

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 03.01.2017

Judgment pronounced on : 03.02.2017

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.S.No.275 of 2010

M/s.Albert and Company Private Ltd. ... Plaintiff

Versus

1. Food Corporation of India,
Having its Regional Office at
No.124, Greames Road,
Chennai - 600 006.
Rep. by its General Manager.
2. M/s. Inter Ocean Shipping India Pvt. Ltd.,
Having its Branch Office at
No.61, Sivanthakulam 1st Street,
Tuticorin - 628 002. ... Defendants

The plaint is filed and numbered as Civil Suit under order VII Rule 1 of CPC, read with Order IV, Rule 1 of O.S. rules, praying for a judgment and decree:

- a) directing the 1st defendant herein to pay the plaintiff a sm of Rs.52,66,101.68 together with interest at the rate of 18% p.a. on Rs.34,38,392.00 from the date of plaint till the date of actual realization.
- b) directing the 1st defendant to pay the costs of the plaintiff.

For Plaintiff : Mr.V.Krishnamoorthy

For defendants : Mr.M.Imthias (for D1)
Mr.Aravamudan (for D2)

JUDGMENT

The suit is filed seeking a judgment and decree directing the first defendant to pay the plaintiff a sum of Rs.52,66,101.68/- together with interest at the rate of 18% per annum of Rs.34,38,392.00 from the date of the plaint till the date of actual realization and for further direction against the defendant to pay the cost of the suit.

2. The plaint: The plaintiff company has been incorporated under the Companies Act, 1956, and is carrying on business in Stevedoring, Handling, Transportation, Clearance, Packing and Standardization of various cargoes. The first defendant is a Government of India Company, importing food grains and storing them in authorised warehouses in the country and making them available for distribution to the general public from time to time. The second defendant is an agent in respect of the Vessel M.V.YICK WING, through which the cargo, which is the subject matter of the suit was transported and discharged in Tuticorin Port. At the outset, it must be mentioned that no relief has been claimed as against the second defendant, who has been joined in the plaint

3. It had been stated that the first defendant had issued tender notification in tender No.SPC/2(2)/DO-TTN/IMP.WHEAT/2006, dated 25.02.2006, for appointment of Stevedoring, Clearance, Handling Transport contractors at Tuticorin port, for which the plaintiff applied and obtained tender document under receipt no.15651, dated 02.03.2006. It had been further stated that the cargo containing Wheat exported by M/s. Agrico Trade & Finance S.A., 7 Avenue Des Baumettes, Renes (Lausanne) GH-1020, Switzerland was sold in bulk to M/s. State Trading Corporation of India Limited. Subsequently, the State Trading Corporation of India had sold the Cargo to the first defendant on High Sea Sales Basis representing that the cargo contained 38,415.710 Mts of Wheat of Russian origin.

4. As stated above, the plaintiff participated in the tender for unloading and transportation of Wheat imported and available at the first defendant warehouse at Tuticorin Port. Tender of the plaintiff at the rate of Rs.384/- per MT was accepted by the first defendant and the plaintiff was requested to furnish security deposit of Rs.9,46,000/- of which Rs.4,73,000/- was to be deposited in Cash and the balance amount of Rs.4,73,000/- would be adjusted in the first bill. The plaintiff was asked to commence the work on 22.11.2006 itself.

5. The plaintiff stated that the Vessel M.V.YICK WING was berthed at Tuticorin Port by 24.11.2006. Draft Survey Report was conducted and the total quantity was said to be Rs.38,415.710 Mts. The plaintiff started the unloading of cargo on 24.11.2016. It had been stated that the unloading was carried out in the presence of officials of first defendant and representatives of the second defendant and there were no complaints of mis-handling. Subsequently, packing was performed by the plaintiff in the Port protected area in Tuticorin Port under the supervision of the officials of the defendants. Thereafter, the plaintiff bagged them in gunny bags and loaded them in wagons and vehicles for transporting to different places in Kerala, Bihar, West Bengal and Tamil Nadu. This was transported by road and thereafter by rail. The gunny bags were also supplied by the first defendant. It is the claim of the plaintiff that the empty gunny bag was weighing about 650 gms. In each gunny bag, plaintiff was instructed to pack 50 kgs of Wheat. Consequently, the total weight after packing the Wheat was 50.650 kgs. It had been stated by the plaintiff's that there was a loss of 200 grams per pack on account of spillages owing to improper side stitching. Consequently, the plaintiff stated that the actual weight of the wheat should be only 500 gms after unloading and discharge of

cargo. It was found that the total quantity discharged was 38,276.578 Mts of Wheat. The plaintiff by letter dated 30.12.2006 stated that according to the statement of facts, the second defendant was liable for the shortfall. The plaintiff called upon the second defendant to pay Rs.14,29,595.21 to the first defendant. Thereafter, the plaintiff submitted bills to the first defendant. The first defendant did not release the payment and they also did not release the security deposit. The plaintiff send a letter dated 12.01.2007 stating that the shortfall was 139.123 MTs of Wheat. The plaintiff issued another letter dated 29.01.2007, whereas the first defendant sent a letter dated 22.02.2007 claiming that the plaintiff was responsible for the shortfall. The plaintiff by letter dated 27.02.2007 called upon the first defendant to pay a sum of Rs.28,67,727.88 apart from the Service Tax of Rs.17,99,063/-. Once again there had been exchange of letters between the plaintiff and the first defendant.

6. The plaintiff claimed that weight of the gunny bag varied between 450 gms to 650 gms. It had been stated that 1249 bags were loaded to various destinations. Another letter dated 25.06.2007 was also written by the plaintiff. The first defendant issued a show cause notice dated 30.07.2007 stating that 38,415.710 Mts of Wheat was

received and there was a shortfall of 139.132 MTs and cost at the rate of Rs.12,200/- per Mts worked out to Rs.16,97,423/- and the contractor was responsible for the loss. The plaintiff submitted a letter dated 07.08.2007 as reply. Finally the plaintiff has claimed a sum of Rs.34,38,392 and stated as follows, as to how he is entitled for the said amount.

