

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.S.NO.695 OF 2014

1.Expowide Middle East FZC
Formerly known as GEN COR Middle East FZC.
Q1-08-143/C,
SAIF Zone, Sharjah, UAE,
Post Box 233627, Dubai UAE,
Represented by its Director,
Mr.Srinath Venkataramanan.

2. Lucas TVS Limited,
Padi, Chennai - 600050.
Represented by Mr.K.Ramaswamy,
It's Authorized signatory.

...

Plaintiffs

VS.

Kawasaki Kisen Kaisha Ltd,
Carrying on Businesss in the Name of "K" Line,
A Company incorporated under the Laws of Japan,
Having Office at Iino Building, 1-1,
Uchisaiwaicho 2-Chome,
Chiyoda-ku, Tokyo 100-8540, Japan
Represented by its Local Agents
M/s. "K" Steamship Agencies (P) Ltd.,
No.42 (Old No:4),
Second Line Beach,
Parrys, Chennai - 600001.

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Defendant

PRAYER: Plaint filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 of CPC as per section 26 Code of Civil Procedure, 1908, praying for Judgment and decree against the Defendant jointly and severally as follows:

- a) For a sum of Rs.78,89,298, together with interest at the rate of 18% per annum from the date of plaint till the date of realisation.
- b) For payment of costs of the suit.

For Plaintiffs : Mr.Giridharan
For Defendant : Mr.V.V.Balasubramanian

J U D G M E N T

The suit is for specific performance. Today when the matter is called, both the parties appeared before this Court and filed a Joint Memo of Compromise dated 04.12.2018 signed by the parties duly attested by their respective counsels. The contents of the Joint Memo of Compromise reads as follows:

Joint Memo filed by the Plaintiffs and Defendant

"This Memorandum of Compromise is executed at Chennai on this the 4th day of December 2018 between the aforesaid plaintiffs and defendant.

Whereas the plaintiffs have filed C.S.No.695 of 2014 seeking recovery of Rs.78,89,298/- (Rupees Seventy Eight Lakhs Eighty Nine thousand and Two Hundred and Ninety Eight only) together with an interest at rate of 18% per annum and costs.

Whereas during the pendency of the suit the

parties to this Memorandum had discussions and have agreed to amicably resolve the disputes between them.

Whereas the parties have come to an agreement and in pursuance thereof are entering into the present Memorandum of Compromise to record the terms of compromise entered into between them. Whereas the defendant has agreed to pay an aggregate sum of Rs.88,00,000/- (Rupees Eighty Eight Lakhs Only) to the plaintiffs and the plaintiffs have agreed to receive the same towards full and final settlement of their claims against the defendant. The parties agree that this payment shall fully absolve and release the defendant "k" Steamship Agencies (P) Ltd. And K-Line group from all claims and liabilities relating to this Suit (and Bill of Lading No.KKLUTSN282654).

The Plaintiffs and the Defendant hereby execute the present memorandum of compromise as per the following terms:

1. In pursuance of the compromise arrived at between the parties and in full and final settlement of its liabilities/obligations under this suit (and Bill of lading No.KKLUTSN282654), the defendant (or its nominees) shall pay a sum an aggregate sum of Rs.88,00,000/-

(Rupees Eighty Eight Lakhs Only) within a period of two weeks from the date on which this Memorandum of Compromise is recorded by this Hon'ble Court/mediation Cell/ Lok Adalat, in the following manner:

i) a sum of Rs.71,17,766/- (Rupees Seventy One Lakhs Seventeen Thousand Seven Hundred and Sixty Six only) to the 1st plaintiff (Expowide Middle East FZC).

ii) a sum of Rs.16,82,234/- (Rupees Sixteen Lakhs Eighty Two Thousand Seven Hundred and Sixty six only) to the 2nd plaintiff (Lucas TVS Ltd);

In all totalling a sum of Rs.88,00,000/- (Rupees Eighty Eight Lakhs only).

2.The Defendant agrees that the payment to the 1st plaintiff shall be made into its bank account in UAE in USD. Bank Account details of the 1st plaintiff for this purpose are as follows:

Beneficiary : Expowide Middle East FZC
Bank & Branch : Bank of Baroda, Sharjah, UAE
Account no : 90040200015661
IBAN no : AE330110090040200015661

For this purpose, the amount mentioned in clause 1(i) above shall be converted into USD at the exchange rate prevailing on the date on which the Madras High

Court (or the Mediation Cell or Lok Adalat attached to it) records the Memorandum of Compromise, as per the website of the Reserve Bank of India.

