THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN

IDBI BANK LTD. (DIFC BRANCH)

Claimant

and

(1) WHITE METAL ALLOYS INDUSTRIES FZ LLC
(2) MR. RAHUL GARG
(3) MS. SHIVANI GARG
(4) MR. MITHLESH GARG
(5) SNS TRADING DMCC

Defendants

DEFAULT JUDGMENT OF H.E. JUSTICE NASSIR AL NASSER

UPON the Request made by the Claimant dated 21 August 2023 for a Default Judgment (the "Request") in accordance with Rule 13.1 (1) and (2) of the Rules of the DIFC Courts ("RDC"), it is found as follows:

1. The Request is not one prohibited by RDC 13.3 (1) or (2).

2. The Defendant has failed to file an Acknowledgment of Service or a Defence to the Claim (or any part of the Claim) with the DIFC Courts and the relevant time for so doing has expired under RDC 13.4.

3. The Defendant has not: (i) applied to the DIFC Courts to have the Claimant's statement of case struck out under RDC 4.16; or for immediate judgment under RDC Part 24 (RDC 13.6(1)); (ii) satisfied the whole Claim (including any claim for costs) on which the Claimant is seeking judgment; or (iii) filed or served on the Claimant an admission under RDC 15.14 or 15.24 together with a request for time to pay in accordance with RDC 13.6(3).

4. The Claimant filed a Certificate of Service in accordance with RDC 9.43 on 22 March 2023.

5. The Claimant has followed the required procedure for obtaining Default Judgment in accordance with RDC 13.7 and 13.8.

6. The Claim is for a specified sum of money and the Request specifies the date by which the whole of the judgment debt is to be paid or the times and rate at which it is to be paid by instalments in accordance with RDC 13.9.

7. The Request includes a request for interest pursuant to RDC 13.14 and the Claim Form sets out the calculation of interest in the Claim.

8. The DIFC Courts are satisfied that the conditions of RDC 13.22 and RDC 13.23 [defendant served outside jurisdiction] have been met.

9. The Claimant has submitted evidence, as required by RDC 13.24, that (i) the Claim is one that the DIFC Courts have power to hear and decide; (ii) no other court has exclusive jurisdiction to hear and decide the Claim; and (iii) the Claim has been properly served in accordance with RDC 13.22 and 13.23.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

1. The Request is granted.

2. The First, Second, Third, Fourth and Fifth Defendants jointly or severally are ordered to pay the Claimant:

(a) The amount of USD 20,740,239.20 (United States Dollars Twenty Million Seven 3 of 4 Hundred Forty Thousand Two Hundred Thirty-Nine Dollars and Twenty Cents) (the "Outstanding amount") consists of the following:

(i) The amount of 15,000,000 is outstanding on 30 August 2019, as of the date of the Non-Performing Account ("NPA");

(ii) General Interest in the amount of USD 4,868,318.33 under clause 1 of the Facility Agreement for the period from 30 August 2019 to 09 June 2023 and which shall continue to accrue until the date of this Judgment ("Interest");

(iii) Penal Interest in the amount of USD 790,799.73 claimed at 2% under clause 11.3 of the Facility Agreement as on 30 August 2019 (the date on which the Defendants' account was declared a Non-Profitable Asset) to 09 June 2023 and which shall continue to accrue at the aggregate of 2% per annum ("Penal Interest") until the date of this Judgment; and

(iv) USD 81,121.30 other expenses; and

(b) General interest in the amount of USD 1,809.84 per day from 10 June 2023 until the date of Judgment;

(c) Penalty interest in the amount of USD 400.16 per day from 10 June 2023 until the date of Judgment; and

(d) An order of sale of the mortgaged property, in whole, and to apply the proceeds of the sale of the mortgaged property towards the repayment of the Outstanding Amount (along with applicable interests and costs until the date of actual payment) to the Claimant; and

(e) Post-judgment interest at the rate of 9% per annum, on the amount set out in paragraph 2(1) from the date of this Judgment until the 4 of 4 date of full payment; and

(f) The Claimant's legal costs and expenses, including the DIFC Courts filing fees, incurred in connection with the preparation and conduct of these proceedings in the amount of USD 162,027.38.

3. The Claimant shall serve a copy of this Default Judgment on the Defendants.

Issued by:
Delvin Sumo
Assistant Registrar
Date of Issue: 14 September 2023
At: 3pm