OCD-6

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

CS-COM/717/2024
IA NO: GA-COM/2/2025, GA-COM/3/2025, GA-COM/5/2025

M/S ANUBANDH FINANCIAL SERVICES PVT LTD
VS
M/S AMIT VANIJYA PVT LTD AND ORS

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : September 04, 2025.

Appearance:
Mr. Rudraman Bhattacharya, Sr. Adv.
Mr. Deepnath Roy Chowdhury, Adv.
Mr. Debraj Sahu, Adv.
Mr. Akash Munshi, Adv.
Mr. Bhaskar Dwivedi, Adv.
Mr. T. Saha, Adv.
... for the plaintiff

Mr. Anuj Singh, Adv.
Ms. Sambrita B. Chatterjee, Adv.
.... For the defendant Nos.2 & 3

Re:GA-COM/5/2025

1. The plaintiff has filed the present application under Order 12 Rule 6 of the Code of Civil Procedure, praying for judgment upon admission being GA-COM/2/2025.

2. Defendant Nos.2 and 3 have filed an application being GA-COM/5/2025 praying for deletion of their names from the cause title of the suit.

3. Counsel for the plaintiff has not raised any objection for deletion of the name of the defendant Nos.2 and 3 from the cause title of the suit. Accordingly,

the names of the defendant Nos.2 and 3 are deleted from the cause title of the suit.

4. Department is directed to delete the names of the defendant nos.2 and 3 from the cause title of the suit within a period of one week from date.

5. GA-COM/5/2025 is disposed of.

Re:GA-COM/2/2025

6. The plaintiff has filed the present suit praying for a decree of a sum of Rs.1,52,98,316/- along with interest at the rate of 18% per annum. Plaintiff is a private limited company carrying on business of non-banking financial institution. The defendant no.1 is a private limited company. In the month of October 2015, the defendant for the expansion of their business approached the plaintiff for financial assistance. On the request of the defendant, the plaintiff had agreed to provide short term loan as financial accommodation to the tune of Rs.1 crore on the basis of the understanding that defendant shall pay interest at the rate of 12% per annum. As per the discussions between the parties, the plaintiff has paid an amount of Rs.1 crore by way of RTGS on 5th October, 2015, which was duly accepted by the defendant. On receipt of the said amount, by a letter dated 5th October, 2015, the defendant has confirmed that the defendant has received an amount of Rs.1 crore from the plaintiff for 178 days at the rate of 12% per annum with effect from 5th October, 2015 to 31st March, 2016.

7. The defendant has also issued cheques in favour of the plaintiff for repayment of the principal amount of Rs.1 crore and for interest of Rs.5,26,684/-. In the said letter, the defendant has undertaken that he had issued the said cheque for honour of the payment paid by the plaintiff and the bank will not stop the payment as per the cheque and defendant will not close the bank account without obtaining prior permission in writing from the plaintiff and the plaintiff is not necessary to give any notice to the defendant for presentation of the said cheque, the defendant will not change the authorized signatories in the bank and will not accept the resignation of the present directors of the defendant company without prior permission of the plaintiff.

8. By a letter dated 1st October, 2020, the defendant has renewed the principal loan amount of Rs.1 crore for a further period of 183 days at the rate of 14% per annum within effect from 1st April, 2020 to 30th June, 2020 and in place of the earlier cheque, the defendant had issued three new cheques of principal amount of Rs.1 crore and two cheques for the interest amount.

9. Again on 1st October, 2019, the defendant has renewed the loan amount of Rs.1 Crore for a further period of 183 days at the rate of 14% per annum within effect from 1st October, 2019 to 31th December, 2019 and 1st January, 2020 to 31st March, 2020.

10. Again the defendant has taken the old cheque and issued the three new chques for the principal amount as well as the interest amount. Simultaneously, time and again, the defendant has renewed the loan amount till 31st July, 2016 and issued the cheques from time to time.

