

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

O N A P P E A L
FROM THE COURT OF APPEAL IN SINGAPORE

B E T W E E N :

CHABBRA CORPORATION PTE LTD

Appellants

- and -

THE OWNERS OF AND OTHER PERSONS
INTERESTED IN THE SHIP OR
VESSEL "JAG SHAKTI"

Respondents

RECORD OF PROCEEDINGS

PHILIP CONWAY THOMAS & CO
61 Catherine Place
London SW1E 6HB

Solicitors for Chabbra
Corporation Pte. Ltd

CLYDE & CO
30 Mincing Lane
London EC3R 7BR

Solicitors for the Owners
of and other persons
interested in the ship
or vessel "Jag Shakti"

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RECORD OF PROCEEDINGS

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Certificate for Security for costs	2nd February 1983
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Certificate for Security for costs	8th April 1983

Exhibit Mark	Description of Document	Date
P1	Bill of Lading, 1400 Metric tons of salt	15th July 1977
P2	Bill of Lading, 1400 Metric tons of salt	15th July 1977
P6	Bill of Lading, 3600 Metric tons of salt	15th July 1977
P7	Bill of Lading, 3600 Metric tons of salt	15th July 1977

These documents are included in the Agreed
Bundle of Correspondence as Numbers 1, 2,
3 and 4 respectively.

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

O N A P P E A L

FROM THE COURT OF APPEAL IN SINGAPORE

B E T W E E N :

CHABBRA CORPORATION PTE LTD Appellants

- and -

10

THE OWNERS OF AND OTHER PERSONS
INTERESTED IN THE SHIP OR
VESSEL "JAG SHAKTI" Respondents

RECORD OF PROCEEDINGS

No. 1

AMENDED WRIT OF SUMMONS

AMENDED

WRIT OF SUMMONS IN ACTION IN REM

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Admiralty in Rem) ADMIRALTY action in Rem
No. 256 of 1978) against: the ships or

vessels "~~JAG-ANDND~~", "~~JAG-ALJLI~~", "~~JAG-DARSHAN~~"
"~~JAG-DEV~~", "~~JAG-DHARMA~~", "~~JAG-DHIR~~", "~~JAG-DOOT~~"
"~~JAG-DAVAN~~", "~~JAG-JEWAN~~", "~~JAG-JYOTI~~", "~~JAG~~
"~~KISAN~~", "~~JAG-LAADKI~~", "~~JAG-LAXMI~~", "~~JAG-LEELA~~",
"~~JAG-MANEK~~", "~~JAG-PRAKASHI~~", "~~JAG-PRIYA~~",
"~~JAG-RAVI~~", "~~JAG-REKHA~~", "JAG SHAKTI" and "JAG
SHANTI".

20

In the
High Court

No. 1
Amended Writ
of Summons

29th April
1978

In the
High Court

B E T W E E N

CHABBRA CORPORATION PTE. LTD

Plaintiffs

No. 1
Amended Writ
of Summons

AND

29th April
1978

(continued)

The Owners of and other persons interested in the ships or vessels "JAG-ANAND", "JAG-ALJLI", "JAG-DARSHAN", "JAG-DEV", "JAG-DHARMA", "JAG-DHIR", "JAG-DOOT", "JAG-DAVAN", "JAG-JEWAN", "JAG-JYOTI", "JAG-KISAN", "JAG-LAADKI", "JAG-LAXMI", "JAG-LEELA", "JAG-MANEK", "JAG-PRAKASHI", "JAG-PRIYA", "JAG-RAVI", "JAG-REKHA", "JAG SHAKTI" and "JAG-SHANTI".

10

Defendants

THE HONOURABLE MR. JUSTICE WEE CHONG JIN, CHIEF JUSTICE OF SINGAPORE, IN THE NAME AND ON BEHALF OF THE PRESIDENT OF THE REPUBLIC OF SINGAPORE.

TO: The Owners of and all other persons interested in the ships or vessels "JAG-ANAND", "JAG-ALJLI", "JAG-DARSHAN", "JAG-DEV", "JAG-DHARMA", "JAG-DHIR", "JAG-DOOT", "JAG-DAVAN", "JAG-JEWAN", "JAG-JYOTI", "JAG-KISAN", "JAG-LAADKI", "JAG-LAXMI", "JAG-LEELA", "JAG-MANEK", "JAG-PRAKASHI", "JAG-PRIYA", "JAG-RAVI", "JAG-REKHA", "JAG SHAKTI" and "JAG-SHANTI".

20

WE COMMAND YOU that within eight days after the service of this writ, inclusive of the day of service, you do cause an appearance to be entered for you in an action at the suit of the abovenamed Plaintiffs, Chabbra Corporation Pte. Ltd., whose registered address is at 82-B, High Street, Singapore.

30

and take notice that in default of your so doing the plaintiffs may proceed therein, and judgment may be given in your absence, and if the res described in this writ is then under arrest of the Court it may be sold by order of the Court.

WITNESS MR. MICHAEL WING KAN LIP Registrar of the Supreme Court in Singapore the 29th day of April 1978.

40

(Sgd) KARTHIGESU & ARUL
Plaintiff Solicitors

(Sgd)
Registrar,
Supreme Court, Singapore

Note: This writ may not be served more than twelve calendar months after the above date unless renewed by order of Court.

The defendants may appear hereto by entering In the
appearances either personally or by Solicitor High Court
at the Registry of the Supreme Court.

