have attracted deduction of tax at source under Section 18 of the Income-tax Act. While considering this issue the Supreme Court observed that a substantial part of the claim decreed, represented compensation for wrongful termination of employment and it would be difficult to predicate of the claim sought to be enforced what part thereof if any represented salary due. However, the Supreme Court observed as follows :-*
>
> > *"Granting that compensation payable to an employee by an employer for wrongful termination of employment be regarded as in the nature of salary, when the claim is merged in the decree of the Court, the claim assumes the character of a Judgment debt, and to judgment debts Section 18 has not been made applicable. The decree passed by the Civil Court must be executed subject to the deductions and adjustments permissible under the Code of Civil Procedure. The Judgment-debtor may, if he has a cross-decree for money, claim to set-off the amount due thereunder. If there be any adjustment of the decree, the decree may be executed for the amount due as a result of the adjustment. A third person who has obtained a decree against the judgment-creditor may apply for attachment of the decree and such decree may be executed subject to the claim of the third person : but the judgment-debtor cannot claim to satisfy, in the absence of a direction in the decree to that effect the claim of a third person against the judgment-creditor, and pay only the balance. The rule that the decree must be executed according to its tenor may be modified by a statutory provision. But there is nothing in the Income Tax Act which supports the plea that in respect of the amount payable under a judgment-debt of the nature sought to be enforced, the debtor is entitled to deduct income-tax which may become due and payable by the judgment-creditor on the plea that the cause of action on which the decree was passed was the contract of employment and a part of the claim decreed represented amount due to the employee as salary or damages in lieu of salary.*
>
> *9 Having regard to this observation, I am of the view that the argument of the learned. Counsel on behalf of the Food Corporation*

> *of India that since the amount of Rs. 10,31,344/- has admittedly been paid on account of interest, it retains its character as interest and therefore the Food Corporation of India must be allowed to deduct interest thereon at the rate in force is not tenable. There is no doubt that if the amount is paid as interest to a nonresident in the usual course of business then at the time of credit of such amount to the account of the payee or at the time of payment thereof in cash, or by issue of a cheque or draft the payer would be bound to deduct income tax at the rate in force. However, as observed by the Supreme Court when such amounts becomes part of a judgment debt they lose their original character and assume the character of a judgment debt. Once such an amount assumes the character of a judgment debt, the decree passed by the Civil Court must be executed subject only to the deductions and adjustments permissible under the Code of Civil Procedure. The learned Counsel for the Food Corporation of India has not been in a position to point out any provision under the Income Tax Act or under Section 195 in particular or under the Code of Civil Procedure where the amount of the interest payable under a decree is deductible from the decretal amount on the ground that it is an interest component on which tax is liable to be deducted at source."*

18 Therefore, the question of deduction of any income tax at source by respondent also does not arise. This amount of Rs.10,00,000/- plus accumulated interest also should be remitted by the Prothonotary and Senior Master into the same account of claimant as was done earlier. Of course, credit will be given to respondent for this amount remitted based on the exchange rate prevailing on the date of remittance. It is open to respondent also to write to the Prothonotary and Senior Master to immediately remit to claimant amount in US dollars equivalent to Rs. 10,00,000/- plus accumulated interest.

It is also stated by Shri Narichania that the cost of Rs.8 lakhs awarded in the arbitration is yet to be paid by respondent.

19 Therefore, respondent is directed to pay to claimant balance of the decretal amount, i.e., US $ 319,816/- increasing at the rate of US $ 144 per day from 24th November 2017 until payment and/or realization together with Rs.8 lakhs being costs payable under the arbitration award. Respondent to also pay interest at 8% p.a. on the amount of Rs.8,00,000/- from the date it became due as per award (6 weeks from 21st February 2011-date of award).

Respondent to pay costs of Rs. 1,00,000/- for this application to claimant. These amounts to be paid within four weeks from today.

In the event, these amounts are not paid, the reliefs sought in prayer clause (f) as moulded above, will get triggered.

20 Chamber summons disposed accordingly.

(K.R. SHRIRAM, J.)