	Rs.
i) Security Deposit	: 4,73,000
ii) Security Deposit recoverable from bills:	4,73,000
iii) Amount withheld from pending bills	: 14,47,242
iv) Amount remitted for release of B.G.:	10,00,000
v) Excess recovery towards the full bad shortages:	45,150
Total :	34,38,392/-

7. The plaintiff further stated that they are entitled to receive interest @ 18% per annum, which was calculated as follows:

For Item Nos.(i) to (iii) for the period from 08.01.2007 to 04.01.2010 :	12,88,810.68
For Item No.(iv) from 13.09.2007 to 04.01.2010 :	5,38,899.00

8. The plaintiff's final claim of Rs.52,66,101.68 was in the following manner:

Total amount under Item Nos.1 to 3: 23,93,242.00

Add: Interest Chargeable under this head:12,88,810.68

Total amount under Item No.4 : 10,00,000.00

Add: Interest chargeable under this head: 5,38,899.00

Amount Payable under Item No.5 : 45,150.00

Total : 52,66,101.68

Hence, the plaintiff filed this suit seeking the relief as stated above.

9. The Written Statement of the first defendant:

In the Written Statement of the first defendant, the allegations in the plaint had been denied and it had been stated that the quantity of Wheat imported was 38,415.710 Mts, whereas the quantity dispatched was 38,276.578 Mts and there was a shortage of 139.123 Mts, which was a direct loss to the first defendant. The defendant specifically denied each and every allegations in the plaint. The defendant's claimed that the following amounts were due to the first defendant from the plaintiff.

S. No.	Description	Quantity	Rate Rs.	Amount Rs.
1.	Difference between draft survey and bagged despatch qty.	139.133	12200	1697423
2.	Rail transit loss	3.209	12200	39150
3.	a. Gunnies consumed in excess	736	25	18400
	b. Gunnies reported as damaged by the agency	697	25	17425
	c. Gunnies received as SHS from agency	10535	10	105350
	d. Gunnies returned by contractor in wet and damaged condition	4250	25	106250
4	DC and trailer detention charges on account of delayed clearance of gunnies received through CONCOR	0	0	39857
5.	Differential income tax on account of assessment of IT liability on given amount including service tax	0	0	44000
6.	Amount paid to port trust towards balance rent for the period from 23.12.2006 to 27.12.2006	0	0	338463
7.	Interest for delayed period (a) Rs.14.75 for Rs.3,38,163/- (due dated 23.12.2006 amount remitted on 23.10.2009)	0	0	161421
		Total		2567739

10. It had been further stated that the actual

amount available on plaintiff's account with the first

defendant as follows:-

S.No.	Particulars	Amount Rs.
1.	Security deposit remitted at FCI, RO, Chennai	473000
2.	Security deposit recovered from bills of M.V.Yick Wing	473000
3.	Amount with held from pending bills	1447242
	a. 10% amount from bills Rs.1350107	0
	b. Pending bills amount Rs.97135	
4.	Amount remitted as FCI, RO, Chennai in connection with release of DG	1000000
5.	Excess recovery towards full bags shortages	45150
	Total	3438392

11. The first defendant had stated that the excess amount available with the first defendant was Rs.8,70,633/- and since the accounts were not finalised, there was audit objection. The defendant denied the claim of the plaintiff.

12. Written Statement of the second defendant: In

the Written Statement of the second defendant, it had been pointed out that no relief has been sought by the plaintiff against the second defendant. It had been stated that the second defendant had dispatched the cargo

and after, during unloading and loading, the

shortage took place. The defendant also denied each and every allegation raised in the plaint.

13. **Issues:** On considering all the pleadings, this Court framed the following issues:

"1. Whether this Court has the jurisdiction to try the present suit as the entire cause of action, if any, has arisen only in Tuticorin, where the suit cargo was discharged and where the alleged loss occurred?

2. Whether the plaintiff has not right to sue this defendant as there was no contract of privity between the plaintiff and this defendant?

3. Whether the second defendant is a proper or a necessary party to the present suit?

4. Whether as per the provisions of Section 230 of the Indian Contract Act, this defendant can be made personally liable or any personal decree can be passed against this defendant, as this defendant acted as an agent for a disclosed principal i.e., the charterers of the vessel "M.V. Yick Wing"?

5. Whether the present suit is barred by limitation as per the provisions of the Carriage of Goods by Sea Act?

6. Whether the liability and responsibility of the charterer ceased as soon as the notice of readiness was given to enable the plaintiff and the first defendant to discharge the cargo as per the terms and conditions of the charter party and the Bill of Landing?

7. Whether the present suit is maintainable in view of the fact that when the contracting party, i.e., the first defendant has not made any claim for shortage, the plaintiff who is a stranger to the contract of carriage cannot dispute the quantity discharged from the vessel or question the method (draught survey) of ascertaining the quantity discharged from the Vessel?

8. Whether the liability for the alleged shortage is attributable to this defendant after the entire cargo was discharged, bagged and dispatched to various destinations nominated by the first defendant?

9. Is the plaintiff is entitled for any interest at the rate of 8% p.a. as claimed in the plaint in the absence of specific agreement between the parties?

10. Is not the first defendant is entitled to deduct the cost of the cargo resulted due to the short supply as per the tender terms and conditions?

11. Whether there was short supply by the second defendant while discharging the cargo as shore out turn?

12. Whether the weight of the gunny bags was less than 650 grams per bag?

13. Whether there was excess wheat packed to match the average gross weight of 50.650 kgs to match the gross weight instructions of the first defendant?

14. Whether the plaintiff is entitled to a judgment and decree directing the first defendant

to pay the plaintiff a sum of Rs.52,66,101.68 together with interest at the rate of 18% per annum no Rs.34,38,392.00?

