

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

**(COMMERCIAL DIVISION)**

**AT DAR ES SALAAM**

**COMMERCIAL CASE NO. 83 OF 2019**

**EXIM BANK (TANZANIA) LTD.....PLAINTIFF**

**VERSUS**

**M/S ACE DISTRIBUTORS ( T) LIMITED.....1<sup>ST</sup> DEFENDANT**

**M/S MASAKI APARTMENTS LIMITED ..... 2<sup>ND</sup> DEFENDANT**

**SHARMAPAL BIRCHAND AGGARWAL.....3<sup>RD</sup> DEFENDANT**

**ZUBEDA ABDULBERALI LALANI**

**As administrator of the estate of**

**ABDUL AZIZ LALANI.....4<sup>TH</sup> DEFENDANT**

**ANAND SATYA VAN CHANDE .....5<sup>TH</sup> DEFENDANT**

**1<sup>ST</sup> CONSENT JUDGMENT**

*Date of Last Order: 14/2/2023*

*Date of Judgment: 24/2/2023*

**AGATHO, J.:**

This consent judgement emanates from a deed of settlement duly signed by the 5<sup>th</sup> defendant ANAND SATYAVAN CHANDE and Plaintiff in this court on, 16<sup>th</sup> February, 2023. Plaintiff is a registered company under the Companies Act No. 12 of 2002 R.E 2002 and licensed under the Banking and financial institution Act of 2006 to carry out banking business and the 1<sup>st</sup> and 2<sup>nd</sup> defendants are registered companies under the Companies Act No. 12 of 2002 R.E 2002, the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup>

Defendants are guarantors of the 1<sup>st</sup> defendants' loan advanced by the plaintiff. By way of plaint the plaintiff Exim Bank (Tanzania) Limited instituted this suit against the above-named Defendants praying for judgment and decree jointly and severally for following reliefs

- i. Payment of principal sum of USD 623,985.58 as on 30/3/2020
- ii. Payment of the interest at the rate of 8.5 per annum from 31/10/2017 to the date of full payment in full
- iii. Payment of penalty of 2.5% per annum for the unpaid sum from 31/10/2017 to the date of payment in full
- iv. Interest on the decretal sum at the court rate from the date of judgement to the date of payment in full.
- v. In alternative disposal of the securities
- vi. Costs of the suit.

On 15<sup>th</sup> February, 2023 when the matter came for necessary order parties informed the court that, the parties by consent had signed Deed of settlement and the same prayed that, this court be pleased to mark the matter settled and proceed to issue consent judgment under Order XXIII Rule 3 of the Civil Procedure Code. I have dispassionately gone through the deed of settlement dated 15<sup>th</sup> February, 2023, and in terms of Order

XXIII Rule 3 of the Civil Procedure Code and Rule 2(2) of the High Court (Commercial Division) Procedure Rules, 2012 as amended in 2019. I am satisfied that, the same was mutually consented. In the view of above, the deed of settlement is hereby recorded and adopted to form part of consent judgement as prayed by parties on the following order;

- i. Parties agree that the total outstanding loan payable to the Plaintiff as of 18<sup>th</sup> February 2022 is TZS 8,036,413,785.71 (Say Eight Billion Thirty-Six Million Four Hundred Thirteen Thousand Seven Hundred Eighty-Five and Seventy-One Cents).
- ii. That in the spirit of settlement, the Plaintiff shall waive penal interest of TZS3,973,413,785.71 (say Three Billion Nine Hundred Seventy-Three Million Four Hundred Thirteen Thousand Seven Hundred Eighty-Five and Seventy-One Cents) which shall make loan balance to be TZS 4,063,000,000.00 (say Four Billion Sixty-Three Million Only).
- iii. That from the agreed total outstanding loan balance of TZS 4,063,000,000.00 mentioned above, the 5<sup>th</sup> Defendant has agreed to settle the outstanding amount of TZS 1,500,000,000.00 only (say One Billion Five Hundred Million

Only) and the remaining balance shall be settled by the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants.

iv. That parties have agreed the outstanding amount of TZS 1,500,000,000 shall be paid within eight (8) years whereas for the period starting from December 2022 to December 2023, the 5<sup>th</sup> Defendant shall make a total deposit of TZS 55,920,000.00 (say, Tanzania Shillings Fifty-five Million Nine Hundred Twenty Thousand) as per below Settlement Repayment Schedule. No interest will be paid during this period.

