

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(IN THE SUB-REGISTRY OF DAR ES SALAAM)**

**AT DAR ES SALAAM.**

**CIVIL CASE NO. 149 OF 2023**

**MANJIU HARDWARE AND  
GENERAL SUPPLY LIMITED.....PLAINTIFF**

**VERSUS**

**HEMATEC INVESTMENT LIMITED..... DEFENDANT**

**CONSENT JUDGMENT**

*Last hearing date: 28/03/2024*

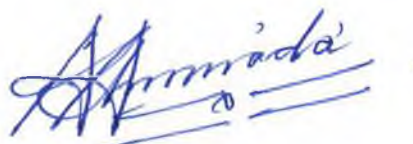
*Date of judgment: 28/03/2024*

**A.A. MBAGWA J.**

This judgment stems from a deed of settlement duly signed and filed by the parties in this Court on 28<sup>th</sup> day of March 2024.

The plaintiff herein Manjiu Hardware and General Supply Limited instituted the present suit against the defendant namely, Hematec Investment Limited praying for judgment and decree as follows;

- a) This Honourable Court be pleased to make an order that, the defendant is liable to pay the plaintiff the sum of Tshs.



306,030,071.26/= (Tanzania Shillings Three Hundred and Six Million and Thirty Thousand and Seventy-One and Twenty-Six Cents) only as an outstanding amount for the electrical and electronic hardware materials which were supplied to the defendant on a credit basis.

- b) An interest rate of 18% of the outstanding amount of Tshs. 306,030,071.26/= from the date the cause of action accrued to the date of full settlement of the decretal sum.
- c) Interest at bank rate on the decretal sum calculated from the date of filing the suit to the date of final judgment.
- d) General damages of Tshs. 100,000,000/= (Tanzania shillings one hundred million).
- e) Costs of this suit.
- f) Any other relief (s) this Honourable Court deems just and proper to grant

Briefly, the material facts that triggered the institution of this suit go as follows; the plaintiff on diverse dates from 2018 to 2023 entered into business transactions with the defendant through which the plaintiff supplied various electrical and electronic hardware to the defendant to the tune of Tshs. 981,546,290/= on a credit basis. However, contrary to the agreement



terms, the defendant paid part of the debt and failed to pay an outstanding balance of Tshs. 306,030,071.26/=. As such, after unsuccessful efforts to settle the matter out of the court, the plaintiff chose to file the present suit to recover the outstanding amount as stated hereinabove.

When the matter was scheduled for hearing, Mr. Bernard Masimba, learned advocate for the plaintiff informed the Court that the parties had amicably settled the dispute and the deed of settlement had been duly signed and filed in Court. He thus prayed the court to record the deed of settlement to form part and parcel of the consent judgment and decree of the Court.

On the adversary side, Mr. Fraterlin Munale, the learned counsel for the defendant joined hands with the plaintiff's counsel. He similarly beseeched the Court to adopt and record the settlement deed to form part of the consent judgment and decree in terms of Order XXIII rule 3 of the Civil Procedure Code [Cap. 33 R.E. 2019].

The law is very clear on disposal of cases by settlement where parties mutually agree to settle their dispute through amicable means. Order XXIII rule 3 of the Civil Procedure Code under which this settlement deed was filed provides as follows;

*"Where it is proved to the satisfaction of the court that a suit has been adjusted wholly or in part by any lawful agreement or compromise, or where the defendant*



*satisfies the plaintiff in respect of the whole or any part of the subject matter of the suit, the court shall order such agreement, compromise or satisfaction to be recorded, and shall pass a decree in accordance therewith so far as it relates to the suit".*

I have keenly navigated through the said deed of settlement filed in this court on the 28<sup>th</sup> day of March 2024 in terms of Order XXIII rule 3 of the Civil Procedure Code. I am satisfied that the same was on 27<sup>th</sup> March 2024 duly signed by both parties and mutually consented. Additionally, I have scanned the terms and conditions of the settlement deed and found them on all fours of the law.

Presently, the use of amicable settlement is highly recommended by the court as exhibited in a number of cases including **Motor Vessel Sepideh and Another vs. Yusuph Mohamed Yusuph and two Others**, Civil Application No.237 of 2013, CAT at Dar es Salaam and **Jaffrey Indi. Sian Ltd vs M/s Beijing Construction Engineering Group Limited**, Commercial Case No. 38 of 2021. In the latter, the court remarked that parties' mutual settlement of cases is a route encouraged all over the world. In view thereof, the deed of settlement is hereby recorded and adopted to form part and parcel of the consent judgment hence the suit is hereby marked settled with the following orders;



1. Parties have agreed that, without prejudice, the outstanding debt is Tanzania Shillings Two Hundred Twenty Million (TZS 220,000,000/=). Parties have agreed that the defendant will pay the Plaintiff the said monies at the final settlement and payment to the plaintiff herein.
2. The settlement monies will be paid for the period of two (2) years from the date this execution agreement is registered as the final decree of the High Court. The parties have agreed that the settlement monies will be paid within the period stated. Whereby the payment will be made through the plaintiff's bank account registered in the name of Manjiu Hardware and General Supply Limited maintained at CRDB Bank PLC with Account number 0150235941600 or other convenient modes of payment as parties shall agree.
3. Parties have agreed that the settlement monies shall not attract or accrue any commercial, court, or bank rate interests from the settled amount under whatever circumstances. The amount settled herein shall be fixed therefrom as appeared herein.
4. This settlement shall be filed and recorded as the decree of the High Court in respect of Civil Case No. 149 of 2023 and any violation will face execution consequences. The commencement and validity of the



agreement shall be on the date it is registered as the decree of the Court.

5. Parties have agreed to waive legal fees involved in prosecuting and defending the suit and hence each party has agreed to bear their own costs of the case and any other incidental to it.
6. That it is hereby understood and agreed that the above-agreed payment shall not be deemed to be an admission of liability on the part of the defendant herein and that the said payment is effected entirely without prejudice to any rights of the said plaintiff or defendant in respect of the claimed transactions.
7. That this agreement shall be issued in four counterparts all of them being equally authentic and all constituting the same instrument as the original.
8. That, this Deed of Settlement contains the entire agreement by and between the parties and no party shall be bound by any undertaking, representation, warranties, promise, or the like that are not recorded herein.
9. That, the entire Deed of Settlement is and shall be governed by the laws of Tanzania.



It is so ordered.

Dated at Dar es Salaam this 28<sup>th</sup> day of March 2024.



A handwritten signature in blue ink, appearing to read "A.A. Mbagwa", with a date "28/03/2024" written below it.

**A.A. Mbagwa**

**JUDGE**

**28/03/2024**