

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND ORIGINAL CIVIL JURISDICTION
COMMERCIAL SUIT NO.1113 OF 2018
WITH
COMMERCIAL NOTICE OF MOTIO NO.125 OF 2019
WITH
COMMERCIAL CHAMBER SUMMONS NO.324 OF 2019**

JSW Jaigarh Port Ltd.

..Plaintiff

Vs.

Gokul Shipping Agency & Anr

..Defendants

Ms Ridhi Nyati I/b Mr. Ashwin Shanker for Plaintiff

Mr. Prasad Rane – Dy. General Manager (legal) / Authorised Signatory of Plaintiff present

Ms Dhvani Mehta I/b DM Law Chambers for Defendant No.1

Mr. Kunal S. Vidhate and Mr. Sangram S Vidhate, Partners of Defendant No.1 and Mr. P. Ashok, General Manger (Legal)/ Constituted Attorney of Defendant No.2 and Mr. Umesh Kandoi, Authorised Signatory of Amba River Coke Ltd/Signatory to consent terms are present

CORAM : K.R.SHRIRAM, J.

DATE : 9th JULY 2019

P.C.:

1 Parties have entered into consent terms dated 08.07.2019. The consent terms signed by authorised signatory of plaintiff, two partners of defendant no.1, constituted attorney of defendant no.2, authorised signatory of Amba River Coke Ltd and the advocate for plaintiff and defendant no.1 is taken on record and marked "X" for identification. Both counsel state that the signatories to the consent terms are present in Court and identify them.

2 For ease of reference, consent terms with only Annexure A is scanned and reproduced hereinbelow:

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL SUIT NO. 1113 OF 2018

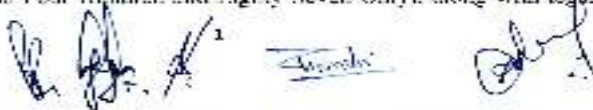
JSW Jaigarh Port Limited,)
A company incorporated under the laws of)
India having its registered office at JSW)
Centre, Bandra Kurla Complex, Bandra)
(East), Mumbai - 51.) Plaintiff

Vs

1. Gokul Shipping Services)
Having its office at 13/14, Ashok)
Chambers, Deyji Ratanski Marg,)
Datta Bunder, Masjid (East),)
Mumbai-09)
2. JSW Steel Limited)
A company incorporated under the laws)
of India having its registered office at JSW)
Centre, Bandra Kurla Complex, Bandra)
(East), Mumbai - 51) Defendants

CONSENT TERMS

WHEREAS the Plaintiff has filed the present suit against the Defendant No. 1 for a recovery of non-payment of *inter alia* port dues, pilotage, tug hire and berth hire charges of ₹4,53,90,487/- (Rupees Four Crores Fifty Three Lakhs Ninety Thousand Four Hundred and Eighty Seven Only), along with legal



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costs and contractual interests @ 18% p.a. from the date each invoice fell due until payment/realization thereof ["Suit Claim"], as more specifically stated in the plaint;

WHEREAS the Defendant no.2 has filed a criminal complaint dated 4/1/2019 against the Defendant no.1 *inter alia* for offenses alleging criminal breach of trust, cheating etc., whilst the aforesaid amounts were entrusted by the Defendant no.2 to the Defendant no.1 with the understanding that the same shall be further remitted by the Defendant no.1 to the Plaintiff, and whereas the police (BKC police station, Mumbai) has registered a FIR bearing no.32/19 dated 29/3/2019 in this regard,

WHEREAS Defendant No.1 contends that Defendant No. 2 had approached Defendant No.1 and had called upon Defendant No.1 to raise requisite Debit Notes on Defendant No. 2 and one, Amba River Coke Ltd respectively, in relation to the vessels calling in at the port. The Defendant No. 1 states that it has its own justification and reasoning for holding the amount being INR 4,50,61,669/- Hereto annexed and marked as Annexure 'A' is the List of Debit Notes.

The parties are now desirous of resolving the issues amicably and in furtherance whereof have agreed to execute these Consent Terms recording the full and complete understanding between the parties as under:

1. In full and final settlement of claims and / or counter claims arising out of the Suit Claim, all parties namely the Plaintiff, Defendant No. 1, Defendant No.2 and one Amba River Coke Ltd. (a subsidiary of JSW Steel Ltd.) agree as follows:
2. The Defendant No.1 Gokul Shipping Services, hereby hands over the following demand drafts totally a sum of INR 4,50,61,669/- (Indian



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Rupees Four Crores Fifty Lakh Sixty One Thousand Six Hundred and Sixty Nine Only):

(i) Demand Draft No. 004021 dated 01/07/2019 issued by Axis Bank Ltd. for a sum of INR 3,55,46,355/- (Indian Rupees Three Crores Fifty Five Lakh Forty Six Thousand Three Hundred and Fifty Five Only) drawn in favour of Defendant No. 2 i.e. JSW Steel Ltd.

(ii) Demand Draft No. 004022 dated 01/07/2019 issued by Axis Bank Ltd. for a sum of INR 95,15,134/- (Indian Rupees Ninety Five Lakh Fifteen Thousand Three Hundred and Fourteen Only) drawn in favour of Amba River Coke Ltd.

The Defendant No. 2 & Amba River Coke Ltd hereby acknowledge receipt of the respective Demand Drafts issued in their favour.