v. That the remaining balance of TZS 1,442,682,000.00 (say Tanzania Shillings One Billion Four Hundred Forty-Two Million Six Hundred Eighty-Two Thousand) shall be repaid within a period of 84 months at 5.0% per year as per below Settlement Repayment Schedule:

#### **Settlement Repayment Schedule**

Pmt Period	Payment Date	Beginning Balance	Principle Amount	Interest Amount	Required Installment Amount	Ending Balance	Interest Rate
0	27-Nov-2022	1,500,000,000.00	0.00	0.00	0.00	1,500,000,000.00	0%
0	27-Dec-2022	1,500,000,000.00	1,398,000.00	0.00	1,398,000.00	1,498,602,000.00	0%
1	27-Jan-2023	1,498,602,000.00	1,398,000.00	0.00	1,398,000.00	1,497,204,000.00	0%
2	27-Feb-2023	1,497,204,000.00	1,398,000.00	0.00	1,398,000.00	1,495,806,000.00	0%
3	27-Mar-2023	1,495,806,000.00	1,398,000.00	0.00	1,398,000.00	1,494,408,000.00	0%

4	27-Apr-2023	1,494,408,000.00	1,398,000.00	0.00	1,398,000.00	1,493,010,000.00	0%
5	27-May-2023	1,493,010,000.00	1,398,000.00	0.00	1,398,000.00	1,491,612,000.00	0%
6	27-Jun-2023	1,491,612,000.00	6,990,000.00	0.00	6,990,000.00	1,484,622,000.00	0%
7	27-Jul-2023	1,484,622,000.00	6,990,000.00	0.00	6,990,000.00	1,477,632,000.00	0%
8	27-Aug-2023	1,477,632,000.00	6,990,000.00	0.00	6,990,000.00	1,470,642,000.00	0%
9	27-Sep-2023	1,470,642,000.00	6,990,000.00	0.00	6,990,000.00	1,463,652,000.00	0%
10	27-Oct-2023	1,463,652,000.00	6,990,000.00	0.00	6,990,000.00	1,456,662,000.00	0%
11	27-Nov-2023	1,456,662,000.00	6,990,000.00	0.00	6,990,000.00	1,449,672,000.00	0%
12	27-Dec-2023	1,449,672,000.00	6,990,000.00	0.00	6,990,000.00	1,442,682,000.00	0%
13	2-7-Jan=2024	1,442,682,000.00	9,018,542.19	6,126,457.81	15,145,000.00	1,433,663,457.81	5%
14	27-Feb-2024	1,433,663,457.81	9,056,840.11	6,088,159.89	15,145,000.00	1,424,606,617.70	5%

Pmt Period	Payment Date	Beginning Balance	Principle Amount	Interest Amount	Required Instalment Amount	Ending Balance	Inte rest Rate
15	27-Mar-2024	1,424,606,617.70	9,485,603.85	5,659,396.15	15,145,000.00	1,415,121,013.85	5%
16	27-Apr-2024	1,415,121,013.85	9,135,582.00	6,009,418.00	15,145,000.00	1,405,985,431.85	5%
17	27-May-2024	1,405,985,431.85	9,366,977.68	5,778,022.32	15,145,000.00	1,396,618,454.18	5%
18	27-Jun-2024	1,396,618,454.18	9,214,154.51	5,930,845.49	15,145,000.00	1,387,404,299.67	5%
19	27-Jul-2024	1,387,404,299.67	9,443,338.49	5,701,661.51	15,145,000.00	1,377,960,961.17	5%
20	27-Aug-2024	1,377,960,961.17	9,293,384.96	5,851,615.04	15,145,000.00	1,368,667,576.21	5%
21	27-Sep-2024	1,368,667,576.21	9,332,850.02	5,812,149.98	15,145,000.00	1,359,334,726.19	5%
22	27-Oct-2024	1,359,334,726.19	9,558,692.91	5,586,307.09	15,145,000.00	1,349,776,033.29	5%
23	27-Nov-2024	1,349,776,033.29	9,413,074.38	5,731,925.62	15,145,000.00	1,340,362,958.91	5%
24	27-Dec-2024	1,340,362,958.91	9,636,659.07	5,508,340.93	15,145,000.00	1,330,726,299.84	5%
25	27-Jan-2025	1,330,726,299.84	9,493,970.51	5,651,029.49	15,145,000.00	1,321,232,329.33	5%
26	27-Feb-2025	1,321,232,329.33	9,534,287.37	5,610,712.63	15,145,000.00	1,311,698,041.96	5%
27	27-Mar-2025	1,311,698,041.96	10,113,829.43	5,031,170.57	15,145,000.00	1,301,584,212.53	5%
28	27-Apr-2025	1,301,584,212.53	9,617,724.58	5,527,275.42	15,145,000.00	1,291,966,487.95	5%
29	27-May-2025	1,291,966,487.95	9,835,548.68	5,309,451.32	15,145,000.00	1,282,130,939.28	5%
30	27-Jun-2025	1,282,130,939.28	9,700,334.37	5,444,665.63	15,145,000.00	1,272,430,604.91	5%
31	27-Jul-2025	1,272,430,604.91	9,915,833.13	5,229,166.87	15,145,000.00	1,262,514,771.78	5%
32	27-Aug-2025	1,262,514,771.78	9,783,635.90	5,361,364.10	15,145,000.00	1,252,731,135.88	5%
33	27-Sep-2025	1,252,731,135.88	9,825,182.85	5,319,817.15	15,145,000.00	1,242,905,953.03	5%
34	27-Oct-2025	1,242,905,953.03	10,037,167.32	5,107,832.68	15,145,000.00	1,232,868,785.71	5%