The defendants appearing personally may,
if they desire, enter their appearances by
post, and the appropriate forms may be
obtained by sending a Postal Order for
\$5.00 with an addressed envelope to the
Registrar, Supreme Court, Singapore, 6.

No. 1
Amended Writ
of Summons

29th April
1978

(continued)

10

INDORSEMENT OF CLAIM

The Plaintiffs as owners of goods comprised
in and/or holders and/or indorsees of 2 bills
of lading for goods shipped on board the
Defendants' vessel "JAG DHIR" for carriage
from Tuticorin to Chittagong claim against the
Defendants damages for conversion and/or
breach of contract and/or breach of duty and/or
negligence of the Defendants their servants
or agents in respect of non-delivery of the
said goods.

20

THIS WRIT is issued by Messrs. KARTHIGESU &
ARUL of 2500, Clifford Centre, Raffles Place,
Singapore 1, Solicitors for the said
Plaintiffs whose registered address is at
82-B High Street, Singapore.

This writ was served by by
way of personal service on the defendants

at

on the day of 197

30

Indorsed the day of 197

Process Server.

AMENDED STATEMENT OF CLAIM

No. 2
Amended
Statement
of Claim

6th March
1981

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Admiralty in Rem) Admiralty action in Rem
No. 256 of 1978.) against the ship or vessel
"JAG SHAKTI"

Amended as in red
(sic) pursuant to
Order of Court
dated 23rd day of
February 1981

Between
CHABBRA CORPORATION PTE LTD

Plaintiffs

10

And

THE OWNERS OF AND OTHER
PERSONS INTERESTED IN THE
SHIP OR VESSEL "JAG SHAKTI"

Defendants

AMENDED

STATEMENT OF CLAIM

1. The Plaintiffs are and were at all material times the holders for value and/or indorsees of 2 bills of lading Nos. 1 & 2 dated the 15th July 1977. The Plaintiffs will refer to the said bills of lading at the trial for their full terms and effect. 20
2. By the contract contained in or evidenced by the said bills of lading the Defendants acknowledged the shipment on board in apparent good order and condition and undertook to carry a total of 5000 metric tons of Indian salt in bulk from Tuticorin to Chittagong in their ship or vessel "JAG DHIR", and there to deliver the said Indian salt to the party entitled to delivery thereof ~~shippers named in the said bills of lading or~~ to their order. 30
3. The total value of the Indian salt was US\$220,000/-.
4. In breach of the said contract and/or their duty as carriers for reward, the Defendants failed to deliver the said 5000 metric tons of Indian salt to the Plaintiffs who at the material time were entitled to delivery thereof as holders for value and/or indorsees 40

of the said bills of lading.

5. Further or alternatively the Defendants have wrongfully converted the said 5000 metric tons of Indian salt.

6. In the premises the Plaintiffs have suffered loss and damage.

AND THE PLAINTIFFS CLAIM :-

1. The value of the said 5000 metric tons of Indian salt in the sum of S\$512,380/- being the equivalent of US\$220,000 at the rate of S\$2.3290 = US\$1.

2. Damages

3. Interest

4. Costs

Dated this 12th day of July 1978.

Re-dated this 6th day of March 1981.

(Sgd) KARTHIGESU & ARUL

Solicitors for the Plaintiffs

In the
High Court

No. 2
Amended
Statement
of Claim

6th March
1981

(continued)

10

DEFENCE

No. 3
Defence

9th November
1978

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Admiralty in Rem)
No. 256 of 1978.)

Admiralty action in rem against:
the ships or vessels JAG ANAND",
"JAG ALJLI", "JAG DARSHAN",
"JAG DEV", "JAG DHARMA", "JAG DHIR",
"JAG DOOT", "JAG JAVAN", "JAG JEWAN",
"JAG JYOTI", "JAG KISAN", "JAG LAADKI",
"JAG LAXMI", "JAG LEELA", "JAG MANEK",
"JAG PRAKASH", "JAG PRIYA", "JAG RAVI",
"JAG REKHA", "JAG SHAKTI", "JAG SHANTI"

10

Between

Chabbra Corporation Pte. Ltd Plaintiffs

And

The Owners of and all other persons
interested in the ships or vessels
"JAG ANAND", "JAG ALJLI", "JAG DARSHAN",
"JAG DEV", "JAG DHARMA", "JAG DHIR",
"JAG DOOT", "JAG JAVAN", "JAG JEWAN",
"JAG JYOTI", "JAG KISAN", "JAG LAADKI",
"JAG LAXMI", "JAG LEELA", "JAG MANEK",
"JAG PRAKASH", "JAG PRIYA", "JAG RAVI",
"JAG REKHA", "JAG SHAKTI", "JAG SHANTI"

20

Defendants

DEFENCE

1. No admissions are made as to paragraph 1
of the Statement of Claim and the Defendants
put the Plaintiffs to strict proof of each and
every fact and matter pleaded therein.

30

2. Save that it is denied that delivery was
to be made to the shippers named in the said
bills of lading or to their order,
paragraph 2 of the Statement of Claim is
admitted.

3. Paragraph 3 of the Statement of Claim
is denied.

4. Save that it is admitted that the Defendants
did not deliver the said goods to the
Plaintiffs, each and every allegation contained
in paragraph 4 is denied.

40

5. The Defendants deny paragraph 5 and 6 of the Statement of Claim.

In the
High Court

6. By reason of the facts and matters aforesaid the Defendants deny that they are liable to the Plaintiffs as alleged in the Statement of Claim or at all.

