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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL SUMMARY SUIT NO. 446 OF 2017**

VK Industrial Corporation Ltd	...Plaintiff
<i>Versus</i>	
Jyoti Structures Ltd	...Defendant

Mr Anil Agarwal, for the Plaintiff.
Ms Supriya S Devergudi, i/b ANS Law Associates, for Defendant.

CORAM: G.S. PATEL, J
DATED: 28th February 2019

PC:-

1. The suit claim is Rs.1,73,80,822.70/- and interest on a principal sum of Rs.1,24,99,058.85/-. It was filed as a commercial suit in the Commercial Division of this Court. On 16th October 2018, AK Menon J decided the Summons for Judgment. He granted additional leave to defend and required the Defendant to deposit, as a condition precedent, an amount of Rs.1,24,99,058.85/- which is the principal without interest. He granted liberty to the Plaintiff to apply in the event the amount was not deposited.

2. There is a certificate of non-deposit tendered, by which the Master and Assistant Prothonotary confirms that the Defendant has made no deposits.

3. The Plaintiff is accordingly entitled to an *ex parte* decree under Order XXXVII Rule 3(6)(b) of the Code of Civil Procedure 1908 (“CPC”).

4. The Affidavit in lieu of examination-in-chief affirmed on 11th January 2019 of one Alpesh Kantilal Purohit, the authorised signatory of the Plaintiff, is tendered and taken on record. There is also an Affidavit of Documents of Mr Purohit and a separate compilation of original documents. This compilation is taken on record and marked in evidence as **Exhibit “P1” collectively**.

5. In this view of the matter, the suit is decreed in the amount of Rs.1,73,80,822.70/-. I will, however, not grant interest on the principal sum of Rs.1,24,99,058.85/- at the rate claimed, i.e., 24%, but will award interest at the rate of 18% per annum which I consider to be reasonable.

6. This being a commercial suit, in view of the amended provisions of the CPC, the Plaintiff is also entitled to an order of costs. It has paid the maximum *ad valorem* Court fees of Rs.3 lakhs on the Plaint. In my view having regard to the fact that no costs were awarded to the Plaintiff at the time of the Summons for Judgment, an amount of Rs.6 lakhs may reasonably be awarded as appropriate litigation costs. This amount will be reduced proportionately should

the Plaintiff seek a refund of the Court fees. The reduction will be to the extent of the refund received. The decree for costs will carry no interest.

7. The suit is disposed of in these terms.

8. The original documents are to be returned to the Plaintiff upon these being substituted by authenticated photocopies.

(G. S. PATEL, J)