35	27-Nov-2025	1,232,868,785.71	9,909,529.81	5,235,470.19	15,145,000.00	1,222,959,255.90	5%
36	27-Dec-2025	1,222,959,255.90	10,119,140.04	5,025,859.96	15,145,000.00	1,212,840,115.85	5%
37	27-Jan-2026	1,212,840,115.85	11,159,583.07	5,150,416.93	16,310,000.00	1,201,680,532.78	5%
38	27-Feb-2026	1,201,680,532.78	11,206,973.08	5,103,026.92	16,310,000.00	1,190,473,559.70	5%
39	27-Mar-2026	1,190,473,559.70	11,743,800.04	4,566,199.96	16,310,000.00	1,178,729,759.66	5%
40	27-Apr-2026	1,178,729,759.66	11,304,435.27	5,005,564.73	16,310,000.00	1,167,425,324.39	5%
41	27-May-2026	1,167,425,324.39	11,512,361.68	4,797,638.32	16,310,000.00	1,155,912,962.71	5%
42	27-Jun-2026	1,155,912,962.71	11,401,328.51	4,908,671.49	16,310,000.00	1,144,511,634.20	5%
43	27-Jul-2026	1,144,511,634.20	11,606,527.53	4,703,472.47	16,310,000.00	1,132,905,106.67	5%
44	27-Aug-2026	1,132,905,106.67	11,499,033.11	4,810,966.89	16,310,000.00	1,121,406,073.56	5%
45	27-Sep-2026	1,121,406,073.56	11,547,864.62	4,762,135.38	16,310,000.00	1,109,858,208.94	5%
46	27-Oct-2026	1,109,858,208.94	11,748,938.87	4,561,061.13	16,310,000.00	1,098,109,270.07	5%
47	27-Nov-2026	1,098,109,270.07	11,646,796.25	4,663,203.75	16,310,000.00	1,086,462,473.82	5%
48	27-Dec-2026	1,086,462,473.82	11,845,085.72	4,464,914.28	16,310,000.00	1,074,614,388.10	5%
49	27-Jan-2027	1,074,617,388.10	13,494,056.30	4,563,443.70	18,057,500.00	1,061,123,331.80	5%
50	27-Feb-2027	1,061,123,331.80	13,551,359.82	4,506,140.18	18,057,500.00	1,047,571,971.98	5%
51	27-Mar-2027	1,047,571,971.98	14,039,415.72	4,018,084.28	18,057,500.00	1,033,532,556.25	5%
52	27-Apr-2027	1,033,532,556.25	13,668,526.13	4,388,973.87	18,057,500.00	1,019,864,030.12	5%
53	27-May-2027	1,019,864,030.12	13,866,277.96	4,191,222.04	18,057,500.00	1,005,997,752.16	5%
54	27-Jun-2027	1,005,997,752.16	13,785,454.75	4,272,045.25	18,057,500.00	992,212,297.41	5%
55	27-Jul-2027	992,212,297.41	13,979,915.22	4,077,584.78	18,057,500.00	978,232,382.20	5%
56	27-Aug-2027	978,232,382.20	13,903,362.49	4,154,137.51	18,057,500.00	964,329,019.71	5%
57	27-Sep-2027	964,329,019.71	13,962,404.16	4,095,095.84	18,057,500.00	950,366,615.55	5%
	27-Oct-2027	950,366,615.55	14,151,883.77	3,905,616.23	18,057,500.00	936,214,731.77	5%
59	27-Nov-2027	936,214,731.77	14,081,793.60	3,975,706.40	18,057,500.00	922,132,938.17	5%
60	27-Dec-2027	922,132,938.17	14,267,912.58	3,789,587.42	18,057,500.00	907,865,025.59	5%