No. 3
Defence

Dated and delivered this 9th day of
November 1978.

9th November
1978

(continued)

(Sgd) DONALDSON & BURKINSHAW

10

Solicitors for the Defendants

To: the abovenamed Plaintiffs
and to their solicitors,
Messrs Karthigesu & Arul,
2500 Clifford Centre,
Singapore 1.

Amended as in red pursuant to Order
of Court dated 16th February, 1979.

Dated this 27th day of February, 1979.

(Sgd)

Asst. Registrar

In the
High Court

No. 4

No. 4
Further and
Better
Particulars
of Defence
2nd May 1979

FURTHER AND BETTER PARTICULARS
OF DEFENCE

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Admiralty in Rem)
No. 256 of 1978.)

Admiralty action in Rem
against the ship or vessel
"JAG SHAKTI"

Between

10

Chabbra Corporation Pte. Ltd. Plaintiffs

And

The Owners of and other persons
interested in the ship or
vessel "JAG SHAKTI" Defendants

FURTHER AND BETTER PARTICULARS
OF DEFENCE
SERVED PURSUANT TO ORDER DATED
20th APRIL 1979

Under Paragraph 2

20

(1) To Mumtazzudin & Sons of Dacca.

Dated the 2nd day of May 1979.

(Sgd) DONALDSON & BURKINSHAW

Solicitors for the Defendants

To the abovenamed Plaintiffs
and their solicitors,
Messrs. Karthigesu & Arul,
Singapore 1.

No. 5
PROCEEDINGS

In the
High Court

No. 5
Proceedings

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Adm. Suit 256 of 1978

9th March
1981

BETWEEN

Chabbra Corpn. Pte Ltd. Plaintiffs

And

The Owners of "Jag Shakti" Defendants

Coram: A.P. Rajah J.

Notes of Evidence

10 Monday, 9th March 1981

Arul with Carol Wong for the Plaintiffs
Murphy with Loh Boon Huat for the Defendants

Plaintiffs are merchants in Singapore.

Plaintiffs reg. Co. in Singapore.

5,000 metric tons in Calcutta from
Tuticurin to Chittagong.

20 Purchase thru letter of credit - one thru
United Commercial Bank and the other thru Bank
Nationale de Paris both in favour of India
Overseas Corpn. at Calcutta.

Bihar Supply Syndicate also of Calcutta
were the shippers. They shipped the cargo
under 2 B. of L. (No. 1 and No. 2 dated 15.7.77).

Bill of Lading came in sets of 2.

30 Bill of Lading No. 1 was negotiated thru
United Commercial Bank in terms of L.C. thru
Union Bank of India. These were order B. of
L. Neither of them had a name to it. They
were negotiable freely. Shippers were B.S.S.
The original of the 1st set of B. of L. arrived
at U. C. Bank. The LC were not opened by the
Plaintiffs but by Atlas Enterprises of which
Mr. K.C. Sharma was a partner. Atlas Enterprises
are in Singapore. They have the same address.
Mr. Sharma is also a director of the Plaintiff
Co.

Page 586 (1959) A.C. @ 576.

P.W.1 E.V. Ganesh aff. English

Jalan Limau Naper. Joint Manager of United Commercial Bank of Singapore. In 1977 I was employed by United Commercial Bank. I am now head of Inwards Dept. At that time we had a client Atlas Enterprises whose partner was K.C. Sharma, a well-known customer of the Bank and he enjoyed facilities. 10

On 23.5.77 my Bank established a L. of C. in favour of India Oversea Corpn. Calcutta (I O.C.). Opened at request of Atlas Enterprises (A.E.). The L.C. was established unrestricted for negotiation by any bank. As it happened it was the Union Bank of India (U.B. of I.) a Calcutta Bank that negotiated it.

There was a request by the opener of the L.C. to amend the L.C. to be a transferable L.C. which we did. The L.C. was taken up and on 5.8.77 we received documents as per terms of the L.C. One of the documents was a Bill of Lading No. 1 dated 15.7.77. I certify it. Admitted and marked P1. This was the original of a set of 2. P2 was received later. Atlas made payment and they were given the Bill of Lading together with accompanying documents. At the request of Atlas Enterprise we endorsed it to the Plaintiffs. One of the terms of the L.C. was that negotiating bank would attach a compliance certificate when the set of documents are forwarded. The onus of ensuring the genuineness of the documents lies with the negotiating Bank (U.B. of I.). As the verifying bank they would have verified the endorsement of the shipper as stated on B.L. When the shippers endorsed the B.L. and hands it to the negotiating Bank the shippers would have been paid. When the documents came to us from the negotiating bank it would by then have taken the money from us. After the documents have been received here we would present the documents for payment and once payment is received the documents would be released to them. My bank endorsement appears on that. 20
30
40

12.10 Xxn.

In the
High Court

We did not take any margin on this transaction. Once payment is made to the Bank all documents are handed to the customer.

No. 6
E.V. Ganesh
Cross-
Examination

Copy of Invoice admitted and marked P3.

"Signed detailed invoice".

10 The amount of the L.C. was for US\$30,800/- and Bill received under the L.C. was for that amount and the customer settled that bill. So far as the Bank is concerned the bill has been settled. The Plaintiffs in this transaction did not deal with us at all. Chhabra has also an account with us.

The Plaintiffs Co. was incorporated on 17th January 1977. The documents were received by the Bank under a covering letter dated 23rd July 1977. This letter was received here on 5th August, 1977 - Admitted & marked P4.