15. To what relief the plaintiff is entitled?"

14. The plaintiff examined the manager of the plaintiff company as PW1 and marked Exhibits P1 to P28. The first defendant examined one witness as DW1 and marked exhibits D1 to D7. The second defendant did not examine any witnesses. Among the documents marked by the plaintiff, Ex.P2 dated 02.03.2006 is the copy of the tender document, Ex.P3 dated 20.11.2006, is the fax message sent by the first defendant to the plaintiff asking for quotation for handling the work in the Ship M.V.Yick Wing at Tuticorin Port, Ex.P4 dated 22.11.2006 is the letter of acceptance issued by the first defendant to the quotation given by the plaintiff, Ex.P5 dated 11.02.2006 is the statement of facts issued by the plaintiff and second defendant, Ex.P6 dated 24.11.2006 is the list showing completion of delivery, Ex.P7 dated 04.12.2006 is the letter written by the plaintiff to the first defendant regarding under weight of gunny bags used for wheat packing, Ex.P8 dated 30.12.2006 is the letter enclosing claim bill sent by the plaintiff to the second

defendant, Ex.P10 is the letter written by the second defendant to the plaintiff dated 22.01.2007, Ex.P11 dated 29.01.2007 is the forwarding letter of the plaintiff (forwarding Ex.P10 to the first defendant), Ex.P12 dated 22.02.2007 is the letter from the first defendant to the plaintiff stating that the plaintiff shall be responsible for the shortfall. Ex.P18 dated 25.06.2007 is the letter sent by the plaintiff to the first defendant requesting to release the amount withheld from the bills, Ex.P19 dated 30.07.2007 is the show cause notice issued by the first defendant to the plaintiff, Ex.P20 dated 07.08.2007 is the reply of the plaintiff for Ex.P19, Ex.P21 dated 13.09.2007 is the letter issued by the first defendant to the plaintiff, Ex.P22 dated 04.02.2009 is the letter written by the Area Manger to the first defendant to the General Manger of the first defendant.

15. Among the document filed by the first defendant, Ex.D1 is the letter dated 18.11.2008 by the plaintiff to the first defendant, Ex.D3 is the letter from the Tuticorin Port Trust to the first defendant asking for rental charges to be paid, Ex.D4 is the letter dated 27.05.2008 issued by the first defendant to the plaintiff asking the plaintiff to pay the charges due to the Tuticorin Port Trust, Ex.D5 dated 13.10.2008 is the

reminder letter with respect to the same issue, Ex.D6 dated 03.06.2009 is the letter issued by Tuticorin Port Trust to the first defendant again asking for payment of rental charges and Ex.D7 dated 17.02.2010 is yet another letter issued by the Tuticorin Port Trust to the first defendant.

16. Issue No.1: This issue has been framed since the act of unloading and transportation of cargo from the ship M.V.Yick Wing was performed by the plaintiff at Tuticorin Port Trust. Consequently, on the basis of the Written Statement by the second defendant challenging the jurisdiction of this Court, this issue has been framed. It is seen that Ex.P2 is the tender document issued by the first defendant from the Regional Office at No.124, Greams Road, Chennai 6, within the jurisdiction of this Court. It was issued to the plaintiff, having its office at 13/1, Whannels Road, Egmore, Chennai, again within the jurisdiction of this Court. Consequently, the primary cause of action on which the parties are at lis, the tender document. Ex.P2, and incorporation of same, was within the jurisdiction of this Court. It is also seen that the second defendant is only a formal party and no relief has been claimed against the second defendant.

Consequently, I hold that this Court has jurisdiction to

try the suit and the issue is answered accordingly.

17. **Issue No.2:** This issue has been framed on the basis of the Written Statement filed by the second defendant. During the course of argument, the learned counsel for the plaintiff stated that there are no claims or reliefs sought as against the second defendant. In fact even in the plaint, the relief are sought for only against the first defendant. The second defendant is a formal party to the suit. Since they had transported the Wheat from Russia by the ship M.V.Yick Wing, they are a proper party to the proceedings. Consequently, this issue is answered that since the plaintiff is not seeking any relief against the second defendant, the question of privity of contract need not be delved into deeply by this Court.

18. **Issue No.3:** As stated above, though no relief is claimed against the second defendant, the second defendant is a proper party before whom between the plaintiff and the 1st defendant, the issues have to be settled. Consequently, the second defendant is a proper party to the suit proceedings.

19. **Issue No.4:** The plaintiff has not pressed any

relief against the second defendant. Under Section 230 of the Contract Act, the agent cannot be personally bound by any contract entered into by him on behalf of the principal. In this case, the second defendant had acted as the agent for charterers of the vessel M.V.Yick Wing. However, since the plaintiff has not claimed any relief against the second defendant any answer to this issue would only be academic.

20. **Issue No.5:** Again, this issue has arisen based on the written statement of the 2nd defendant. Since no relief has been claimed against the second defendant, and the issue of limitation has not been pleaded by the first defendant, I hold that the suit is not barred by limitation. The first defendant has also actually stated that the accounts have not been finalised.

21. **Issue No.6, 7 & 8:** All these issues also arise in view of the averments in the written statement filed by the second defendant. However, since the plaintiff has not sought any relief against the second defendant, the issues being academic, it is held that the plaintiff is not entitled for any relief against the second defendant.

22. **Issue No.11:** The plaintiff is a company incorporated under the Companies Act 1956, carrying on business in Stevedoring, Handling, Transportation, Clearance, Packing and Standardization of various cargoes. The first defendant is a Government of India Company which imports food grains, stores them in warehouses and makes it available for distribution to the general public. The second defendant is the agent in respect of the vessel M.V.Yick Wing, in which the cargo, which is the subject matter of the suit was transported and discharged in Tuticorin Port.

23. The first defendant issued tender notification in tender No.SPC/2(2)/DO-TTN/IMP.WHEAT/2006, DATED 25.02.2006 calling for tender for Stevedoring, Handling and Transport contractors at Tuticorin port. The plaintiff had applied and obtained tender document under receipt no.15651, dated 02.03.2006. Ex.P2 is the said tender document, it has been issued by the first defendant. Under the general information relating to the brief description of the work, it had been mentioned as follows:

"Stevedoring, Clearance and Handling of all or a portion of Corporation Wheat etc., arriving in bulk (hereinafter referred to as food grains) and gunny etc., landed at

Tuticorin Port and transport of such quantities as may be required from Port docks to storage godowns owned and hired by the Stevedoring Contractor or Food Corporation of India or Rail heads of Railway Station or any place in Tuticorin within the radius of the 20 kilometres from Tuticorin Port and handling of food grains and gunny, miscellaneous articles at Port / Rail Heads at Tuticorin and transport to FCI storage godowns or to any other place."

24. With respect to deposit of Earnest Money, it is stipulated as follows:

"Each tender / quotation must be accompanied by Earnest Money of Rs.9,46,000/- (Rupees Nine Lakhs forty six thousand only) in the form of Demand Draft drawn on State Bank of India or any scheduled Bank, in favour of the General Manager (TN Region), Food Corporation of India, Chennai -6. Earnest Money in the form of cheque shall not be accepted. Tenders not accompanied by earnest money in the prescribed form are liable to be summarily rejected.

