

psv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL EXECUTION APPLICATION NO.62 OF 2017
AND
COMM.CHAMBER SUMMONS NO.221 OF 2019**

Divya Global P. Limited	..Applicant
In the matter of	
Divya Global P. Limited	..Claimant
Vs.	
Neelam Garments	..Respondent

Mr.M.B. Kale with Ms.Juhi Bhogale i/b. Ms.Sonali Ghanekar for Applicant/Claimant.
Mr.Yakshay Chheda for Respondent.
Mr.Ramgopal Ojha, C.A. of applicant.
Mr.Bhavin Kantilal Jethwa, Proprietor of respondent.

**CORAM : G.S. KULKARNI, J.
DATE : 27th JANUARY, 2020**

P.C.:

Learned Counsel for the parties have tendered a joint memorandum of consent terms which records that parties intend to amicably settle all disputes subject matter of the execution application on the terms and conditions as set out in the memorandum of the consent terms. Paragraph 4 of the memorandum of consent terms sets out the manner in which the amount under the arbitral award would be paid by the respondent/judgment debtor to the applicant/award creditor. A total amount agreed to be paid against the award liability is Rs.1,19,48,944/-. It is to be paid in the following manner:-

Payment details	Amount	Date	Mode(Cheque/DD)
1 st Installment	25,00,000/-	24 th January, 2020	By D.D. No.031238
2 nd Installment	27,50,000/-	10 th March, 2020	By Cheque No.697461
3 rd Installment	27,50,000/-	10 th April, 2020	By Cheque No.697462
Total	80,00,000/-		

2. The payment of first installment of Rs.25 Lakhs by way of a Demand Draft drawn on ICICI Bank being Demand Draft No.031238 is handed over by the advocate for the award debtor to the advocates for the applicant. Even two post-dated cheques for the amount of Rs.27,50,000/- each payable on 10 March 2020 and 10 April 2020 are also handed over, details of which are set out in clause 4.2 of the memorandum of consent terms (supra).

3. The joint memorandum of consent terms is signed on behalf of the authorized signatories of the respective parties. It is also signed by the Advocates for the parties. There is no dispute on the signatures appearing on the joint memorandum of consent terms as also in regard to the terms and conditions as agreed upon. It is informed that the signatories to the consent terms are present in the Court and they are identified by their respective Advocates. Accordingly, the joint memorandum of consent terms is taken on record and marked “X” for identification.

4. Although the parties have agreed in paragraph 7 that the execution application be kept pending however learned Counsel for the parties agree that the execution application need not be kept pending and the same can be disposed of, however with a liberty to the applicant to revive the execution application in the event there is default on the part of respondent/judgment debtor in complying with the terms and conditions and/or dishonour of the cheque of any of the installments as agreed to be paid by way of post-dated cheques. It is accordingly disposed of with liberty to the judgment debtor to accordingly revive the execution application. No costs.

5. In view of disposal of the execution application, chamber summons No.221 of 2019 would also not survive. It is accordingly disposed of.

[G.S. KULKARNI, J.]