Pmt Period	Payment Date	Beginning Balance	Principle Amount	Interest Amount	Required Instalment Amount	Ending Balance	Interest Rate
61	27-Jan-2028	907,865,025.59	20,027,182.77	3,855,317.23	23,882,500.00	887,837,842.82	5%
62	27-Feb-2028	887,837,842.82	20,112,229.71	3,770,270.29	23,882,500.00	867,725,613.11	5%
63	27-Mar-2028	867,725,613.11	20,435,370.85	3,447,129.15	23,882,500.00	847,290,242.26	5%
64	27-Apr-2028	847,290,242.26	20,284,418.15	3,598,081.85	23,882,500.00	827,005,824.11	5%
65	27-May-2028	827,005,824.11	20,483,845.93	3,398,654.07	23,882,500.00	806,521,978.18	5%
66	27-Jun-2028	806,521,978.18	20,457,543.65	3,424,956.35	23,882,500.00	786,064,434.53	5%
67	27-Jul-2028	786,064,434.53	20,652,098.21	3,230,401.79	23,882,500.00	765,412,336.31	5%
68	27-Aug-2028	765,412,336.31	20,632,118.85	3,250,381.15	23,882,500.00	744,780,217.47	5% 5%

69	27-Sep-2028	744,780,217.47	20,719,734.69	3,162,765.31	23,882,500.00	724,060,482.77	5%
70	27-Oct-2028	724,060,482.77	20,906,908.97	2,975,591.03	23,882,500.00	703,153,573.80	5%
71	27-Nov-2028	703,153,573.80	20,896,505.37	2,985,994.63	23,882,500.00	682,257,068.43	5%
72	27-Dec-2028	682,257,068.43	21,078,703.83	2,803,796.17	23,882,500.00	661,178,364.60	5%
73	27-Jan-2029	661,178,364.60	25,734,756.26	2,807,743.74	28,542,500.00	635,443,608.34	5%
74	27-Feb-2029	635,443,608.34	25,844,040.84	2,698,459.16	28,542,500.00	609,599,567.50	5%
75	27-Mar-2029	609,599,567.50	26,204,309.88	2,338,190.12	28,542,500.00	583,395,257.62	5%
76	27-Apr-2029	583,395,257.62	26,065,068.08	2,477,431.92	28,542,500.00	557,330,189.54	5%
77	27-May-2029	557,330,189.54	26,252,101.96	2,290,398.04	28,542,500.00	531,078,087.57	5%
78	27-Jun-2029	531,078,087.57	26,287,236.89	2,255,263.11	28,542,500.00	504,790,850.69	5%
79	27-Jul-2029	504,790,850.69	26,468,017.05	2,074,482.95	28,542,500.00	478,322,833.63	5%
80	27-Aug-2029	478,322,833.63	26,511,266.05	2,031,233.95	28,542,500.00	451,811,567.58	5%
81	27-Sep-2029	451,811,567.58	26,623,848.14	1,918,651.86	28,542,500.00	425,187,719.45	5%
82	27-Oct-2029	425,187,719.45	26,795,153.21	1,747,346.79	28,542,500.00	398,392,566.24	5%
83	27-Nov-2029	398,392,566.24	26,850,695.95	1,691,804.05	28,542,500.00	371,541,870.29	5%
84	27-Dec-2029	371,541,870.29	27,015,615.60	1,526,884.40	28,542,500.00	344,526,254.69	5%
85	27-Jan-2030	344,526,254.69	28,001,657.30	1,463,056.70	29,464,714.00	316,524,597.38	5%
86	27-Feb-2030	316,524,597.38	28,120,568.45	1,344,145.55	29,464,714.00	288,404,028.93	5%
87	27-Mar-2030	288,404,028.93	28,358,506.77	1,106,207.23	29,464,714.00	260,045,522.17	5%
88	27-Apr-2030	260,045,522.17	28,360,411.10	1,104,302.90	29,464,714.00	231,685,111.07	5%
89	27-May-2030	231,685,111.07	28,512,583.41	952,130.59	29,464,714.00	203,172,527.66	5%
90	27-Jun-2030	203,172,527.66	28,601,926.55	862,787.45	29,464,714.00	174,570,601.11	5%
91	27-Jul-2030	174,570,601.11	28,747,300.57	717,413.43	29,464,714.00	145,823,300.54	5%
92	27-Aug-2030	145,823,300.54	28,845,464.37	619,249.63	29,464,714.00	116,977,836.17	5%
93	27-Sep-2030	116,977,836.17	28,967,958.81	496,755.19	29,464,714.00	88,009,877.37	5%
94	27-Oct-2030	88,009,877.37	29,103,029.57	361,684.43	29,464,714.00	58,906,847.80	5%
95	27-Nov-2030	58,906,847.80	29,214,561.63	250,152.37	29,464,714.00	29,692,286.16	5%
96	27-Dec-2030	29,692,286.16	29,342,690.91	122,023.09	29,464,714.00	349,595.26	5%

