

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

COMPANY PETITION NO. 486 OF 2000

SICOM Industries

....Petitioner

Vs.

DSL Enterprises Pvt. Ltd.

....Respondent

Mr.Raj Patel a/w. Mr.Prakash Punjabi I/b Prakash Punjabi and Co. for petitioner.

Mr.Rafique Dada, Senior Advocate a/w. Mr.Mukal Tally, Mr.Zuben and Mr.Shaikh Aziz I/b S. Mahomedbhai and Co. for respondent.

Mr.Nilesh Khot, Senior Manager (Operations) of respondent company present.

CORAM : K.R.SHRIRAM, J.

DATE : 27TH AUGUST, 2018

P.C.:

1 Petitioner claims that it had initially filed this petition against Datar Switchgear Limited (DSGL) on the ground that DSGL is indebted to petitioner for a sum of Rs.2,11,80,221/- with further interest thereon from 1st February 2000 as per the particulars of claim annexed to the petition.

2 Petitioner had sanctioned the Lease Assistance of Rs.2,00,00,000/- to DSGL for acquiring various equipments for its project at Plot No.H-108, MIDC Ambad, District Nashik on the terms and conditions contained the petitioner's sanction letter dated 14th August 1996 and in the Lease Agreement dated 2nd September 1996. It is petitioner's case that DSGL did not repay the amount that was due and liable to pay, therefore, the notice

under Section 434 of the Companies Act, 1956 was issued to DSGL.

3 After the petition was heard for some time, Shri Dada, learned senior counsel appearing for the company once again renewed the offer to deposit the sum of Rs.110.42 lakhs in full and final settlement of petitioner's claim with the Prothonotary and Senior Master, High Court, Bombay within six weeks from today. Shri Dada submitted that this amount has been arrived at on the basis of the B.I.F.R. order passed on 5th December 2006 under which a sum of Rs.19.49 lakhs has been paid to the company. Shri Dada submitted that if petitioner is not willing to accept this amount in full and final settlement, it will be open for petitioner to approach such forum as advised and file such proceedings as advised and this amount which is deposited with the Prothonotary and Senior Master can be transferred to the credit of those proceedings. Shri Dada further submitted that within the time as prescribed by this Court, if petitioner does not commence such proceedings, then the company should be permitted to withdraw this amount from the Prothonotary and Senior Master. Shri Dada further submitted that if within six weeks' period, if petitioner addressed a communication to the company that they are ready and willing to accept this amount of Rs.110.42 lakhs in full and final settlement, the company will pay the said amount within six weeks' period instead of depositing with the Prothonotary and Senior Master, High Court, Bombay.

4 In view of above, Shri Patel for petitioner seeks leave to withdraw the petition with liberty to approach such forum as advised if petitioner is unwilling to accept Rs.110.42 lakhs in full and final settlement.

5 In these circumstances, the statement of Shri Dada on behalf of the company- DSL Enterprises Private Limited, on instructions from Shri Nilesh Khot, Senior Manager (Operations)/Constituted Attorney of the company to deposit this amount of Rs.110.42 lakhs with the Prothonotary and Senior Master, High Court, Bombay within six weeks from today is accepted as an undertaking on behalf of the company. As the petition is yet to be admitted, though incorrectly listed today for final hearing, petition stands disposed as withdrawn with liberty as prayed. All rights and contentions of the parties are kept open.

6 In view of the above order, Shri Dada undertakes to withdraw Appeals filed in this Court, viz., Commercial Appeal (Lodg.) No.345 of 2018 along with Notice of Motion (Lodg.) No.777 of 2018 and Notice of Motion (Lodg.) No.776 of 2018 and Appeal (Lodg.) No.356 of 2018 along with Notice of Motion (Lodg.) No.785 of 2018.

(K.R. SHRIRAM, J.)

Shraddha Talekar, PS