The earnest Money shall be liable to forfeiture if the tender after submitting his tender resiles from his offer modifies the terms and conditions thereof, it being understood that the tender documents that have been sold to him and he is being permitted to tender in consideration of his agreement to this stipulation.

The Earnest Money is also liable to be forfeited in the event of the tenderer's failure, after the acceptance of his tender to furnish the requisite Security deposit by the due date without prejudice to any other rights of the Corporation under the contract and law. The Earnest Money will be returned to all unsuccessful tenderers as soon as practicable after decision on tender and to successful tenderer does not desire the same to be adjusted towards Security Deposit. No interest shall be paid on the amount of earnest money in any case."

25. With respect to security deposit and bank guarantee, it had been stated as follows:

"(a) The successful tenderer shall furnish within a week of the acceptance of this tender, a security deposit of Rs.24,00,000/- (Rupees Twenty four lakhs only) provided the successful tenderer shall however be allowed the option to pay 50% of the security deposit within the above mentioned period and the remaining by deductions @ 5% from each admitted bills for the work done under the contract. The Security Deposit shall be deposited in favour the General Manger (TN Region), Food Corporation of India, Chennai -6, in the form of Demand Draft / Pay Order of the Scheduled Bank.

(b) (i) The Successful tenderer shall also

furnish additional Security Deposit of Rs.50,00,000 (Rupees Fifty lakhs only) in the form of bank Guarantee of the schedule bank in the prescribed form of FCI within a week of acceptance of this tender provided the imported wheat is standardized and bagged within the Port Premises of Tuticorin Port."

26. It had been further stated that the first defendant would not be liable for payment of any interest on the security deposit. Thereafter, one further important definition given in Ex.B2, which has been stressed by the learned counsel for the plaintiff was definition of the term "General Manager (TN Region), which was as follows:

"The term General Manager (TN Region) shall mean the General Manager (TN Region) under the Food Corporation of India under whose control the stevedoring, clearance, handling and transport work which the contract relate fall. The term General Manager (TN Region) shall include every other officer authorized for the time being to execute contracts on behalf of the Food Corporation of India."

27. Yet another important definition is regarding

the term warehouse, which has been given as follows:

"The term 'Warehouses' wherever mentioned shall mean the covered sheds other than transit shed taken over by the FCI for keeping food grains with the Tuticorin (Port)"

28. There is also a clause relating to liability of the contractors for losses suffered by the Corporation and this has been given as follows:

"The Contractors, shall be liable for all costs, damages, demurrage, wharfage charges and expenses suffered or incurred in the operation due to the Contractor's negligence and unworkman like performance of any service under this contract or breach of any terms thereof their failure to carry out the work with a view to avoid incurrence of demurrage etc. and for all damages or losses occasioned to the Corporation or in particular to any property belonging to the Corporation due to any act whether negligent or other wise or Manager (TN Region) regarding such failure of the contractors and their liability for the losses etc. suffered by the Corporation shall be final and binding on the contractors."

29. Costs for damages and expenses were also given and they are as follows:

"(b) The Corporation shall be at liberty to reimburse themselves of any damages, losses, costs or expenses suffered or incurred

by them due to contractor's negligence unworkman like performance of services under the contract or breach of any terms thereof. The total sum claim shall be deducted from any sum then due to which at any time here after may become due to the contractors under this or any other contract with the Corporation. In the event of the sum which may be due from the Corporation as aforesaid being insufficient the balance of the total sum claimed and recoverable from the contracts as aforesaid shall be deducted from the security deposit furnished by the contractor as specified in para XI. Should this sum also be not sufficient to cover the full amount claimed by the Corporation the contractors shall pay to the Corporation on demand the remaining balance of the aforesaid sum claimed.

(c) In the event of the default on the part of the contractors in providing labour, weighing scale, weights, etc., and or their failure to perform any of the services mentioned in this agreement efficiently and to the entire satisfaction of the General Manager (TN Region) or any officer acting on his behalf, the General Manager (TN Region) shall without prejudice to other rights and remedies under this agreement have the right to recover by way of compensation from the contractors a sum of Rs.1000/- (Rupees one thousand only) or such lesser sum per day or part of a day of the default as the General manager (TN Region) in his / her absolute discretion may determine and

the General Manager (TN Region) on the question whether the contractors have committed such default or have failed to perform any of such service efficiently and are liable to pay compensation as to the quantum of such compensation shall be final and binding on the contractors.

(d) The contractors shall be responsible for the safety and quality of the goods from the time they are discharge from Ship loaded on their truck from Docks / railway station or siding / godown until they have been unloaded from their trucks at godowns at the destination point. They shall provide tarpaulins on decks of the trucks so as to avoid loss of grain, etc., through the holds / crevices in the decks of the trucks."

30. With respect to clearance and transportation of food grains, it had been stated as follows:

"VIII) 1. Payment of Customs, Railway charges PPQ, Port Charges, Customs Duty and port landing dues, shall be paid to the Customs / Port / Railway authorities directly by the Corporation.

2. Port charges for services such as lighterage, cranage, launch hire for towing barges from ship to shore, overtime charges relating to stevedoring etc. shall be paid directly by the contractor and these payments

are included in the remuneration payable to the contractor in terms of the contract.

3. In case the charges under item (1) above, which are normally payable by the Corporation are required to be paid by the contractor, the contractor may claim reimbursement from the Corporation by submitting bills supported by the receipts for payments made."

31. With respect to transport of food grains, it had been provided with respect to the weight of the gunny bags as follows:

"The weight of bags of food grains etc. loaded / unloaded into / from trucks / wagons any other transport vehicle at the railway siding / railway station / godowns / other loading and unloading points, shall be worked out on the basis of the wight recorded at Port Lorry Weighbridge. The representative of the contractors shall be present at the time of checking of weights at the loading / unloading points etc."

32. Under the heading deeds and responsibilities of the contractors, under clause 14, it had been provided as follows:

"The contractors shall report all short landings, discharge of torn and slack bags or damaged cargo immediately to the General Manager

(TN Region), Chennai or to his representative to the port and file claims normally within the prescribed time in accordance with the Charter Party or Bill of Lading with copies to the General Manager (TN Region), Chennai or to his representative at the Port, who will prefer the claim with the steamer agent concerned. If the charter party / bill of lading is not available with contractor at the time of discharge of the vessel, the copies available with the steamer agents or the Captain of the vessel shall be verified for the purpose. The contractor shall be bound to make good to the corporation any losses arising from their failure to file the claim in time on the steamer agent concerned."