20 Letter dated 8.8.1977 is the request from Atlas to endorse B.L. in favour of Plaintiffs - P5.

P.W.2 K. Jayaram aff. English

19 Jalan Berjaya, 2057.

Credit Officer of Banque Nationale de Paris (B.N.P.). Carrying on banking business in Singapore. I have knowledge of a transaction by Atlas Enterprises in May 1977. I was also then with the Bank. K.C. Sharma is a partner of Atlas Enterprise and is a known client of the Bank. He enjoyed facilities with the Bank.

10

On 23rd May 1977 my Bank established L.C. in favour of India Overseas Corpn. (I.O.C.) Estab. at request of Atlas Enterprises and were for the purchase of 3,600 tons of Indian salt. The value of L.C. was US\$79,000/-. The Bank was requested on 31.5.77 to make L.C. transferable. As it turned out it was transferred to B.S.S. (the shippers) in this case. In keeping with the terms of the L.C. we received B.L. and other accompanying documents from U.B. of I. This B.L. arrived in 2 sets and an order B. of L. The U.B. of I. would have then paid by us on or about the 22.7.77 before the documents arrived. Shippers would have been paid by the U.B. of I. when he handed the documents to the Bank. Before the Union bank would accept the B.L. it would have ensured that it would have been endorsed by the shipper. In normal circumstances the bank would know the signature of the shipper. A compliance certificate was necessary under our L.C. We did receive such a certificate. The onus of ensuring the genuineness of the documents lies with the negotiating bank (U.B. of I.).

20

30

When the B. of L. and other documents arrived on 5.8.77 we handed them to Atlas Enterprises. That is the time we would receive settlement of the bill.

40

We received a request from Atlas Enterprises to endorse the B.L. to the Plaintiffs. As they informed us that they were re-presenting the B. of L. to us for collection we obtained an endorsement in blank from the Plaintiffs and we indorsed the B.L. to the Sonali Bank of Bangladesh. At the time they also gave us another B.L. No. 1 in

50

a set of 2 (Exh. P1 and P2) to deal with in the same manner.

In the
High Court

Bill of Lading No. 2 in a set dated 15.7.77 admitted and marked P6 and P7.

No. 7
K. Jayaram
Examination

P1 and P2 had been brought in the U.C.B.

(continued)

10

The instructions received from the Plaintiff was to present these documents in Bangladesh to Mumtazuddin & Sons of Dacca for collection. The instructions were to deliver P1 and P2 and P6 and P7 for payment in total sum of US\$220,000/-. These B.L. were accompanied by two invoices and two Bills of Exchange.

The two invoices marked collectively P8.

The two Bills of Exchange collectively P9.

20

Sonali Bank are our agents in Dacca. They will not part with B.L. without payment. Agents informed us that both the bills were unpaid, that is Mumtax. refused to take up bills for payment. Under normal circumstances the bills should have been returned to us. On hearing this we went to the Plaintiffs for instructions. They instructed us to hand the documents to K.C. Sharma free of payment. As was our customer and knew we could get payment from them when the documents were originally presented to us for cancellation we discounted them.

30

40

Before we instructed the Sonali Bank to hand over the documents without payment to Mr. Sharma we were repaid. I notice from the bills which I am now seeing that the bills were not indorsed either to the Plaintiffs or in blank, which normally should have been done. We could also have cancelled our indorsement to the Sonali Bank. At our request. At our request the Bills of Exchange (P9) were for non-payment. Sonali Bank have told us that the Bills of Exchange have not been paid and that they have discharged themselves from further responsibility on handing over the B.L. and other documents to Mr. Sharma.

Adj. to 2.30 p.m.

In the
High Court

2.30

No. 7
K. Jayaram
Examination

(continued)

The interest rate charged was 8% plus 3% for delayed payment. At time of recall of bills interest charged was 10%. This is what we charged the Plaintiff. Rates of interest have been changing from 6% to 18% as between August 1977 to date. Fair to say that general average would be between 11 and 15%. Charging interest at US\$ rate as it was a U.S. dollar transaction.

10

Q. What was the rate in S\$?

A. Average of 11%. Currently it is 14½%.

Cross-
examination

2.37 Xxn.

The 1st B.L. was for 3600 metric tons. Supplied B.L. and Invoice.

Invoice on 1st B.L.

1st B. of L. was paid on the 22.7.1977 and notification of such payment together with documents was received here on 5.8.1977. All these documents were sent to Atlas Enterprises. We had an account for Plaintiff. The Plaintiff Co. have a nominal current account with us. The partnership account has the facilities. There may have been transactions other than this in which Chabbra was concerned. Transit time from Tuticorin to Chittagong 2 days. If the goods had been shipped in Tuticorin on the 15th July they should in the normal course have arrived by the end of July.

20

Invoices of 1st Bill. Invoice No. BSS/Salt/B-Desh/2 dated 18.7.77 - admitted and marked P10.

30

2nd Invoice BSS/Salt/B-Desh/1 dated 18.7.77 - admitted and marked P11.

P11 (2nd Invoice) was sighted by me on 5.8.77 when it was sent from India. Paid the shippers. Atlas Account was debited on 10.8.77 after we received documents from India. On 10.8.77 I informed the Plaintiffs that we had credited the Plaintiffs with the proceeds of the export bills (the value of the invoices). Letter dated 17.4.78 sends instructions to release documents to K.C. Sharma. Simultaneously we received the money from Chabbra Corpn.

