



THE HIGH COURT
(COMMERCIAL DIVISION)
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IN THE HIGH COURT OF MALAWI

COMMERCIAL DIVISION

Blantyre Registry

Commercial Case No. 153 of 2016

(Before Honourable Justice Katsala)

BETWEEN

RELIANCE TRADING COMPANY.....CLAIMANT

AND

DWANGWA SUGAR FARMERS ASSOCIATION.....DEFENDANT

CORAM: D.H. SANKHULANI, ESQ., ASSISTANT REGISTRAR

Mr. P. Nkhata, of Counsel for the Claimant

Defendant, absent

Mr. A. Nyirongo, Court Clerk

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Sankhulani, AR

ORDER ON ASSESSMENT OF INTEREST

Introduction

This order on assessment follows hearing of proceedings for assessment of interest that was held pursuant to a default judgment that was entered herein.

Background Information

By the amended specially-endorsed writ of summons herein, the Claimant claimed, inter alias, the sum of K15,071,150.00 being balance of money owed to it for work suites and gumboots supplied to the Defendant.

The default judgment herein, for liquidated sums of money and for interest and costs to be assessed, was entered on account of absence of both notice of intention to defend and defence from the Defendant.

A lot happened in this matter. Suffice it to say, however, that eventually the Claimant commenced the present proceedings for assessment of interest. Hearing of the assessment proceedings was held in the absence of the Defendant, as there was proof of service of the notice of assessment it. The matter was then adjourned for an order on assessment of interest. Hence the present order.

Issue for Determination Herein

- Appropriate quantum of interest payable herein.

Appropriate Quantum of Interest Payable Herein

At the hearing of the assessment proceedings, the Claimant produced one witness, one Azery Mnyalira, the Claimant's Financial Controller. The said Azery Mnyalira adopted his witness statement that had been filed with the court and served on the Defendant earlier on. Calculations of interest payable herein were exhibited to the said witness statement and marked as 'AZ 2'. According to 'AZ 2', the Claimant adopted the effective rate of 10% above First Merchant (now First Capital) Bank's applicable base lending rates depending on the specific time of the period in issue herein. The total interest payable, as per 'AZ 2', comes up to K25,798,106.21.

Now, as it has already been mentioned, the Defendant did not attend hearing of the assessment proceedings, despite being aware of the scheduled date. As it stands, there is nothing before this Court from the Defendant's side on the present assessment of interest proceedings. This scenario renders the Claimant's evidence on assessment uncontroverted. I so opine and find.

Therefore, having verified the Claimant's calculations of interest as being mathematically correct and there being no issues raised by the Defendant against those calculations, I hereby assess interest payable herein at K25,798,106.21.

Final Order

In conclusion, therefore, the Claimant herein is hereby awarded a total sum of K25,798,106.21 plus costs of the assessment proceedings herein, the quantum thereof to be agreed between the parties herein or, if not so agreed, taxed by this court.

Delivered in Chambers at Blantyre Registry of the Commercial Division of the High Court this 25th day of January 2019.



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D.H. SANKHULANI

ASSISTANT REGISTRAR

