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C.S.No. 242 of 2020

IN THE HIGH Court OF JUDICATURE AT MADRAS

Dated : 25.07.2023

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.S.No. 242 of 2020

Loyal Credit and Investment Ltd.,
Rep.by Authorised signatory
Mr. K.K.Govindamoorthy.
“Kothari Building”, IV Floor,
No.114, Mahatma Gandhi Road,
Nungambakkam High Road,
Chennai - 600 034.

... plaintiffs

Vs.

1. The EXIM Bank of India
Represented by its Director,
21st Floor, World Trade Centre-1
Cuffe Parade, Mumbai - 400 005

2.The EXIM Bank of India,
Rep. by its Regional Head,
Overseas Towers, 4 & 5th Floors,
No.756-L, Anna Salai,
Chennai - 600 002



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3. Indo Wind Energy Ltd.,
Rep. by its Chief Financial
Officer Mr.N.K.Hari Babu
having its registered office at
No.114, Kothari Buildings,
4th Floor, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 006

... defendants

Prayer: Plaintiff filed under Order VII Rule 1 of CPC read with Section 7 of the Commercial Courts Act and Order IV Rule 1 of the Original Side Rules, for

A. DECLARING the Deed of Corporate Guarantee dated 25-03-2013 and the Deed of Pledge dated 25-03-2013 executed by the plaintiff in favour of the 1st and 2nd defendants stood determined/released/ extinguished and consequent invocation of Deed of Corporate Guarantee and Enforcement of Deed of Pledge to be void and not binding the plaintiff or its successors and every person claiming under it;

B. Grant a PERMANENT INJUNCTION restraining the 1st and 2nd defendants, their men, agent, servants, assigns, administrators,



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successors in interest and every person claiming under them from enforcing the Corporate Guarantee dated 25-03-2013 and enforcing the Deed of Pledge dated 25-03-2013, executed by the plaintiff in all times to come;

C. Grant a MANDATORY INJUNCTION directing the 1st and 2nd defendants jointly and severally to hand over the original Deed of Corporate Guarantee dated 25.03.2013 and Deed of Pledge dated 25.03.2013 executed by the Plaintiff to it or its order;

D. To award the costs of the suit and

E. To pass such or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

For Plaintiff : Mr. P.Ellayaraja

For Defendants : Mr. D.Sairam Kumar
1 & 2

For Defendant 3 : Mr. C.S.K. Sathish.



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JUDGEMENT

Memo has been filed by the plaintiff, wherein it is stated that the plaintiff and the 3rd defendant had settled the issue. The suit is filed by the plaintiff, who was a corporate guarantor of the 3rd defendant for declaration and injunction against the 1st and 2nd defendants from invoking the corporate guarantee dated 25.03.2013 and the deed of pledge dated 25.03.2013 executed by the plaintiff in favour of the defendants 1 and 2, for the benefit of the 3rd defendant.

2. It appears that the 1st defendant Bank had initiated proceedings under the Insolvency and Bankruptcy Code against the 3rd defendant and the parties had arrived at One Time Settlement. The 3rd defendant had also complied with the terms of this One Time Settlement. Therefore, the 1st defendant has also agreed to handover 40 Lakh equity shares of the plaintiff back to the plaintiff



subject to the plaintiff agreeing to withdraw the suit. The dispute between 1st and 3rd defendants has been settled.

3. In paragraph Nos.5 & 6 of the memo it has been stated as follows:

“5. Accordingly, as all the pending disputes between the 1st Defendant and the 3rd Defendant have been settled and liabilities have been discharged, the parties have now agreed to withdraw all proceedings as between them and to file necessary compromise. It is submitted that the Plaintiff herein reserves its right to proceed against the 3rd Defendant to recover monies that have been paid by it towards the settlement proposal, exercising the right of subrogation. In compliance of the reciprocal promises, the Plaintiff seeks to withdraw the suit recording this memo.

6. The 3rd Defendant acknowledge that a sum of Rs.18.00 crore (Rupees eighteen crore only) being part of the OTS amount has been paid by the Plaintiff to the 1st Defendant towards the discharge of the liability of 3rd



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Defendant as detailed in 3 hereinabove and seek to exercise the right of subrogation as per prevailing law. The 3rd Defendant confirming the said fact and in acknowledgment of the same has counter signed this memo with due authority. ”

4. The plaintiff had therefore sought permission of this Court to withdraw the present suit as settled out of the Court and sought for refund of Court fees. The memo is taken on file.

5. The suit is dismissed as settled out of the Court. The Registry is directed to refund the Court fees as per procedure. No costs.

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Internet : Yes/No
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P.T. ASHA. J,

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