

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 25TH DAY OF APRIL 2019

THE HON'BLE MR. JUSTICE S.VAIDYANATHAN

A. No.3289 of 2019

M/s. Indo-Tech Transformers Limited,
Represented by its Chief Financial Officer,
Mr. Saikrishnan C.P.
Sy. No.153-210, Illuppapattu Village,
P.O. Rajakulam, KM.64,
Chennai- Bangalore Highway,
Kancheepuram-631 561, Tamilnadu. ... Applicant

-Versus-

1.M/s. Venus Controls & Switchgear(p) Ltd,
#A, Hare Street,
5th Floor, Ashoka House,
Kolkata-700 001.

2.M/s. Tamilnadu Transmission
Corporation Ltd (TRNTRANSCO)
10th Floor, N.P.K.R. Ramasamy Maaligai,
144, Anna Salai,
Chennai-600 002. Respondent

Application praying that this Hon'ble Court be pleased to grant leave to the Applicant to institute suit against the 1st Respondent/1st Defendant, before this Honble Court and Pass such orders that this Honble Court may deem fit and proper in the Circumstances of the case and thus render justice.

This Application coming on this day before this court for hearing the court made the following order:

The present Application has been filed *inter alia* under Clause 12 of Letters Patent seeking 'Leave to Sue' the 1st Defendant/1st Respondent before this Court.

<https://hcservices.ecourts.gov.in/> perusal of the proposed plaint that has been placed before this Court reveals that the entity shown as

'Plaintiff' in the proposed plaint is the 'Applicant' herein. Entities shown as 'Defendants' in the proposed plaint are 'Respondents' respectively in the instant Leave to Sue Application.

3. For the sake of convenience, parties in the instant Application are referred to by their respective ranks in the proposed plaint.

4. According to the Plaintiff, their Company is one of the largest Transformer manufacturers in the United States of America, offering a complete line of transformer products for Generation, Transmission and Distribution of Electrical Power. Prolec-GE is a 50:50 Joint Venture Company of GENERAL ELECTRIC, USA and XIGNUX Corporation of Mexico and it holds 74.35% in the capital of the Plaintiff from the year 2009 and since then, the Plaintiff has been steadily augmenting the range of transformer offerings to the Indian market. It had formally transitioned the brand to Prolec-GE, for all the transformers manufactured out of the Plaintiff. Prolec-GE is operating in India under the name of its Legal Entity as "Indo Tech Transformers Limited" and for statutory purposes, the Plaintiff is retaining the said name, since it is a listed Company.

5. The Plaintiff has further stated that the 1st Defendant placed a Purchase Order vide No.VCSPL/TNEB-001/Indo-Tech(GE)/15-16/010, dated 26.11.2015 for supply of four numbers 100 MVA, 230/110/11KV Auto Transformers for TANTRANSCO (TNEB) Project and the Purchase Order was received by the Applicant by email dated 30.09.2015 in Chennai and the same was duly signed and accepted by the Applicant in Chennai.

6. It is further stated that the Transformers manufactured and delivered as per the 'Purchase Order' are lying at the sites in Tamil Nadu, belonging to the 2nd Defendant, which is the end-user. The Plaintiff sent a legal notice dated 07.02.2019 to the 2nd Defendant, being the end-user, requesting to pay 70% of the pending amount

towards supply of transformers or for repossession of transformers. Though the 2nd Defendant has received the said letter, he did not send any reply. Hence, having no other alternative, the Plaintiff has instituted the proposed Suit to recover the outstanding amount of Rs.12,43,45,471/- (Rupees Twelve Crores Forty Three Lakhs Forty Five Thousand Four Hundred and Seventy One) from the Defendants, which includes the Invoice amount and the interest thereon.

7. Learned counsel for the Plaintiff submitted that the 1st Defendant's registered Office is situated at Kolkatta and the work carried out by the Plaintiff is at its factory at Kancheepuram and the transformers are delivered to the sites at Tiruppur and Shenbagapudur. Hence, according to the learned counsel for the Plaintiff, the cause of action of the dispute arose at Chennai, as the 2nd Defendant, being the end-user, is at Chennai.

8. Having perused the proposed plaint and the Affidavit filed in support of the instant Leave to Sue Application and in the light of the submissions made by the learned counsel for the Plaintiff, this Court is convinced that cause of action has arisen for invoking the territorial jurisdiction of this Court and therefore, the Plaintiff is entitled to Leave to Sue as prayed for.

In the result, this Application is ordered as prayed for.

Sd/- S.V.N.J

25.04.2019

//Certified to be a true copy//

Dated this the day of 2019

I.G/25.04.2019

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.