

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

SUIT NO.1071 OF 2006

Pankaj Aluminium Industries Ltd.)....Plaintiff

V/s.

Bharat Aluminium Co. Ltd.)....Defendant

Mr.Ganesh Murthy i/by M/s.K.V.Aiyar & Associates for plaintiff.

Mr.Rohaan Cama a/w Mr.Dhawal A.Patil i/by K.Ashar & Co. for defendant.

CORAM : K.R.SHRIRAM,J

DATE : 11.7.2017

P.C.:-

1 The following issues arise in the matter.

ISSUES

- 1) Whether the plaintiff proves that this Hon'ble Court has jurisdiction to entertain and try the present Suit?
- 2) Whether the Defendant proves that the present Suit ought to be dismissed on the ground of res judicata?
- 3) Whether the Plaintiff proves that Defendant was not entitled to appropriate Rs. 3,38,16,720/- or any other amount there from towards the dues of Anish Metals Pvt. Ltd. from the Plaintiff?
- 4) Whether the Defendant proves that Anish Metals Pvt. Ltd. has failed and neglected to make payment of the value of the goods supplied by the Defendant?

5) Whether the Plaintiff proves that the adjustments by the Defendant of the dues of Anish Metals Pvt. Ltd. amounts to conversion and misappropriation by the Defendant?

6) Whether the Plaintiff proves that the Defendant was bound to deliver 437.5 m/ton of Alluminium Wire Rods & ingots and other Alluminium product as per the Contract with the Plaintiff or to refund the sum of Rs.3,52,26,499/- to the Plaintiff?

7) Whether Plaintiff proves that the Defendant has committed fraud and criminal breach of trust as merchant by not supplying the goods in terms of the contract?

8) Whether the Plaintiff proves that the Plaintiff, Anish Metals Pvt. Ltd., Pankaj Extrusion Ltd., Pankaj Metal Pvt. Ltd. and Hiren Aluminium Ltd. were treated as one group only for the purpose of discount and there was no financial integrity between them?

9) Whether the Plaintiff proves that the Defendant has addressed 3 fax messages to them, all dated 31st January, 2006 viz. Exhibited as 'L', 'M' and 'N' to the Plaintiff?

10) Whether the plaintiff proves that they are entitled to

damages and decree in the sum of Rs.47,83,125/-,
Rs.7,50,00,000/- and sum of Rs.10,00,000/- together
with interest thereon ?

11) Whether the plaintiff proves that whether they are
entitled to any interest and for what period and at what
period ?

12) What decree ? What order ?

2 Parties to file their respective affidavit of documents and
give inspection to each other within two weeks. Within one week
thereafter parties to exchange statement of admission and denial
with reasons for denial. On or before 19.8.2017 plaintiffs to file their
list of witnesses, affidavit in lieu of examination in chief of the 1st
witness together with compilation of documents and serve a copy
thereof upon the defendants.

3 Stand over to 28.8.2017 for marking of
documents/receiving evidence at which time plaintiffs' 1st witness
shall remain present in Court.

(K.R.SHRIRAM,J)

