

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

COMMERCIAL SUMMARY SUIT NO. 149 OF 2015

M/s.Vimal Intertrade Pvt.Ltd.

...Plaintiff

Vs.

M/s.Multiflex Lami Print Ltd. & Ors.

...Defendants

Mr.Paras Vira for Plaintiff.

CORAM : S.C. GUPTE, J.

DATE : 12 APRIL 2018

P.C. :

This commercial summary suit is filed by the Plaintiff for recovery of price of goods sold and delivered on the basis of a written contract of sale of goods contained in the invoices. By an order dated 3 October 2017 passed on a summons for judgment taken out in the suit, this court granted leave to defend to Defendant No.1 subject to Defendant No.1 depositing in court the principal amount of Rs.4,03,52,190/- within a period of twelve weeks. There is no deposit of this amount before this court within the period of twelve weeks or till date. A certificate of non-deposit issued by the office of the Prothonotary & Senior Master of this court dated 9 February 2018 is tendered by learned Counsel for the Plaintiff. The certificate is taken on record, marked "X" for identification.

2 In the premises, the Plaintiff is entitled to a decree under Sub-Rule (6) of Rule 3 of Order 37 of the CPC for the principal amount of Rs.4,03,52,190/-. The Plaintiff claims interest at the rate of 18% per annum with effect from one month of the individual invoices. The contract of sale of goods contained in the invoices provides for interest at the rate of

24% per annum if the payment is not made by the due date. Despite the contract providing for interest at the rate of 24% per annum, the Plaintiff has calculated interest at the rate of 18% per annum as a reasonable commercial rate of interest. The decretal amount of Rs.6,25,14,221.80 accordingly worked out in the particulars of claim annexed as Exhibit 'G' to the plaint.

3 The Plaintiff will accordingly be entitled to a decree in the sum of Rs.6,25,14,221.80 as per particulars of claim annexed and marked as Exhibit 'G' to the plaint together with *pendente lite* interest on the principal amount of Rs.4,03,52,190/- at the rate of 12% per annum. This interest shall be applicable till payment or realisation. In addition to the principal amount and interest as above, the Plaintiff will also be entitled to the costs of the suit. Drawing up of a decree is expedited.

(S.C. GUPTE, J.)