40

3.10 Re-xn

Invoice values may be higher or lower as the case may be. Depending on situations we advance either in full or in part. Depends on a number of facts.

Released.

In the
High Court

No. 7
K. Jayaram
Re-
examination

No. 8

K. C. SHARMA
EXAMINATION

No. 8
K.C. Sharma
Examination

10 P.W.3 K.C. Sharma aff. Punjabi

144B Sims Drive, Singapore.

Businessman for 30 years.

Deal mostly in textiles and other commodities. Area of operation India, Pakistan, B'Desh and other countries.

20 Previous to May 1977 I have done business with M. (Mumtazuddin). Travelled to India and B'Desh frequently. In May 1977 I discussed a deal for a cargo of salt with M. in B'Desh verbally. Previous transactions also verbal. Since 1974 dealing with M. I purchased salt in Calcutta. Mr. M. asked me to sell the cargo of salt to him. I quoted him a price US\$44 per m. ton. Price accepted. Payment through documents. A verbal deal was struck with India Overseas Corpn. for the supply of 5000 metric tons and I then established a L.C. through 2
30 Singapore banks (U.C.B. and B.N.P.). L.C. opened in the name of Atlas Enterprises of which I am a partner, which firm enjoyed facilities with both banks. I did not choose the ship. The shippers had the choice of carrier. C. & N.F. contract. Arranged insurance in Singapore.

40 Arranged with both banks for L.C. to be transferable. The shippers were B.S.S. They collected the money from the Bank's agents in India. The contract price on the documents was US\$22 per metric ton. The documents were received in Singapore endorsed by the shippers. If the shippers

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High Court

No. 8
K.C. Sharma
Examination
(continued)

had not endorsed then the bank would not have accepted these negotiating bank (U.B. of I.) because they would not have complied with L.C. I was informed of the arrival of the documents. I took them up and made the payments. I then took both the B.L. to B.N.P. together with P8 (Invoice) and P9 (B. of Exchange) P1 and P2, P6 and P7 (2 Bills of Lading). I identified my signatures on P8 as that of the company's secretary. Witness indicates his endorsements on P1, P2, P6 and P7 (P2 and P7 are duplicates). I gave these sets of documents to the French bank for collection in B'Desh through their agents in Dacca. In the event they neither paid nor took up the documents ... In the meantime M. had provided the shipping Co. with a bank guarantee and had taken delivery of the cargo of salt.

10

20

The only thing that remained to be done was for M. to take to the shipping Co. the documents and for them to release the guarantee given by the Bank to the Shipping Co. In the meantime M. had written to the Sonali Bank asking for further extension of time to meet the bills. Two letters were written by M. copies of which were sent to Plaintiffs, to Sonali Bank. These were the copies received by me. Marked P12 (11.10.77) and P13 (31.10.77) for identification.

30

In 1978 M. started legal proceedings in the B'Desh Court against (1) the Plaintiffs (2) Atlas Enterprises (3) B.N.P. (4) Sonali Bank (5) Rupali Bank (6) Gladstone Wyllie & Co.Ltd. (7) Zaderia Bros (8) Khan which had something to do with this B. of L.

10th March
1981

Tuesday, 10th March 1981

Counsel as before

40

P.W.3 K.C. Sharma (o.f.o.)

Exam. cont.

M. obtained an interim injunction whereby the guarantee could not be involved against the Rupali Bank by the shipping Co. M. was required to pay US\$110,000/-. This they failed to do. Injunction proceedings aborted. On behalf of the Plaintiffs I took possession of the documents. I took legal advice in B'Desh. Advised against

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proceedings in India for a number of reasons not connected with the merits of the case. Tried to arrest in Japan a vessel of the Defendant Co. but the vessel had sailed. I returned to Singapore, sought legal advice and instituted these proceedings.

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High Court

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Page 7 (Defendants' Bundle). Letter not written by me. But the signature is mine. I did not give permission to M. to get a bank guarantee to obtain possession of the cargo.

10th March
1981

(continued)

On 4.3.77 I was in Dacca. On this day I was informed by the shipping agents for the first time that the goods had been cleared on a bankers' guarantee. I have to date not been paid for the cargo that was shipped under the 2 bills of lading either by M. or the shipping Co. or anybody else. In addition to US\$110,000/- I have paid Ashah Sooch of India who is a partner of the shippers US\$60,000/- for these two transactions. Insurance effected by me with an Insurance Co. in Singapore for which I paid the premium. Value of goods insured US\$120,000/-. I was the beneficiary under the Policy. Salt was not freely available in B'Desh. There was an acute shortage in B'Desh at that time. It was a rising market. Many inquiries for purchase of salt in B'Desh. In India is controlled at a price. In B'Desh there is no such restriction. There was a black market in salt in B'Desh. In Mid 1977 there was no fixed price. The sellers could dictate the price. B'Desh wholesale importers were willing to pay at that time anything from US\$44/- to US\$50/- per metric ton. I did receive inquiries but I could not meet them as I did not have the salt to supply them.

11.15 a.m. Xxn.

Cross-
examination

In May 1977 was the first transaction effected between M. and myself although he had approached me previously on salt. I was perfectly capable of imports and exports of salt from India to B'Desh. Mr. Sushil Patwari of Calcutta of I.O.C. originally agreed to supply salt to Atlas Enterprises. I would not know whether Patwari had agreed to supply salt to M. In May 1977 it was difficult for M. to open L.C. in B'Desh.

