

of the Code of Civil Procedure, 1908 (CPC) for an Order and Decree against the Defendants aggregating to Rs.2,95,21,846/- with further interest till the date of filing of the Summary Suit and / or realization and for the costs of the Suit.

2. The Plaintiff is in the business of trading in different goods from local markets as well as importing goods / products / material from foreign countries and supplying the goods as per order(s) placed by the customers. The Plaintiff and the Defendants have entered into written Contracts dated 18th December, 2008, 6th July, 2009, 10th December, 2009, 17th November, 2009 and 14th September, 2010, whereunder the Plaintiff agreed to supply Sulfur, Indonesian Steam Coal, etc. to the Defendants. The said written Contracts are annexed and marked as Exhibits-A-1 to A-2 to the Plaintiff. The invoices raised by the Plaintiff in this regard on the Defendants, are annexed and marked Exhibits-B-1 to B-7 to the Plaintiff.

3. The Defendants have admitted their liability from time to time by issuing letters of acknowledgement dated 17th February, 2011, 17th August, 2011 and 7th March, 2012 to the Plaintiff. The Defendants have also issued cheques from time to time, which have been dishonoured on the ground of insufficient funds.

4. In view of the above facts and circumstances, the Plaintiff after obtaining Leave under Clause XII of Letters Patent, has filed the above Summary Suit and claimed interest at the rate of 30% per annum, which is agreed to be paid

by the Defendants to the Plaintiff under the invoices from the due date of the said invoices. The Writ of Summons was sought to be served on the Defendants. The packet containing the Writ of Summons sought to be served on Defendant No. 1 is returned with the remark 'refused'. The packet containing the Writ of Summons sought to be served on Defendant Nos. 2 and 3 are returned with the remark 'unclaimed'. Affidavit proving service dated 16th June, 2015 is taken on record. Since the Defendants have not entered appearance and have not come forward to defend the Summary Suit, the Plaintiff is entitled to an Order and Decree as prayed, with a modification that the Defendants shall pay interest on the principal sum of Rs.1,19,14,305/- to the Plaintiff @ 6% from the date of the filing of the Suit till payment and / or realization.. The Plaintiff has tendered the original documents before the Court, which are taken on record. In view of Sub Clause (iii) of Rule 2 of Order XXXVII of CPC, the Plaintiff is entitled to a Decree against the Defendants. Hence, the following order :

- i. The Defendants are jointly and severally ordered and decreed to pay to the Plaintiff aggregating sum of Rs. 2,95,21,846/- with interest at the rate of 6% per annum on Rs. 1,19,14,305/- from the date of filing of the Suit till payment and / or realization.
- ii. The Defendants shall pay to the Plaintiff the costs of the Suit.
- iii. Office to return the original documents to the Advocate for the Plaintiff upon him submitting the certified true copies of the same.

iv. A copy of this order shall be forwarded to the Defendants by the Advocate for the Plaintiff by Registered Post AD at the addresses shown in the Complaint.

v. Refund of Court fees, if any, as per Rules.

vi. The above Suit is accordingly disposed off.

(S.J.KATHAWALLA,J.)