

ORDER SHEET

IA No. GA/7/2023

In

CS/14/2013

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

CIMMCO LTD.

-VS-

A. P. MOLLER-MAERSK A/S AND ORS.

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : June 26, 2023.

Appearance:

Mr. Gaurab Kumar Das, Adv.
... for the plaintiff.

Mr. Anuj Singh, Adv.
Mr. Ajit Kumar Chaubey, Adv.
Mr. Noorul Islam, Adv.
... for the defendants.

The Court: Counsel for the respective parties are present.

The plaintiff has filed an application being GA/7/2023 praying for the following reliefs : -

- a) Leave be granted to amend the cause-title of the present suit in the manner indicated in RED ink showing the proposed amendments in a copy of the plaint being Annexure 'C' hereto;
- b) Department be directed to carry out the amendment within a period of two weeks from the date of the order to be passed herein;
- c) Leave be given to the plaintiff to re-verify and re-affirm the plaint;
- d) The compromise and/or settlement in the form of the said agreement, being Annexure 'E' hereto, be recorded, and a decree be passed in accordance with such settlement and/or compromise being Annexure 'E' hereto;

- e) All and/or any interim orders passed in the suit, including the said order dated 21st December 2012, being Annexure 'D' hereto, be vacated;
- f) Leave be granted to obtain discharge and/or release of the said bank guarantee being no. 092BGFG123620002 dated 27th December 2012 for the sum of Rs.22,00,000/- issued by Syndicate Bank, Camac Street Branch;
- g) Such further and/or other order(s) as this Hon'ble Court may deem fit.

Counsel for the plaintiff submits that during the pendency of the suit, the name of the plaintiff company has been changed and that has been reflected in the proposed amendment.

Counsel for the plaintiff submits that the plaintiff and the defendant nos. 1 and 2 have entered into a settlement and as per the settlement, the plaintiff is entitled to get back Rs.22 lacs which the plaintiff deposited by way of Bank Guarantee in terms of the order dated 21st December, 2022.

Counsel for the respective parties submit that the plaintiff and the defendant nos. 1 and 2 have settled their disputes in the following terms and conditions : -

"THIS SETTLEMENT AGREEMENT is made on this 21st day of March, 2023.

BETWEEN

TITAGARH WAGONS LIMITED, a company within the meaning of the Companies Act, 2013 having its Registered Office at 756, Anandapur, Eastern Metropolitan Bypass, Kolkata – 700107, hereinafter referred to as the **PARTY OF THE FIRST PART** (which expression shall unless otherwise repugnant to the context or the

subject shall be deemed to mean and include its successors, representatives and assigns) of the **ONE PART**

A N D

- (1) **A. P. MOLLER-MAERSK A/S**, a company incorporated under the appropriate laws of Denmark, having its office at 50, Esplanaden, DK- 1098, Copenhagen K Denmark; **and**
- (2) **MAERSK LINE INDIA PRIVATE LIMITED**, a company within the meaning of the Companies Act, 2013 having its eastern regional office at 401 A/B, 402 A/B, Jasmine Towers, 31, Shakespeare Sarani, 4th Floor, Kolkata 700 017 hereinafter referred to as the **PARTIES OF THE SECOND PART** (which expression shall unless otherwise repugnant to the context or the subject shall be deemed to mean and include its successors, representatives and assigns) of the **SECOND PART**.

WHEREAS

- A. Cimmco Limited, now merged into Titagarh Wagons Limited (The Party of the First Part) pursuant to Order dated 30th September, 2020 passed by the Hon'ble National Company Law Tribunal, Kolkata Bench, has instituted a Civil Suit being C.S. No. 14 of 2013 before the Hon'ble High Court at Calcutta against the Parties of the Second Part and others.
- B. In the aforesaid suit, various orders have been passed from time to time whereby and whereunder the Party of the First Part has furnished a Bank Guarantee being no. 092BGFG123620002 dated 27.12.2012 for a sum of Rs.22,00,000/- in favour of Maersk Line India Private Limited and the same has been renewed from time to time and lastly renewed on 14.07.2022 being no. VTCBGFN181240004 and which is valid till 30.06.2023 as confirmed by the Party of the First Part.

- C. The Party of the First part and the Parties of the Second Part have now decided to settle all disputes pending between them in the aforesaid suit along with all connected and general applications filed from time to time by both the parties, inter alia, on the terms and conditions contained hereunder.