Put: That M. approached you not to buy

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High Court

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K.C. Sharma
Examination

10th March
1981

(continued)

salt but for you to open L.C. for
him in Singapore - No.

Put: You agreed to do this for him for
a commission - No.

Put: On 22nd May 1977 you and M. saw
Patwari in Calcutta - It was
Sushil Patwari and M. who met in
Calcutta at that time for Sushil
to sell salt to me and for M. to
buy from me the salt so sold.
At this time no contract re. the
salt had been entered into.

10

On the 22nd May 1977 M. had already
contracted to buy salt from the I.O.C. 7000
metric tons of salt. I do not know
whether that was so or not.

D1 for Identification. I have not
seen this document. I can recognise the
signature of M. but the other two I don't.

I deny the suggestion that my only role
was to provide the means of opening L.C.

20

My talks with Patwari was to purchase
salt from him. Mr. P. agreed to sell to me
5000 metric tons of salt at US\$22/- per
metric ton. This verbal agreement was struck
between Patwari and me after Mr. M. had been
requested to leave the room. I had been to
Dacca, saw all these - we talked of textiles
and salt - nothing finalised re. salt and
I went on to Calcutta alone. I did nothing
about salt as no bargain had been struck
with M. M. knew where I was staying and he
came to Calcutta to see me to finalise purchase
of salt from me. I finalised the verbal
contract with I.O.C. on 22.5.77. I have
never seen the letters on pages 2 and 3. My
contract was verbal. I was dealing with
Atlas Enterprises. Yes, the two of them
were aware of Chabbra.

30

We bought the goods (5,000) from I.O.C.

40

Page 4 - I received this amount
US\$25,000/- on 1.6.77 from M. This was
towards textile account.

Put: US\$4,000/- of this was for
commission and other matters
relating to L.C. - Not true.
Whole account for textile.

Page 5:

The L.C. referred to on Page 5 dated 4.6.77 are the L.C. opened by me with my two banks in Singapore.

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High court

D2 - 2 invoices dated 18.7.77 marked for identification collectively as D2.

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Cross-
Examination

10 Not true that these 2 forms were specifically sent to M. after my signature had been put on. My practice is to let my customers have a pad of forms all of them signed by me for them to use ... by M. in our various transactions mostly textile. They are to be used with customers authority.

(continued)

I knew on the 4.8.77 that the goods had been delivered by the shipping Co. to M.

If I.O.C. say that they sold the goods to M. they would not be telling the truth.

20 Atlas Enterprises bought the goods US\$110,000/-. The Plaintiffs sold it to Mr. M. for US\$220,000/-. I did not tell anybody.

The Plaintiff banks received the documents on 8.8.77 and 2 days later on 10.8.77 having made payment it was resold to Mr. M. for US\$220,000/-.

Adj. to 2.15 p.m.

2.15 p.m. Xxn. Sharma

30 I know Ashah Sooch as someone connected with the shippers. After I.O.C. had transferred the L.C. to B.S.S. it was Ashah Sooch who used to see me in B'Desh on behalf of B.S.S. Prior to and after the shipment had been made I was in touch with Ashoh Sooch. Paid US\$60,000/- was paid in Indian Rupees and the rest was given to him in Singapore in Singapore dollars. This Singapore money was paid to him in Singapore. He told me he was a partner. All dealings in May 1977 in Calcutta re this salt shipment no name was mentioned. In May 1977 my wife and I were partners. The Chhabra Corpn. reg. 17.1.77. 40 Prior to that the firm of Chhabra Corpn. was registered as a sole proprietorship with the Registry of Business Names. Original directors are my wife and I. Share of \$1/-, 50,000 shares have been allotted as between me and my wife. The bills were settled by Atlas Enterprises.

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High Court

No. 8
K.C. Sharma
Cross-
examination

(continued)

Page 22

Page 28 - I don't agree with this letter.
There were discussions re
settlement. Many friends
were involved.

Put: Your real dispute is over textile
transactions for which there is a
large outstanding amount - It is
true he owes Atlas money over
textile. This money he owes the
Plaintiffs.

10

Put: You are trying to recover in this
Suit textile debts - No.

Re-examination 2.55 p.m. Re-xn.

Settlement talks going on all the time.
Pads of Invoices (D2) are not serially
numbered . Printed in Singapore. This was
done to 10 other customers for textile. This
is done for convenience of the importers in
Bangladesh. In addition I have also given
Packing List all signed by me. All Atlas
Enterprises letters have ref. number
starting AE. Until we receive the bank
documents relating to P1 and P6 we could not
issue the invoice against Mr. M. in the name of
the Plaintiff. Beneficial owners of the AE
was my wife and I. Beneficial ownership of
all the shares in the Co. was in my wife and
me. As between A.E. and the Co. payments
are effected by book entries. In this case
as between A.E. and the Co. it was book
entries.

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30

Defendant's bundle pages 1 and 2.

Jajit Singh Sehgal Examination

P.W.4 Jajit Singh Sehgal aff. EnglishNo. 9
Jajit Singh
Sehgal
Examination

130A Lorong 1 Telok Kurau, Singapore.

Managing Director of a Trading Co.
Stockland (S) Pte Ltd.