33. The plaintiff had expressed intention to participate and by Ex.P3 dated 20.11.2006, the first defendant issued the following letter with the following conditions:

"One Vessel M.V.Yick Wing has arrived at Tuticorin Port with bulk wheat with a quantity of 38415.710 Mts of Russian Wheat and has to be handled immediately for which quotation are called for. You are requested to quote your Composite rate for Stevedoring, handling, Transportation, Clearance, bagging, standardization etc., in handling in the cargo of vessel M.V.Yick Wing, as per the Tender condition as communicated vide tender No.SPC.2

The successful Tenderer:

(a) Will have to remit Rs.9,46,000/- as Security Deposit out of which Rs.4,73,000/- (Rupees Four Lakhs Seventy Three Thousand only) as 50% in the form of D.D. security for handling M.V. Yick Wing, at Tuticorin Port, and the remaining 50% of Rs.4,73,000/- (Rupees Four Lakhs Seventy Three thousand only) will be adjusted in full in the first bill of the successful Tenderer.

(b) Will have to furnish Bank Guarantee for Rs.50,00,000/- (Rupees Fifty Lakhs only) in the form additional Security Deposit having validity upto 31.03.2007.

(c) Insurance coverage for a value of Rs.10.60 Crores (Rupees Ten Crores Sixty only).

All other terms and conditions stipulated in the Tender No.SPC.2(2)/DO-TTn/IMP.Wheat/2006 Dt.25.02.2006 will remain unchanged. You are advised to submit your composite rate in your letter duly signed quoting both in figures and words to be submitted latest by 5.30 pm today (20.11.2006).

The successful Tenderer will have to start the work with effect from 22.11.2006 (First Shift) onwards."

34. Thereafter, again by letter dated 22.11.2006, the first defendant had addressed another letter to the plaintiff as follows:

<https://hcservices.ecourts.gov.in/hcservices/> "Please refer to your spot quotation second

cited. This office has communicated the acceptance of your offer of Rs.384.00 (Rupees three hundred and eighty four only) per MT as composite rate, for stevedoring, handling clearance and transport contract at Tuticorin Port for handling the vessel M.V. Yick Wing only vide letter third cited. Accordingly, the stevedoring, handling clearance and transportation contract in respect of above vessel under composite contract is awarded to you as per the terms and conditions of tender No.SPC.2(2)/DO-TTn/IMP.Wheat/2006 Dt.25.02.2006.

2. Security deposit : Rs.9,46,000
 (Rupees nine lakhs forty six thousand only)
 50% of security deposit : Rs.4,73,000
 (Rupees four lakhs seventy three thousand only)
 Rs.4,73,000.00 (Rupees four lakhs seventy three thousand) remitted vide D.D.No.383869 dt.21.11.2006 towards 50% security deposit. Balance 50% security deposit of Rs.4,73,000.00 (Rupees four lakhs seventy three thousand) shall be adjusted from your first bill in full."

35. On the basis of the above document, the first defendant instructed the plaintiff to

"mobilise your resources and keep them ready to commence the work immediately and to ensure speedy clearance of the vessel M.V.Yick Wing."

36. The following statements of facts were

<https://hcservices.ecoartspow.in/hcservices/> on 11.12.2006, on which date the entire

cargo from the vessel M.V.Yick Wing was discharged. This has been signed by the plaintiff and the second defendant. The relevant portions of document reproduced, since the suit revolves around the same.

- "04. Cargo & Quantity : 38415.710 MT of Wheat
Russian Origin
05. Port of Loading : Novorossiysk, Russia
06. Port of Discharge : Tuticorin, India.
07. Vessel arrived : 0600 Hrs on 11.11.2006
08. Free Pratique granted : 0060 Hrs on 11.11.2006
09. Custom Inward Clearance
Granted : 1400 Hrs on 15.11.2006
10. Arrival Draft: F: 10.70 Mtr A: 40.70 Mtr
11. N.O.R. Tendered : 0600 Hrs on 11.11.2006
12. N.O.R. Accepted : 1710 Hrs on 24.11.2006
13. Pilot Boarded for berthing :
1445 Hrs on 24.11.2006
14. Vessel Berthed at Bert No.8:
1700 Hrs on 24.11.2006
15. Initial Draft Survey conducted: From 17.15 Hrs
to 18.45 Hrs on 24.11.2006
16. Hatch Opened: From 21.30 Hrs to 22.00 Hrs
on 24.11.2006"
- "19. Vessel Discharge commenced: 23.55 Hrs on
24.11.2006
20. Vessel Discharge completed :
04.30 Hrs on 11.12.2006"

"24. Hatch wise distribution of cargo

<u>Hatch No.</u>	<u>Quantity (WMT)</u>	<u>Grade</u>
I	6024.400	Wheat of Russian Origin
II	7873.290	Wheat of Russian Origin
III	8557.140	Wheat of Russian Origin
IV	8645.090	Wheat of Russian Origin
V	7315.790	Wheat of Russian Origin
TOTAL	38415.710 MT	

25. Hatch Wise Commencement and completion of Discharge

Date	Commencement time	H.No.	Date	Completion
26.11.2006	14.30 Hrs	I	10.12.2006	13.00
24.11.2006	23.55 Hrs	II	11.12.2006	02.45
25.11.2006	14.30 Hrs	III	11.12.2006	04.30
24.11.2006	23.55 Hrs	IV	10.12.2006	17.30
25.11.2006	14.30 Hrs	V	10.12.2006	01.45

26. Total Quantity discharged as per Joint Draft survey : 38415.710 M.Tons"

"33.Receiver's Agents Remarks:

01.All cargo discharged from the vessel without any damage to

vessel/cranes

02.Cargo discharged subject to shore out turn

Receivers right to claim shortages if any as per share out turn.

03.From 29.11.2006 - 06.00 hours to 08.12.2006 - 06.000 hours tipper owners strike due to this discharge loading was affected in all vessels in Tuticorin Port. Lay time not to count during strikeperiod. Subject to tenure and condition of C/p."

"34. Master Remarks:

02. The entire cargo was discharged in full / second condition as per bills of lading and Joint Draft Survey. Vessel / Owners / Agents not responsible for shore out-turn. As discharge quantity is as per Joint Draft Survey & respective Bills of Lading."