3. The payment to the 2nd plaintiff shall be made in Rupees. The bank account details of the 2nd plaintiff for this purpose are as follows:

Beneficiary name	LUCAS – TVS LTD.
Credit Account No.	00040310010865
Centre (Location)	Chennai – 4.
Bank	HDFC Bank Limited
Branch	Dr.Radha Krishnan Salai Branch
Account Type	Current Account
IFSC Code	HDFC0000004

4.The 2nd plaintiff agrees that it shall, within 2 weeks of receiving the aforesaid payment, withdraw the proceedings initiated by it for refund of customs duty in respect of the transaction which is subject matter of the Suit and provide proof thereof to the defendant. Further, the 2nd plaintiff shall co-operate with the defendant for closing any proceedings which

the customs department may initiate against the defendant, "K" Steamship Agencies (P) Ltd. and/or K-Line group in this regard in the future.

5. The parties hereby agree that the said sum mentioned above is towards full and final satisfaction of all claims whether past, present or future that the plaintiffs have or may have against the defendant, "K" Steamship Agencies (P) Ltd. And / or K-Line group with respect to the subject matter of this Suit (and bill of lading no. KKLUTSN282654) and no further claim shall survive against them in this regard.

6. The parties agree to execute such other letters and / or documents and take all actions as may be required to ensure that this Memorandum of Compromise is given full effect to and all proceedings under the aforesaid suit (C.S.No.695 of 2014) pending before this Hon'ble Court are closed.

7. The defendant is paying the aforesaid amount in good faith in order to resolve the pending disputes between the parties and the same should not be construed as admission of liability on the part of the defendant.

It is therefore prayed that this Hon'ble Court

may be pleased to take this Memorandum of Compromise on record and pass suitable orders in terms of this Compromise and thus render justice.

Dated at Chennai on this the 4th day of December 2018."

2.The above Joint Memo of Compromise dated 04.12.2018 filed by the parties is taken on file and the suit is decreed in terms of the Joint Memo of Compromise filed by the parties. The Joint Memo of Compromise shall form part of the decree. Since the matter is settled out of Court, both the plaintiffs and defendant are entitled to refund of Court fee, as per law. No costs.

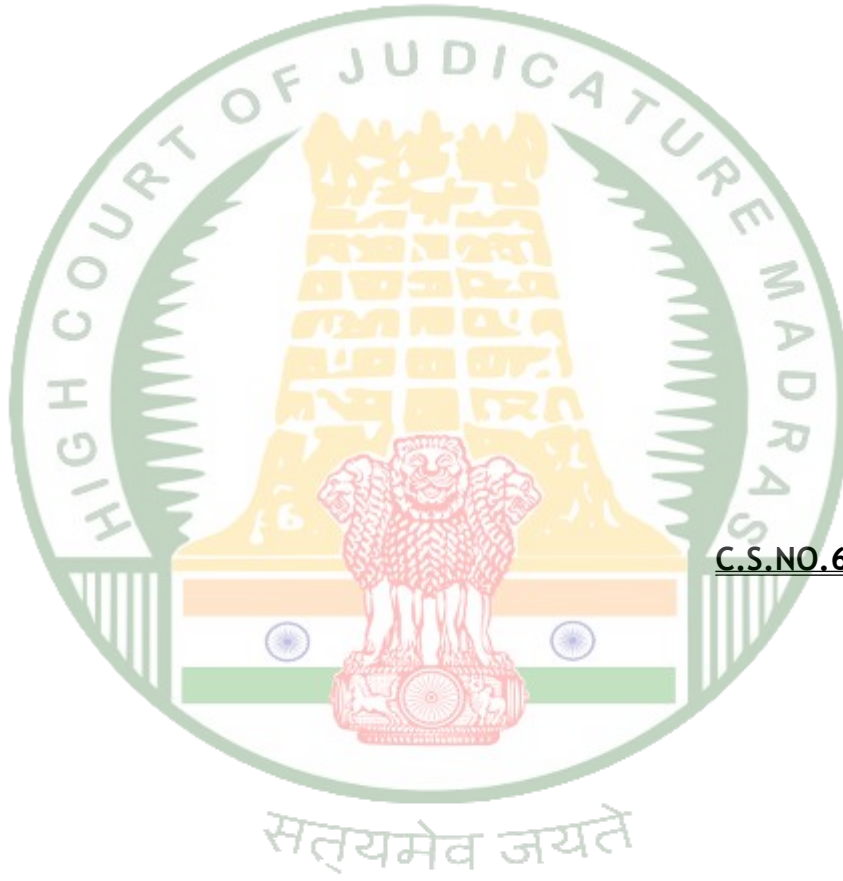
07.12.2018

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M.GOVINDARAJ, J

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