20 years in business in S.E.A.,
Bangladesh, Sri Lanka. Market condition -
I am aware of them in Bangladesh 1977. I
10 was with the Inchcape Group of Co. in
Singapore and I was one of the directors of
one of the trading Co. in the Group. I was
going after the trading interest of
Inchcape (S) with another Inchcape Co. in
Bangladesh. The conditions for certain
commodities in Bangladesh from May 1977 to
October 1977 were chaotic. Suppliers of
commodities were short. Commodities in
20 short supply, sugar, salt, cement and asphalt.
Because of the difficult of obtaining supplies
from outside, the stock within B'Desh was
withheld by the owners from getting into the
market with a view to pushing up the prices.
This resulted in a black market situation.
In or around May 1977 prices for salt varied
from US\$36 to \$44/- per metric ton
depending on the availability of stock.
The main source of supply for salt was India
and the location of the salt for sale
30 mattered because of freight considerations.
In 1977 India banned the export of salt to
anywhere outside India. The ban was
effective in the latter part of 1977. An
L.C. which is divisible, transferable,
negotiable, revocable and confirmed by any
recognised international Bank would be
considered as if it were spot cash for the
purchase of the desired commodities.
40 Sellers in Calcutta did not have enough
salt to sell to all the intending buyers.
As Calcutta was close to B'Desh buyers of
salt from B. usually went to Calcutta to effect
salt purchases. They will accept the goods
in 2 or 3 lots if the L.C. is divisible.
The price will normally be fictitious as
sometimes India Government requirements may
need a low ceiling price. The amounts
paid over and above the Government ceiling
price would be paid either in Rupees in
50 Calcutta without disclosure or it would be
paid in foreign currency outside India.
Sometimes also in such transactions 2 or 3

In the
High Court

No. 9
Jajit Singh
Sehgal
Examination

parties would be involved and each one had his own declaring the price to the other two. The seller of such a commodity would want to sell at the highest point possible and because of this he would keep negotiating simultaneously with various parties.

(continued)

The buyer would only know that he has secured the cargo for sure when he has got the B.L. in his hands.

In August a seller would be able to sell one metric ton of salt on the market in B'Desh at US\$44/- (this is to importers). It could be more because the ban on salt was imposed later. The Government of India imposed a ban as India itself was suffering a shortage. We were approached for supply of salt. But we refused to handle this commodity because my Co. was not prepared to indulge in under-the-table payments. Without under-the-table payments no salt could be obtained.

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Adj. to 10.00 a.m.

Sgd. A.P. Rajah

11th March
1981

Wednesday, 11th March 1981

P.W.4 Jaggit Singh Sehgal

In Aug. 1977 I was resident in Singapore but I was not dealing in salt. What I have said in Court is what I have heard from people dealing in salt in India and B'Desh. I believe the ban was in Nov. or Dec. 1977. During the 2nd half of 1977 I have been to B'Desh and India twice, for business not salt for Inchcape Group. I don't know whether a ceiling price had been imposed on salt by the Indian Government.

30

Re-examination

Re-xn.

Inquiries to purchase towards the end of 1977 was definitely higher US\$44/-. After the export ban was imposed one could definitely get higher than US\$44/- per metric ton.

40

Released.

Case for the Plaintiffs.

Order 18 r. 8 (1979 W.B.) deals with manner of pleadings.

PLEADINGS

Mr. Murphy:

11th March
1981

How we propose to put this case in law.

10 (1) What Plaintiffs have to show that they have property in the goods. They have to show that they bought the goods, that they paid for the goods and that they owned the goods. The B.L. on its own does not do that.

Scothorn on Charter parties (18th Edn.) page 196.

Article 101 - Ineffectual Indorsements. What we are saying here is that the arrangements between Atlas E. and Mr. M. was that Atlas E. provide the L.C. but that the sale of the goods was from I.O.C. to M. thru. B.S.S. Both B.L. were transferred to Bihar.

20 (1) Sewell v. Burtick (1884) 10 A.C. 74, Lord Blackburn.
Lord Braunwell page 103.

(2) 100 L.T.R. page 71 Burgos v. Nascimento Indorsement to Agent for collection.

(3) London Joint Stock Bank v. British etc. 16 Commercial Cases 102

30 If the shipowner satisfies the Court that it has delivered the goods to the right owner then that is the end of the responsibility of the shipper.

If the Plaintiffs have no title to these goods they can have no cause of action against the shipowners.

Agreed Bundle put in by agreement and marked AB1-29.

Indemnity AB29.

Sushil Patwari Examination

No. 11
Sushil Patwari
Examination

D.W.1 Sushil Patwari aff. English

41 Eгна Street, Calcutta.

Partner of Indian Overseas Corpn.
(Partnership concern). A family business
started in 1959. I am a partner since 1959.
Export and Import business. Mainly textiles,
chemicals and engineering goods. We were
also dealing with salt. In 1976 we were
recognised as an Export House by the
Government of India. We have certain
privileges accorded to us by the Government
which the normal business houses does not
have. We have dealt with Mr. M. of Dacca
since 1973/74. Still doing business with
them. They started in March or April 1977.
At the beginning we exported salt to them
overland by lorries. This was the first
shipment of salt by sea. Mr. M. wanted to
buy in big quantities and this was only
possible by sea.