36.From the above, the following facts are established:

i) Vessel M.V.Yick Wing had originated from Russia carrying 38415.710 Mts of Wheat of Russian Origin. It came to Tuticorin Port Trust on 11.11.2006 at 6.00 AM. Initial draft survey was conducted, between 5.15 PM and 6.45 PM on 24.11.2006. Hatch was opened between 9.30 PM and 10.00 PM on 24.11.2006. The Wheat was dispatched from 11.55 PM on 24.11.2006 and the work was completed at 4.30 AM on 11.12.2016.

ii) In the said vessel, in hatch No.I, there was

<https://hcservices.ecourts.gov.in/hcservices/> 0024.400 Mts of Wheat of Russian Origin; in hatch No.

II, there was 7873.290 of Wheat of Russian Origin, hatch; in hatch No.III, there was 8557.140 MTs of Wheat of Russian Origin; in hatch No.IV, there was 8645.090 MTs of Wheat of Russian Origin; in hatch No.V, there was 7315.790 of Wheat of Russian Origin. Consequently, totally there was 38415.710 MTs of Wheat of Russian Origin.

Iii) It is further seen that according to the joint draft survey, the total quantity dispatched was 38415.710 MTs. This has also been accepted by the receiver's agent, viz., the plaintiff herein. Moreover, the Master of the Ship had remarked that the entire cargo was dispatched in full in sound condition and the agents are not responsible for shore out turn. It had been further stated that the discharged quantity is as per joint draft survey and receipt of bills of lading.

37. The learned counsel for the plaintiff has disputed that the said quantity of 38415.710 MTs of Wheat was actually unloaded. In this regard, the plaintiff had also written a letter to the Area Manager, Food Corporation of India, stating that the quantity cleared from the Port was only 38,276.578 Mts and there was a shortage of 139.123 Mts. The said letter was marked as Ex.P9. It was dated 12.01.2007. The plaintiff stated as follows:

"It is informed that though conducting draft survey for arriving the quantity carried by the vessel is one of the International practice, the quantity arrived at by draft survey will not confirm the actual cargo loaded / delivered by the vessel. Since the draft survey had been conducted on the basis of information furnished by the Master of the vessel and the quantity arrived at by "Mean Draft", the quantity declared by Surveyor is only Notional."

This contention of the plaintiff is unacceptable. When the draft survey report was prepared, it was signed by the plaintiff also, and the quantity discharged was 38,415.710 Mts.

38. By letter in Ex.P10, dated 22.01.2007, issued by the second defendant to the plaintiff, it was stated as follows:

"Refer your message of dated 30.12.2006, please note vessel discharged entire 38415.710 MTs of cargo as per bills of lading and to the entire satisfaction of the receivers. Please refer the draft survey reports duly signed by your goodself as well as receivers surveyors in confirmation."

"More over vessel/owners/charterers are not responsible for any short landing once cargo

crosses the ship's rail."

It is thus seen that the plaintiff alone was responsible for the shortage of the Wheat after discharge.

39. In this connection, the clauses in Ex.P2 have to be once again referred. They are as follows:

"The contractors shall report all short landings, discharge of torn and slack bags or damaged cargo immediately to the General Manager (TN Region), Chennai or to his representative to the port and file claims normally within the prescribed time in accordance with the Charter Party or Bill of Lading with copies to the General Manager (TN Region), Chennai or to his representative at the Port, who will prefer the claim with the steamer agent concerned. If the charter party / bill of lading is not available with contractor at the time of discharge of the vessel, the copies available with the steamer agents or the Captain of the vessel shall be verified for the purpose. The contractor shall be bound to make good to the corporation any losses arising from their failure to file the claim in time on the steamer agent concerned."

Here, the plaintiff at the time of unloading the cargo, which was conducted in the presence of the officials of the first defendant and the second defendant, the plaintiff did not raise any objection that there was a

shortfall in cargo discharged. It was only, thereafter,

when the plaintiff had taken possession of the cargo and had transported the same through lorry and rail to various destinations that the first defendant had raised the issue that there was actual shortfall by the plaintiff. Suddenly, the plaintiff woke up and put the blame on the first and second defendants alternatively.

40. The learned counsel for the plaintiff has stated that the bill of lading was not produced. However, in Ex.P5, under the receivers agents remarks, it has been stated as follows:

01.All cargo discharged from the vessel without any damage to

vessel/cranes

02.Cargo discharged subject to shore out turn Receivers right to claim shortages if any as per share out turn.

03.From 29.11.2006 - 06.00 hours to 08.12.2006 - 06.000 hours tipper owners strike due to this discharge loading was affected in all vessels in Tuticorin Port. Lay time not to count during strike period. Subject to tenure and condition of C/p."

41. In the very same document under the Master remarks, it had been stated as follows:

"02. The entire cargo was discharged in full / second condition as per bills of lading and

Joint Draft Survey. Vessel / Owners / Agents not

responsible for shore out-turn. As discharge quantity is as per Joint Draft Survey & respective Bills of Lading."

42. It is thus seen that there was no short supply by the second defendant while dispatching the cargo as shore out turn. I, therefore, held that the quantity of Wheat discharged from the Ship M.V.Yick Wing was only 38,415.710 MTs.

43. In this connection, PW1, who was the witness on behalf of the plaintiff has stated that he does not have any personal knowledge regarding the suit transaction. He further stated that the facts stated in the proof affidavit are "hearsay". During the cross examination on behalf of the first defendant he stated as follows:

"It is correct to state that I do not have any personal knowledge regarding the suit transaction. What I have stated in my proof affidavit is a hearsay."

44. He further stated as follows, during the cross examination on 01.11.2011:

"The nature of activities involved by the plaintiff are stevedoring, handling and transport. In the present case, plaintiff has

handled the bulk cargo arrived at Tuticorin Port. It is correct to state that the total weighment of cargo is 38,415,710 MT. We discharged the cargo from the vessel and moved to covered-shed and open-yard also and bagged the bulk cargo and we further despatched the goods to the various destination through Rail and also through Road. Most of the cargo was moved through Rail Transport. Before discharging of the cargo we conducted a draft-survey with Chartered agent. The quantity arrived at draft survey was 38,415.710 metric ton. We discharged the goods as bulk from the vessel and transported to bagging point. It is correct to state that from the bagging point we have transported the goods to the various destinations as requested by the first defendant. After dispatching we have made a distribution statement. Out of 17 despatches, 16 are through Railways and one through Road. As per Ex.P6, the total amount of cargo sent by us was 38276.577 ton. As per the bill of lading and the draft survey the total weighment (quantity) of cargo is 38415.710 metric ton. As per the distribution statement the total quantity of cargo despatched was 38276.577 ton. There is a short supply of 139.132 metric ton."

