

International business – foreign trade m s taneja exports

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International Business - Foreign Trade M/S Taneja Exports, Mumbai

Introduction Mr. Gurmeet Taneja and Mr. Rahul Khatri are partners of M/S Taneja exports, Mumbai. Both of them qualified from IIFT, New Delhi in the year 2002. They declined lucrative corporate job offers, since they have decided to plunge into the world of international business. M/S Taneja Exports is registered as a partnership firm, with Mr. Gurmeet Taneja and Mr. Rahul Khatri sharing the profits in the ratio of 60: 40.

The partners had conducted in depth market survey in the domestic as well as international markets regarding the demand of women's apparels in cotton and hosiery. They have taken the assistance of Apparel export promotion council and the marketing agencies in various countries of European Union. On account of their knowledge in foreign trade, they were able to quickly assess that Indian exporters have not succeeded in penetrating into the huge apparel market of Europe. They found out that the main reasons were ineffective marketing, improper quality control and non adherence to the shipping schedules.

Mr. Gurmeet concentrated on marketing of the cotton and hosiery apparels abroad and Mr. Rahul ensured on the procurement of the raw materials and timely execution of shipments. The firm had taken an industrial gala, measuring 700 sq ft, at 501, Mangal Das market, Lower Parel, Mumbai. They were paying a monthly rent of Rs. 35, 000/- for the office premises and the stock of garments was kept in a godown in the same gala area, for which the rent payable was Rs. 15, 000/- pm. The firm was sourcing their raw materials from the south Indian towns of Tirupur and Coimbatore.

As per the export orders, they were providing the raw materials for job works in Mumbai and subject the samples to rigorous quality and specification checks. The firm had employed 2 accounts staff and 3 contract workers to attend to daily office and godown activities. The firm was able to achieve steady improvement in export sales due to the stringent quality control measures and timely execution of shipment schedules. The following were the credit facilities enjoyed from M/S International Bank of India, Fort branch, Mumbai. Facility (Amount in Lakhs)| 2003| 2004| 2005|

Fund based				a) Export packing credit	5. 00	7. 00	10. 00	b) Foreign bill purchased/Foreignbill negotiated	5. 00	7. 00	10. 00	Non Fund based			
a) Performance guarantee	2. 00	5. 00	7. 00					Export sales	20. 00	30. 00	40. 00		Towards the security of the credit facilities, the firm had mortgaged the residential house, valued at Rs 85 lakhs, belonging to Mr. Vikram Taneja, father of Mr. Gurmeet Taneja, and stocks valued at Rs 15 lakhs was also hypothecated to the Bank.		

Mr. Vikram Taneja stood guarantee for the facilities sanctioned to the firm. M/S Taneja exports used to avail the export packing credit facility from International Bank of India and adjust the same by purchase or negotiation of the export bills drawn on their European buyers. Generally the bills carried a tenor period of 60 days. Most of the export bills were drawn and send for collection through international Bank of India, Mumbai Fort Branch, to the foreign buyer's bankers, based on the confirmed purchase order of the buyer.

The bills were paid on the due dates and the conduct of the account on the bank's books was quite satisfactory. Based on the past history and the increase in sales turnover achieved by the firm, the bankers were happy to increase the credit limits from Rs 7 lakhs in 2003 to Rs 17 lakhs in 2005. On June 17, 2005, the firm submitted an export document to International Bank of India, Fort Branch, for Euro 53000. 00, drawn on M/S St Larn Fashions, Paris. The documents were drawn on 60 days DA terms as per the contract.

The merchandise under the export were ladies garments in cotton and hosiery. In the covering letter of the firm to the bank, they had instructed the bank to present the documents to St Larn, Paris, through their bankers viz, Credit Lyonnais, Paris. The exporter had submitted bills of exchange, bills of lading, commercial invoice, packing list, inspection certificate, certificate of origin and in the bill of exchange it was typed as ' to be co-accepted by credit Lyonnais'.

The International Bank of India took the documents in its books and sent the documents for collection to Credit Lyonnais, Paris. In due course, they received communication from Credit Lyonnais that the documents were accepted by St Larn and due date of the documents were August 25, 2005. The bankers informed the due date of the bill to Taneja exports. On August 30, 2005, Taneja Exports informed the bankers that they are yet to receive the payment of the bill for Euro 53000. 0 in their books. The bank sent a swift message enquiring about the fate and payment of the bill. Two days later the bank received a message from Credit Lyonnais saying that the importer, St Larn, had become bankrupt and they were unable to pay the

bill. International Bank of India informed the same to Taneja Exports. They argued with the bank that they had clearly mentioned in the bills of exchange that the documents were to be released against the co-acceptance of the French bank only.