11. After the period of the loan was over, the plaintiff has presented the cheques in the bank but the said cheques were dishonoured with the endorsement “fund insufficient”. After the return of the cheques, the plaintiff had issued notice under Section 138 of the Negotiable Instrument Act, on 12th November, 2020 to the defendant. The same was duly received by the defendant and on receipt of the said notice, the defendant has sent a notice admitting the claim of the plaintiff but only has taken the stand that the defendant would return the principal amount only after expiry of 7 years from the date of giving such notice. As the defendant has not paid the amount in spite of the receipt of the amount, the plaintiff had initiated a proceeding under Section 7 of the IBC, before the National Company Law Tribunal but the same was dismissed by an order dated 4th March, 2020, with the liberty to take appropriate steps and after the order passed by the learned Tribunal, the plaintiff has filed the present suit.

12. Though the defendant had received the writ of summons and appeared before this Court but not filed the written statement.

13. Counsel for the plaintiff submits that from the documents it is categorically established that the plaintiff has paid the principal amount of Rs.1 crore to the defendant initially on 5th October, 2015 for the period of 183 days at the rate of 12% per annum and subsequently, on the request of the defendant the period of the loan amount was extended from time to time and the defendant had issued the cheuqes. Initially the rate of interest was 12%. Subsequently the interest was increased at the rate of 14%. The plaintiff has

drawn the attention of this Court to the cheques issued by the defendant wherein it reveals that the cheques issued by the defendant were duly presented by the plaintiff and the same was dishonoured with the reasons "insufficient fund". The plaintiff has also relied upon the reply to the legal notice sent by the defendant on 20th November, 2020, wherein the defendant has categorically stated that:

> "The aforesaid loan was given by your Client to my Clients, M/s Amit Vanijya Pvt Ltd for a long term loan basis for an agreed period of seven years with the clear understanding that for the purpose of payment of interest periodically as agreed and for confirmation of the loan amount periodically only for the formalities sake such loan will be renewed on papers for a period of 3 months at a time but will not be actually refunded and it was agreed that the interest would be paid as agreed periodically but the principal amount of Rs. 1.0 crore (Rupees one crore only) would be refunded only after expiry of seven years from the date of giving such loan and therefore, the due date for repayment of loan would be on or about 4th October 2022."

14. Counsel for the defendant submits that the defendant had unequivocally admitted the claim of the plaintiff and as such there is no defence of the defendant to proceed the case further against the plaintiff and as such this is a fit case wherein the Court can pass a judgment upon admission.

15. Per contra, learned Advocate appearing for the defendant submits that the defendant has admitted the claim of the plaintiff in the reply and as such no further submission can be made but he submits that no interest and cost be awarded.

16. Heard the learned counsel for the respective parties and perused the materials on record.

17. This Court finds that as per the request made by the defendant, the plaintiff had transferred an amount of Rs.1 crore in the account of the defendant. The defendant had accepted the same by way of a letter dated 5th October, 2015 and subsequently the period of the loan amount was extended from time to time and the defendant had issued several cheques for principal amount as well as for interest but finally the cheques were dishonoured and the plaintiff had issued notice for recovery of the loan amount. In the reply of the said notice, the defendant had admitted the claim of the plaintiff.

18. Considering the above, this Court finds that the defendant has unequivocally admitted the claim of the plaintiff and as such this is the fit case wherein the judgment upon admission can be passed.

19. In view of the above, this Court finds that the defendant is entitled to get a decree upon admission for a sum of Rs.1,52,98,316/- along with interest at the rate of 14% per annum from 1st May, 2024 till the realization of the total amount.

20. This is the commercial suit. The defendant has admitted the claim of the plaintiff. In spite of admitting the same, the defendant has not paid the amount.

21. The plaintiff had initiated pre-mediation process but the defendant has not come forward for settlement of the dispute and the plaintiff had been compelled to file the present suit.

22. Thus, considering the above, this Court finds that the plaintiff is also entitled to cost of Rs.75,000/-.

23. GA-COM/2/2025 is disposed of. Accordingly CS-COM/717/2024 is also disposed of. Consequently all pending applications are also disposed of.

24. Decree be drawn up accordingly.

25. GA-COM/3/2025 is also disposed of.

(KRISHNA RAO, J.)

S.De