45. It is therefore seen that the Wheat discharged from the vessel was 38,415.710 Mts. But the Wheat transported by the plaintiff was 38,276.577 Mts.

The plaintiff who has come to Court has examined a

witness, who does not have any personal knowledge. He was not present at the time when the cargo was unloaded from the vessel M.V.Yick Wing. If according, to the plaintiff, the cargo actually unloaded was 38276.577 MTs, then they should have examined the officials, who were present at that place when the cargo was dispatched. The plaintiff has not examined the best witness. The records states that the cargo despatched was 38415.710 MTs. The averments made in Ex.P9 extracted above are again referred to

"It is informed that though conducting draft survey for arriving the quantity carried by the vessel is one of the International practice, the quantity arrived at by draft survey will not confirm the actual cargo loaded / delivered by the vessel. Since the draft survey had been conducted on the basis of information furnished by the Master of the vessel and the quantity arrived at by "Mean Draft", the quantity declared by Surveyor is only Notional."

I again hold that the above is a desperate measure of the plaintiff to cover the shortfall due to their own negligence and fault. I hold that the vessel discharged only 38415.710 MTs and the claim of the plaintiff that there was a discharge of 38276.577 MTs is negated. This issue is answered accordingly against the plaintiff.

46. **Issue No.12 & 13:** These issues relate to the gunny bags, which were supplied. According to the plaintiff, they were less than 650 gms in weight. In this connection, after the cargo was dispatched, the plaintiff had addressed a letter to the first defendant dated 04.12.2006, when for the first time they brought up this subject. It is to be noted that they had brought up this subject only after they found that there was short fall in the actual quantity of Wheat which was despatched to the various destination. In Ex.P7, the plaintiff had written as follows:

This is to bring to your kind notice that most of the empty gunnies are weighing less than 500 gm which are very loose texture and side stitching are not strong. As per your instruction, the gross weight of the wheat for packing is fixed as 50.650 kgs. So we are loosing about 200 gms each bag average and spillages due to gunnies side stitching not so strong. Thus it will be accumulated as a huge quantity which will be great to loss to FCI / us.

So kindly fix tare weight as 500 gms from the beginning itself for this vessel in consideration of the above defect gunnies and we are not at all responsible for any loss due to this kind of un sea worthy gunnies."

This letter is rejected by me as an afterthought explanation given nearly only month after discharge and packing in gunny bags.

47. In this respect, the evidence of PW1 will have to be again analysed. As stated above, PW1 did not have any direct knowledge of the events. PW1 during cross-examination on 08.12.2011 had admitted as follows:

"It is correct to state that as per para 13 of reply statement we have supplied excess cargo than the bill of lading quantity. As the distribution statement, we delivered a quantity of 38.276.577 metric ton and then due to difference of gunny weight there was an excess around 100 metric tons than we delivered 1249 bags have been loaded into wagons which have not been taken into account thereby we loaded excess. I have not stated the above statement Ex.P6."

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48. Ex.P6, which is mentioned above is the list showing completion of delivery, in which it has been stated by PW1 that the plaintiff had not stated the statement mentioned by the witness. Again with respect to the gunny bags, the PW1 was further cross examined and stated as follows:

I deny the suggestion that the plaintiff

has to pay for the cost of of excess gunny

consumed, damaged gunnies, the return of second hand serviceable gunnies and the return of wet gunnies. Witness adds:- We accepted the damaged gunnies. It is correct to state that for 10535 second had serviceable gunnies the plaintiff has requested the first defendant to reduce the claim by 50%.

49. The defendant had examined as DW1, the Assistant Grade-I, the first defendant Tuticorin office. During the cross examination, he has stated as follows:

"I know the facts of the case personally. I was present personally while the cargo was discharged from the ship to the shore, till dispatch to various destinations."

50. It is thus seen that the said witness has direct knowledge of operations at Tuticorin Port Trust. This is in direct contrast to the witness produced by the plaintiff who deposed on the basis of 'hearsay'. DW1 stated as follows, during cross examination on 26.06.2012:

"During Transportation of the bags in Wagon if the gunnies are loaded in a proper manner, there is no scope of spillages either from the gunny or enroute."

This statement, which has come, courtesy the cross-examination by the learned counsel for the plaintiff,

clearly shatters the contention of the plaintiff.

51. He further stated as follows, during cross examination on 23.07.2012:

"As far as the value of gunnies as mentioned in paragraph 17 column 3, we have ascertained the value of the same from the market and given a reduced rated accordingly. But we have not produced any documentary evidence for ascertaining the value of the gunnies returned by the plaintiff. It is incorrect to say that we have informed the plaintiff regarding the value of the gunnies while handling over the same to them as by such time they were all new gunnies."

52. It is therefore, seen that with respect to the gunny bags, the plaintiff has urged this Court to draw conclusions based on presumptions. The issue relating to gunny bags had arisen only after the shortage in Wheat was noticed. It is to cover the explanation for such shortage that the plaintiff has resorted to finding fault regarding the gunny bags.

53. I do not accept the view expressed by the counsel for the plaintiff that the gunny bags, were responsible for the shortage of the Wheat actually transported by the plaintiff. It must also be mentioned

that the plaintiff is an experienced contractor in the same business. They know the risk involved, they should have been vigilant and prepared for any contingency. After completion of work, when the shortfall was detected, does not lie in the mouth of the plaintiff to turn around and attempt to blame the first defendant. It is the duty of the plaintiff, to call upon and examine credible fact knowing witnesses, who were actually present during the time of unloading the cargo. The plaintiff had not thought it necessary to do so. I hold this issue against the plaintiff.

54. **Issue No.9,10 &14:** In this connection, as seen in the pleadings, the defendant had come forward with a specific pleading as follows:

"This defendant states that as per the finalisation of accounts after considering the plaintiff's claim for waiver of transit loss regarding the contract taken by the plaintiff for the vessel M.V. Yickwing the following amounts are due to the first defendant from the plaintiff.

