

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 38 OF 2017

DIAKEM INDIA PVT. LTD., THR. ITS
DIRECTOR, SUDARSHAN JAIN.,

... Appellant

Versus

TCPL PACKAGING LTD.,

... Respondent

Adv. Ashwin D. Bhobe for the Appellant.
Ms. D. Shirgam holding for Adv. Yogesh V. Nadkarni For
Respondent

Coram:- C. V. BHADANG, J.

Date:- 6th March 2018

P.C.:

Heard Shri Bhobe, the learned counsel for the appellant and
the learned counsel appearing for the respondent.

2. The challenge in this appeal is to the part of the order dated 23/7/2015 refusing to grant interest at the rate of 24% on the amount of delayed payment of licence fee. The learned trial court in its discretion has granted interest at the rate of 12% p.a. Indisputably the amount is deposited along with interest at the rate of 12%. It is also not in dispute that the respondent is depositing the current licence fee regularly.

3. The only contention raised on behalf of the appellant is that in

both the agreements dated 9/8/2011 and 3/5/2013, the respondent has agreed to pay interest at the rate of 24% p.a. in the event there is a delay in payment of the licence fee. Prima facia at this stage, I am not inclined to accept the contention as raised on behalf of the appellant for the reason that the grant of interest is normally in the discretion of the Court. The Court is entitled to look in the terms of the agreement and to find out whether the rate of interest is exorbitant or onerous. In any event, the suit is still pending before the trial court and it will be open for the trial court to go into the aspect of the rate of interest and to consider the terms of the agreement while deciding the suit finally. Subject to this, no case for interference is made out. The appeal is accordingly dismissed with no order as to costs.

C. V. BHADANG, J.

ap/-