NOW THIS AGREEMENT WITNESSETH AS UNDER

- a. The Party of the First Part shall pay to the Parties of the Second Part a sum of Rs.14,16,000/-(Rupees Fourteen Lacs Sixteen Thousand Only) inclusive of Goods and Services Tax in full and final settlement of all claims of the Parties of the Second Part against the party of the First Part.
- b. The Parties of the second part hereby unconditionally and irrevocably agree that simultaneously with the execution of this agreement, the Party of the First Part shall hand over a demand draft number 632015 dated 09.03.2023 issued in the name of Maersk Line India Private Limited for sum of **14,16,000/-** (Rupees Fourteen Lacs Sixteen Thousand Only) drawn on ICICI bank, to the authorized representative of the Parties of the Second Part who shall handover the Agreement duly signed by the Parties of the Second Part upon credit of the said settlement amount of Rs. 14,16,000/- (Rupees Fourteen Lacs Sixteen Thousand Only) into the account of Maersk Line India Private Limited.
- c. Upon receiving the aforesaid documents from the Parties of the Second Part, the Party of the First Part shall be entitled to apply for withdrawal of the aforesaid suit including claim and counter claim of the Party of the First Part and the Parties of the Second Part respectively and discharge of BG being no.092BGFG123620002 dated 27.12.2012 for a sum of Rs.22,00,000/- in favour of Maersk Line India Private Limited or any extension thereof. The Parties of the Second Part hereby agree and undertake to consent and/or convey their 'No Objection' to such application to the Hon'ble High Court at Calcutta and for

such purpose shall ensure that they are adequately represented by their counsel at the time of hearing of such application to be made by the Party of the First Part for the aforesaid purpose.

- d. The Party of the First Part and the Parties of the Second Part shall apply for the said civil suit being C.S. No.14 of 2013 and the claim and counterclaim filed on behalf of the party of the First Part and the Parties of the Second Part therein to stand dismissed as withdrawn by the Party of the First Part and the Parties of the Second Part respectively including all connected applications made by the parties from time to time, in view of the present settlement and in terms hereof.
- e. The parties hereto hereby agree that this settlement resolves all disputes among the Parties hereto and neither of the Parties shall have any further claim or shall be entitled to agitate any claim in dispute in C. S. No. 14 of 2013 and in the Counter Claim filed with regard thereto. It is further agreed that neither of the Parties and/or their assigns/affiliates/associates shall raise any of the issues involved in the subject legal proceedings in any forum hereafter and shall not have any claims whatsoever against each other.
- f. Upon the suit being C. S. No.14 of 2013 along with all connected and general applications including the contempt/other applications being disposed of in terms hereof, both the Parties shall stand released and discharged to each other from all past, present and further claims, demands, actions and causes of action of any kind or nature, whether known or unknown, based on, arising from, or relating to all transactions, communications, acts, failure to act, incidents, and circumstances. The Parties agree that there will be no disparaging statement issued directly or indirectly by the Parties against each other.

- g. The Party of the First Part also confirms that none of the other defendants in C.S. No. 14 of 2013 have filed any claim or counterclaim against the Party of the First Part. The party of the First Part assures and undertakes that in the event of any future claim being raised against the Party of the First Part, though beyond limitation period, in respect of the self-same transactions being raised by any other party arrayed as defendant in C.S. No.14 of 2013, the Party of the First Part shall indemnify the Parties of Second Part and the Parties of the Second Part shall not have any liability therefor.

IN WITNESS WHEREOF the parties hereto abovenamed have set and subscribed their respective hands and seals the day, month and year first above written.”

Counsel for the plaintiff submits that as the plaintiff and the defendant nos. 1 and 2 have settled the disputes in terms of the settlement, accordingly, the plaintiff is not interested to proceed with the suit against the defendant nos. 3 to 5 and prays for dismissal of the suit against the defendant nos. 3 to 5.

In view of the above, prayer (a) to (f) of GA No. 7 of 2023 is allowed. The Registrar, Original Side is directed to release the Bank Guarantee of Rs. 22 lacs in favour of the plaintiff after proper identification within a week after completion of amendment.

CS/14/2013 and the connected application being GA/7/2023 are disposed of in terms of the above order. Decree be drawn accordingly.

(KRISHNA RAO, J.)