

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(COMMERCIAL DIVISION)**

AT DAR ES SALAAM

COMMERCIAL CASE NO. 148 OF 2023

Between

PEE PEE (TANZANIA) LIMITED..... PLAINTIFF

VERSUS

AFRICA INLAND LOGISTICS LIMITED..... DEFENDANT

CONSENT JUDGMENT

Date of last Order: 07/02/2024

Date of Judgment: 16/02/ 2024

GONZI, J.;

The Plaintiff had a contract with the Defendant for the Plaintiff to supply the defendant with empty cement/lime bags on credit. The Plaintiff alleged in the plaint that it had supplied the Defendant with the said cement/lime bags on credit worth USD 102,010.05 (the outstanding amount) but that the Defendant had defaulted to effect the payment thereof. Therefore, the Plaintiff filed this suit against the Defendant praying for Judgment and Decree thus:

- (a) *A declaratory Order of this Honourable Court that the Defendant is in breach of the agreement against the Plaintiff for failure to pay the outstanding amount.*

- (b) An Order against the Defendant to pay the Plaintiff United States Dollars One Hundred Two Thousand Ten and Five Cents (USD 102,010.05) being the outstanding amount from the supply of bags on credit.*
- (c) An Order against the Defendant for Payment of general damages as it will be assessed by this honourable court.*
- (d) An Order against the Defendant for payment of interest on (b) above to tune of Twenty Four Percent (24%) from the date of default until the date of Judgment.*
- (e) An order against the Defendant for payment of interest on the decretal sum above to the tune of Twelve Percent (12%) from the date of Judgment until the date of full payment.*
- (f) Costs of the suit be provided for.*
- (g) Any other reliefs as the Honourable Court shall deem fit and just to grant in the circumstances.*

In the Written statement of Defence, the Defendant refuted the claims levelled against her by the Plaintiff and alleged that the Plaintiff had supplied her with defective bags hence the Plaintiff is not entitled to payment of the outstanding amount; and thus, the Defendant prayed for dismissal of the suit with costs.

On 8th February 2024 when the case was called in court for necessary orders, Mr. Moses Mwakyembe, learned Advocate for the Plaintiff informed the Court that the parties to the case were engaged in

negotiations with a view to reaching an out of court settlement and prayed for the court to grant the parties some time to finalize their negotiations which were in advanced stages and file in court a deed of settlement. He addressed the court that the negotiations had reached a very good stage with a draft deed of settlement in existence. Mr. Heriolotu Boniface, learned Advocate for the Defendant, supported the prayer made by Mr. Mwakyembe. The Court, therefore, in the spirit of furthering reconciliatory amicable settlement of the disputes pursuant to its constitutional mandate under Article 107(2)(d) of the constitution of the United Republic of Tanzania of 1977, which enjoins the Court to promote and enhance amicable dispute resolution between the parties involved in the dispute, afforded the parties one week more within which to conclude their negotiations and file in court the deed of settlement, if any.

On 12th day of February 2024, the parties duly filed in this Court a Deed of Settlement between them dated the 31st day of January 2024 wherein the parties amicably have settled their dispute pertaining to the present case. When the case was called in court on 16th February 2024, Mr. Moses Mwakyembe, learned advocate for the Plaintiff and Mr. Heriolotu Boniface, learned advocate for the Defendant, addressed the Court that

the parties to the case had successfully reached an amicable settlement and that they wished to have their deed of settlement adopted by the court and constitute a judgment by consent. They prayed that a decree of the court be issued in terms of what the parties have agreed in their deed of settlement. The Court read out to the learned counsel the terms contained in the deed of settlement filed in court and both counsel were in agreement that the terms constitute what was exactly agreed by the parties in their out of court settlement. I commend both Mr. Moses Harrison Mwakyembe and Mr. Heriolotu Boniface, learned advocates for the plaintiff and the Defendant respectively for their effective and timely discharge of their professional duties to their respective clients and to the court which has contributed to timely disposal of the case at hand.

After satisfying myself that the parties have voluntarily reached an out of court settlement of their case and that on 12th February 2024, they filed in Court a deed of settlement dated 31st January 2024 whose contents both Counsel have verified as correct, I hereby enter Consented Judgment and Decree as agreed by the parties:

1. That the Defendant shall pay the Plaintiff the outstanding amount of United States Dollars One Hundred Two Thousand Ten and Five Cents

only (USD 102,010.05) and the court filing fees amounting to United states Dollars Two Thousand Three Hundred and Thirty Eight (US\$ 2,338) making a total of United States Dollars One Hundred Four Thousand Three Hundred Forty Eight and Five Cents (US\$104,348.05).

2. That the Legal Fees amounting to Tanzanian Shillings Twenty Million Only (Tshs.20,000,000/=) shall be paid by the Defendant directly to the Plaintiff's Lawyers namely MWEBESA LAW GROUP.

3. That with exception to the legal fees which shall be paid immediately upon signing the deed of settlement, the Defendant shall pay the Plaintiff a total sum of US\$ One Hundred Four Thousand Three Hundred Forty-Eight and Five Cents (US\$104,348.05) in six equal monthly installments within six months effective from and inclusive of 29th February 2024 to 29th July 2024 whereby each monthly installment shall be paid on or by 29th date of the particular month.

4. That all payments by the Defendant to the Plaintiff as stipulated above shall be made through the Plaintiff's Bank Account at Diamond Trust Bank, Tanga Branch, Account No.0004854002 in the name of PEE PEE (TANZANIA) LIMITED with Swift Details DTKETZTZ.

5. That the Deed of settlement dated 31st January 2024 and filed in this court on 12th February 2024 represents the final agreement between the parties in respect of Commercial Case No.148/2023 between the parties herein and no other discussion, promise or agreement which is not incorporated therein shall form part of it.

6. As the parties have not addressed the aspect of costs in their Deed of Settlement apart from the legal fees, I make no order as to costs.

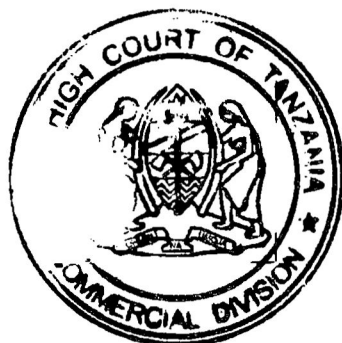
It is so ordered.



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A. H. GONZI
JUDGE
16/02/2024

This Judgment by Consent is pronounced in Court today the 16th day of February 2024 in the presence of Mr. Moses Mwakyembe, learned advocate for the Plaintiff and Mr. Heriolotu Boniface, learned advocate for the Defendant.



A handwritten signature in black ink, consisting of stylized loops and a long horizontal stroke.

A. H. GONZI
JUDGE
16/02/2024