Immediately the Indian bank send a message to Credit Lyonnais that since the bill of exchange contained the co-acceptance clause by the French bank, they are liable to pay even though the importer had become bankrupt. The French bank refuted the claim of the Indian Bank and intimated that the bank's collection instruction did not contain any co-acceptance clause by the French bank and they had acted as per the provisions in the uniform rules for collection in the ICC publication No 522.

Since payments were not forthcoming, Taneja Exports filed a suit with the National Consumer Forum, New Delhi for deficiency of services by International Bank of India, Mumbai, on November 10, 2005. They put forth the argument that the bank was deficient in not mentioning about the co-acceptance clause in their covering letter to the French bank and in case of non-coacceptance by the French bank they would have returned the documents to India and the exporter could have arranged for an alternate buyer or reimport of the merchandise.

This negligence on the part of the bank had caused them total financial loss. After hearing the arguments of both the parties, The National Consumer Forum gave the judgement, on February 6, 2006, that the International Bank of India was deficient and negligent in their services and ordered them to compensate the value of the export bill of Euro 53000. 00 (approx Rs 24

lakhs) along with 15% interest, till the date of payment. The bank went on appeal against the order of the consumer forum in the Supreme Court on March 20, 2006.

After hearing the counsels of both sides, the Supreme Court gave the judgement that since the original agreement between the exporter and importer do not have any co-acceptance clause by the importer's banker, the co-acceptance clause on the bill of exchange cannot be binding on the French Bank as well as on the Indian Bank. The bankruptcy of the importer is the reason for loss to the exporter and not the deficiency of service by the bank.

The Supreme Court set aside the judgement of the National consumer forum and passed the judgement in favour of the bank, with costs, on March 15, 2007. Questions 1) Elaborate the deficiency of service on the part of the bank, pointed out by the National consumer redressal forum, in the light of the uniform rules for collection ICC publication No. 522. 2) Advise the firm about the precautions they should have taken to avoid such a colossal business loss. 3) Discuss the remedial measures the bank in India should take to avoid such damaging judgements by the consumer forums.) Elaborate the Supreme Court judgement in the context of the international banking rules and practises, as guided by the ICC publications. Possible Solutions 1) All the export documentary collection bills are governed by uniform rules for collection ICC (International chamber of commerce) publication No. 522. As per article 4a (1) of URC ICC 522, ' All documents sent for collection must be accompanied by a collection instruction indicating

that the collection is subject to URC 522 and giving complete and precise instructions.

Banks are permitted to act upon the instructions given in such collection instruction, and in accordance with these rules'. We cannot find fault with the French bank since they have acted according to the instruction contained in the covering letter of the remitting bank, which contained no instructions regarding the coacceptance of the documents by the collecting bank (French Bank). In this case, the remitting bank had failed to undertake proper scrutiny of the collection documents received by them.) The exporter should not invent and provide any unilateral directions without the underlying agreement and concurrence of the importer and his bank. The co-acceptance of the documents was not agreed upon by the importer and his banker, viz Credit Lyonnais, Paris. The exporter should have taken ECGC's (Export Credit Guarantee Corporation of India) buyer wise credit limit, which would have come to his help in the case of default due to bankruptcies of the buyer.) The Bank's trade financedesk should be manned by qualified and trained personnel. The person handling the export document can find out the discrepancy (the clause of coacceptance by the French bank on the bill of exchange) and inform the exporter either to amend it or call for the underlying agreement. This simple step would have saved the reputation, monetary loss and mental agony suffered by the exporter and the bank officials. 4) As per article 4a (2) of URC ICC 522, ' Banks will not examine documents in order to obtain instructions'.

The International Bank of India (remitting bank) need not take into account the instructions contained in the body of the documents. Hence, the clause of coacceptance on the bill of exchange is not binding on the remitting bank as well as collecting bank. There were no express instructions by the exporter to the bank regarding the co -acceptance by the importer's bank in France. Also, there was no express undertaking by the French bank to co-accept the documents. On the forgoing, deficiency of service cannot be charged against the bank.