S. No.	Description	Quantity	Rate Rs.	Amount Rs.
1.	Difference between draft survey and bagged despatch qty.	139.133	12200	1697423
2.	Rail transit loss	3.209	12200	39150
3.	a. Gunnies consumed in excess	736	25	18400
	b. Gunnies reported as damaged by the agency	697	25	17425
	c. Gunnies received as SHS from agency	10535	10	105350
	d. Gunnies returned by contractor in wet and damaged condition	4250	25	106250
4	DC and trailer detention charges on account of delayed clearance of gunnies received through CONCOR	0	0	39857
5.	Differential income tax on account of assessment of IT liability on given amount including service tax	0	0	44000
6.	Amount paid to port trust towards balance rent for the period from 23.12.2006 to 27.12.2006	0	0	338463
7.	Interest for delayed period (a) Rs.14.75 for Rs.3,38,163/- (due dated 23.12.2006 amount remitted on 23.10.2009)	0	0	161421
		Total		2567739

and the actual amount available on plaintiff's account with the first defendant as follows:-

S.No.	Particulars	Amount Rs.
1.	Security deposit remitted at FCI, RO, Chennai	473000
2.	Security deposit recovered form bills of M.V.Yick Wing	473000
3.	Amount with held form pending bills	1447242
	a. 10% amount from bills Rs.1350107	0
	b. Pending bills amount Rs.97135	
4.	Amount remitted as FCI, RO, Chennai in connection with release of DG	1000000
5.	Excess recovery towards full bags shortages	45150
	Total	3438392

The excess amount available with the first defendant is Rs.870633/-"

55. The defendant had actually agreed to return back the security deposit given by the plaintiff as mentioned above. With respect to the above statement, the learned counsel for the plaintiff had stated that explanation was not sought from them with respect to the gunny bags. However, Ex.D1, dated 18.11.2008 is the letter written by the plaintiff to the Area Manager of the defendant. It is a reply for the show cause notice issued by the first defendant. This document was not produced by the plaintiff but produced by the defendant.

It is as follows:

"We would like to submit the following for your kind consideration and favourable orders.

1. Recovery towards Rail Trait loss for Mt. 90.508.

It is seen that FCI had proposed for recovery of Rs.11,04,098/- towards Rail Transit loss for dispatches of wheat to various destinations by Rail. In this connection, it is informed that as against the dispatch weight of Mr. 37610.196, as per the acknowledged weight was Mt.37519.688, thereby, there was reported rail transit loss of Mt. 90.508, which was 0.23%. You are well aware that destinations were adopted 10% weighment, since most of the godown are siding godown. As the acknowledged weight were only notional we are not responsible for the alleged shortage. Hence, we request that the position may please be reviewed and arrange to issue necessary orders to release the amount withheld from our bills. In this connection our detailed explanation submitted earlier, may please be referred to.

2. Recovery towards SHS Gunnies

We handed over 10535 gunnies new loose gunnies to your office. Since the gunnies were stenciled, the godown officials have accepted the same as second hand serviceable gunnies. Though, we handed over SHS gunnies, the proposal has been made for recovery of full cost of gunnies for Rs.2,63,375/-. In this connection, it is informed that to the best of our knowledge

and also previous contracts, FCI had made recovery of 50% of cost of gunnies for return of SHS gunnies, whereas, in the instant shipment 100% cost of recovery has been proposed. As the gunnies are usable condition, the position may please be reviewed and arrange to issue orders for release of excess recovery proposed against us."

56. It is therefore seen that the claim of the counsel for the plaintiff that show cause notice was not issued has to be rejected. With respect to the rent, claimed by the Tuticorin Port Trust from the first defendant, it is seen that the rental amount in Ex.D3, dated 03.04.2008, Ex.D4 dated 27.05.2008 were also communicated to the plaintiff by Ex.D5 dated 13.10.2008. The Tuticorin Port Trust had raised further demand by Ex.D6 dated 03.06.2009 and Ex.D7 dated 7.02.2010. Consequently, it is established that the plaintiff had actually used the warehouse and is liable to compensate the first defendant in this regard. Moreover, as given in Ex.P2.

"Please refer to your spot quotation second cited. This office has communicated the acceptance of your offer of Rs.384.00 (Rupees three hundred and

four only) per MT as composite rate, for

stevedoring, handling clearance and transport contract at Tuticorin Port for handling the vessel M.V. Yick Wing only vide letter third cited. Accordingly, the stevedoring, handling clearance and transportation contract in respect of above vessel under composite contract is awarded to you as per the terms and conditions of tender No.SPC.2(2)/DO-TTn/IMP.Wheat/2006 Dt.25.02.2006.

2. Security deposit : Rs.9,46,000
(Rupees nine lakhs forty six thousand only)

50% of security deposit : Rs.4,73,000
(Rupees four lakhs seventy three thousand only)

Rs.4,73,000.00 (Rupees four lakhs seventy three thousand) remitted vide D.D.No.383869 dt.21.11.2006 towards 50% security deposit. Balance 50% security deposit of Rs.4,73,000.00 (Rupees four lakhs seventy three thousand) shall be adjusted from your first bill in full."

57. Therefore, the plaintiff is liable to pay to the first defendant the sums due to the Tuticorin Port Trust. Consequently, with respect to issue No.9 and issue No.14 also, I hold that the plaintiff is entitled for a judgment and decree against the first defendant for a sum of Rs.8,70,633/- alone with interest only at the rate of 6% per annum. Consequently, I further hold that the plaintiff is not entitled for a sum of Rs.52,66,101.68/- together with interest at the rate of

18% per annum by Rs.34,38,392.00/- claimed in the plaint.

With respect issue No.10, I hold that the first defendant is entitled to deduct the cost of the cargo resulted due to short supply as per terms and conditions. Thus, I answer that issue in favour of the first defendant and against the plaintiff. With respect to issue No.9, I hold that the plaintiff is entitled only for a sum of Rs.8,70,633/- with interest at 6% per annum and not at 18% per annum as claimed by them.

58. In the result, this Civil Suit is partly decreed for a sum of Rs.8,70,633/- payable by the first defendant to the plaintiff together with interest at 6% per annum from the date of the plaint till the date of realization. Time for payment 3 months. No Costs.

sd/.C.V.K.J

03.02.2017

//Certified to be a true copy//

Dated this the day of 2017

R.s/17.03.2017

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.