3. On receipt of the abovementioned Demand Drafts by Defendant No. 2 and Amba River Coke Ltd. parties agree as follows:

(i) Defendant No. 2 and Amba River Coke Ltd., respectively shall forthwith pay the aforesaid sums i.e. INR 3,55,46,355/- and INR 95,15,134/- to the Plaintiff. Defendant No. 1 is no way concerned or liable with the said transaction between Defendant No. 2, Amba River Coke Ltd. and the Plaintiff.

(ii) the Plaintiff shall withdraw the present Commercial Suit No. 1113 of 2013.

(iii) Defendant No.2 shall withdraw the aforesaid criminal complaint dated 4/1/2019 and shall render such assistance to Defendant No. 1 and/or file requisite statements in this regard before the police to facilitate closure/withdrawal of the criminal case by the police.

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- (iv) The Debit Notes raised by Defendant No. 1 and referred to in Annexure A shall stand cancelled. In this regard, Defendant No. 2 hereby confirms that it has not taken any undue advantage of the Debit Notes mentioned in Annexure A and agrees to indemnify Defendant No.1 against any crystallized claim or demand arising out of the said debit notes.
- (v) Neither party shall have any complaints, grievances, claims, demands or causes against each other arising out of or in connection with the Suit Claim as well as the FIR bearing no.82/19 dated 29/3/2019, except as otherwise specifically mentioned in these Consent Terms.

4. Parties shall maintain the confidentiality of the terms herein and undertake not to divulge the same to any third parties.
5. Each party undertakes to extend requisite cooperation and sign any further applications or documents as may be reasonably necessary to give effect to the terms and conditions in this Consent Terms.
6. These Consent Terms shall be binding upon the Plaintiff, the Defendants herein, Amba River Coke Ltd. and *inter alia* their respective agents, officials, partners, employees, coparceners, successor, heirs, subsidiary/ group companies and all persons claiming from/through them pertaining to the present proceedings.
7. The suit and any other motions /chamber summons taken out thereunder be disposed of in terms of these Consent Terms. No order as to costs.

Dated: 8th July 2019

Place: Mumbai

The block contains two handwritten signatures. The signature on the left is more complex and stylized, while the one on the right is simpler. Below the signatures is a date stamp that reads '8th July 2019'.

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JSW Jaigarh Port Limited /Plaintiff

Name: PRASAD U. RANEDesignation: General Manager

[Authorised Signatory]




Gokul Shipping Services /Defendant

No.1

Name: KUNAL R. VIHATE

Designation: Partner



Advocate for the Plaintiff

Name: ASHWIN SHANKARDesignation: Adv.

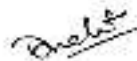


Gokul Shipping Services /Defendant

No.1

Name: KUNAL R. VIHATE

Designation: Partner



Advocate for Defendant No.1

Name: Adv. Dhruv AroraDesignation: Adv. Law Chambers



JSW Steel Limited /Defendant No.2

Name: P. Ashok KumarDesignation: General Manager
[Constituted Attorney]



Amba River Coke Ltd.

Name: Umesh KankarDesignation: AVR - Shipping
[Authorised Signatory]

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ANNEXURE - A

Sr. no.	Vessel Name	Debit Notes	Date of Debit Note	JSW Entity Name
1	M.V. PROUD	040/17-18	29-06-2017	JSW Steel Limited
2	M.V. FRONTIER KOTODUKI	041/17-18	29-06-2017	JSW Steel Limited
3	M.V. FRONTIER KOTODUKI	042/17-18	29-06-2017	Arba River Coke Ltd.
4	M.V. K. AMBITION	043/17-18	29-06-2017	Arba River Coke Ltd.
5	M.V. NAUTICAL DREAM*	044/17-18	29-06-2017	JSW Steel Limited
6	M.V. Q. MYRTALA	053/17-18	29-06-2017	JSW Steel Limited
7	M.V. WILSON OF THE SEA	054/17-18	29-06-2017	JSW Steel Limited
8	M.V. ORSTED	055/17-18	29-06-2017	JSW Steel Limited
9	M.V. LOWLANDS SUNRISE	045/17-18	29-06-2017	JSW Steel Limited
10	M.V. OCEAN CAMELOT	046/17-18	29-06-2017	JSW Steel Limited
11	M.V. TIGER LACONING	047/17-18	29-06-2017	JSW Steel Limited
12	M.V. KM. KOBE	048/17-18	29-06-2017	JSW Steel Limited
13	M.V. Q. KAK	049/17-18	29-06-2017	JSW Steel Limited
14	M.V. CAPE ASIA	050/17-18	29-06-2017	JSW Steel Limited
15	M.V. GENCO TIBERILUS	051/17-18	29-06-2017	JSW Steel Limited
16	M.V. CONFIDENCE	052/17-18	29-06-2017	Arba River Coke Ltd.

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3 Order in terms of the consent terms. All undertakings given in the consent terms are accepted and so ordered. All statements are accepted as undertaking to this Court.

4 Mr. Ashok Kumar, General Manager of Defendant No.2 and Mr.

Umesh Kandoi, authorised signatory of Amba River Coke Ltd., confirm having received Demand Draft as mentioned in paragraph 2 of the consent terms.

5 Suit stands disposed in terms of the consent terms. Notice of motion and Chambers summons accordingly stand disposed. All interim/adinterim orders also stand vacated. Refund of court fees, if any in accordance with rules.

(K.R. SHRIRAM, J.)