- vi. Upon full payment of the amount stipulated in 1.4 and 1.5 above, the 5<sup>th</sup> Defendant to be discharged from all liabilities in relation to this matter.
- vii. That the 5<sup>th</sup> Defendant agrees to withdraw the on-going litigation proceedings against the Plaintiff filed at the High Court Dar es Salaam District Registry i.e., Civil Case No. 255 of 2017 upon signing of this settlement deed
- viii. That the Plaintiff covenants to the 5<sup>th</sup> Defendant that once this settlement deed is executed by the parties, he shall have no further claims whatsoever against the 5<sup>th</sup> Defendant in regard to the loan transaction in issue.
- ix. The 5<sup>th</sup> Defendant shall be excluded from payment of early financial settlement fees when making capital reduction payment.
- x. This Agreement shall, upon been filed in Court, have the same effect as a decree duly made by the Court capable of being executed in the same manner as any other decree of the Court.
- xi. Parties have agreed that should the 5<sup>th</sup> Defendant default to pay two consecutive instalments as agreed under paragraph 1.4 and 1.5 above, will be considered as a default in this Agreement.



- xii. That, in event of default as set out in paragraph 3.1 hereinabove, the amount which will be due and not paid shall attract penalty interest of 7.0 percent per annum, and will be charged every month until paid.
- xiii. That, in event of default to pay the Settlement Amount agreed herein within the stipulated time, the whole amount set out in this Deed of Settlement, shall become payable immediately; and the 5<sup>th</sup> Defendant shall have the first opportunity to liquidate the guarantees and the mortgaged properties within four months (4) from date of last default, to realize the outstanding amounts.
- xiv. In the event that 5<sup>th</sup> Defendant is unable or unwilling to liquidate the assets, the Defendant's shall be at liberty to do so, to recover the said Settlement Sum.
- xv. That the Parties herein have the authority and capacity to enter into this Agreement.
- xvi. This Agreement shall be in English Language. All notices: Communication under or in connection with this Agreement shall be in the English Language.

- xvii. This Agreement shall be executed in Three originals all of them being equally authentic and all constituting one instrument.
- xviii. This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their respective successors in title and representatives and shall not be enforceable by or inure to the benefit of any third party.
- xix. No waiver of the breach of the terms of or any default under this Agreement shall be deemed a waiver of any subsequent breach or default or in any way affect the other terms of this Agreement.

By this consent decision, therefore, this Court hereby declares that the parties herein have resolved their dispute and, this suit is marked "settled on the compromise of the parties" as evidenced by the terms agreed under the said "Deed of Settlement". For the reasons aforesaid, the "Deed of Settlement" signed by the parties and filed in this Court constitutes the Judgment and Decree of this Court.

It is so ordered.

**DATED at DAR ES SALAAM this 24<sup>th</sup> Day of February 2023.**



  
**U. J. AGATHO**  
**JUDGE**

**24/02/2023**

**Date: 24/02/2023**

**Coram:** Hon. U. J. Agatho, J.

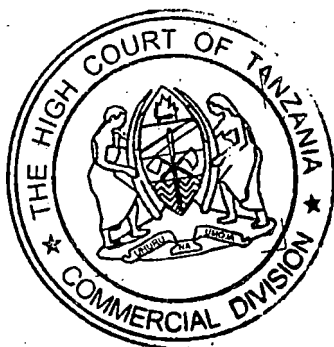
**For Plaintiff:** Robert Mosi (Advocate)

**1<sup>st</sup> - 4<sup>th</sup> Defendants:** Absent

**5<sup>th</sup> Defendant:** Present

**C/Clerk:** Beatrice

**Court:** Judgment delivered today, this 24<sup>th</sup> February, 2023 in the presence of Robert Mosi, learned counsel for the Plaintiff and the 5<sup>th</sup> Defendant.



  
**U. J. AGATHO**  
**JUDGE**

**24/02/2023**