10

20

In May 1977 M. came alone to Calcutta and
we discussed this business in our office at
Eyra Street. He wanted to buy salt in bulk.
I said we could offer one shipload, minimum
quantity 7,000 metric tons. 7,000 metric
ton is a full shipload. He said **because** of
financial problems in B'Desh it would not be
possible to open L.C. from B. but he can
arrange L.C. from 3rd country. I don't know
what the financial problems were. We had no
objection to L.C. from 3rd country. We had
a further meeting on 20th May in my office,
myself, M. and my office staff (Mr. Sharma was
not there.) We then entered into a formal
contract. (D1). The signature for I.O.C.
is mine. The signature M. & S. is that of M.
I saw Mr. Sharma (identified) and Mr. M. in
the Ritz Hotel where he was staying. This
took place one or two days later. The
meeting was for this only. Mr. Sharma made
it clear that he would provide L.C. only for
5,000 tons and not for 7,000 tons. For the
balance M. said he would arrange for payment
by draft from Bangladesh - by a transfer of
funds from B'Desh to India. It was quite
clear to me that Mr. M. was buying the goods
but Mr. Sharma was providing the L.C. on
behalf of M. He said it would be from

30

40

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Atlas Enterprises. He took my address to open L.C. I can't remember how long the meeting lasted. I had no business dealings with Mr. Sharma or A.E. or Chabbra Corpn. Pte Ltd. I did not know its existence then. Came to know of it after dispute.

In the
High Court

No. 11
Sushil Patwari
Examination

I had to order the salt to fulfil the contract. I ordered it from Bihar Supply Syndicate also of Calcutta.

(continued)

10 D3 - Admitted and marked D3.

The L.Cs were opened on 23rd May 1977.

The two L.C. were transferred to B.S.S. at our request against our contract. We handed the draft in US\$44,000/- (Admitted and marked D6) to B.S.S. plus the 2 L.Cs in satisfaction of their contract with them. 2 Invoices for 5,000 tons were sent to A.E. in Singapore and one for 2,000 tons to M. in Dacca. The Bill from Sharma. I know the document. I have seen it. I know all the signatures appearing on the document. Admitted and marked D4. The invoice was sent to A.E. as this had to be done to comply with terms of the L.C. This ship could carry more than 7,000 tons. This ship could carry 10,000 tons. The 5,000 tons was shipped on Jagdi on 15.7.77 and the 2,000 tons by Jagdev in September 1977 (Invoice dated 14.9.77). As goods shipped on 15.7.77 there was no need to extend L.C. facilities. We sent copies of documents to A.E. and M. We sent copies of documents to A.E. and M. We had a contract with him. So we sent it to him.

I saw Mr. Sharma in Dacca with Mr. M. They were having disputes over textile transactions. There was a dispute over a bill of US\$220,000/- sent to M. by Mr. S. Mr. M. was saying it should be US\$110,000/-. Mr. Sharma said that the amount over and above the 5,000 tons of salt at \$110,000/- was for textiles.

Mr. Asokh Sood has no connection with us nor with B.S.S. The highest price for salt towards the end of 1977 was US\$30/- per metric ton. Up to August 1977 it did not go beyond US\$23/- or US\$ 23½.

Two contracts dated 13.6.77 and 18.6.77 marked collectively as D5.

No. 11
Sushil
Patwari
Cross-
examination

There is no way I can check whether these documents were made at that time or later for purposes of the case. If money was being paid under the table it would not be ref. I am not in collusion with the Defendants over this case. In May 1977 salt was not a scarce commodity.

Put - That the real reason B.S.S. took up the L.C. and shipped the salt was because you could not get the salt and Bihar wanted the under the table payments which were customary - No. I can only say that they did not take under the table payments from me. 10

Adj. to 2.15 p.m.

D.W.1 Sushil Patwari (o.f.a.)

Put: D1, D2 and D3 were readily available to M. from the same day - Yes. 20

Put: To make it more authentic you have put in 7,000 tons - Not true.

During the first week of June my firm received the draft for US\$44,000/- from M. for the 2,000 tons. On 7th June 1977 we asked United C.B. that the L.C. be transferred to B.S.S. On 30th May 1977 and 2.6.77 we requested B.N.P. to transfer.

Put: If you wanted to take advantage of foreign currency lying about then the transaction would have to be in your name - That is not so. 30

As the orders were received by us, who are an Export House, the foreign exchange advantages would go to us and not to the actual shippers.

We have had textile transactions going back to 73 or 74. We always exported and he imported. He used to pay for items either by L.C. or by draft. 40

I have come down at invitation and expense of the Shipping Co.

Re-xn.

B.S.S. is not a recognised export house. They will not get any export benefits.

By Court:

The only benefit I got out of this transaction was that I was able to import scheduled goods to the value of 33 1/3 x US\$110,000/-.

10

B.S.S. only get the profits on the transaction itself.

Released.

In the
High Court

No. 11
Sushil
Patwari
Re-examination

(continued)

No. 12

Muntazuddin Ahmad Examination

No. 12

Muntazuddin
Ahmad
Examination

D.W.2 Muntazuddin Ahmad aff. Hindustani

212 Midford Road, Dacca, B'Desh.

47 years old. Been in business on my own since 1948.

20

Business in Dacca, 100/1 Islam Com. Road, Dacca, 1. Deal in textile mainly. In addition if there are shortages of certain commodities in the country (B'Desh) I take the opportunity to deal in those commodities as well as salt.

I have known D.W.1 since 1973. I have business dealings with I.O.C. I have known Mr. Sharma of A.E. since 1974. I have dealt in salt during Dec. 1974 to Feb. 1975.

30

About 25,000 to 30,000 sacks which was imported overland during these 3 months. That was purchased from Ramesh Kumar & Co. of Calcutta. I did not deal with I.O.C. in salt until 1977. In 1977 owing to heavy rain in B'Desh the country became short of

In the
High Court

No. 12
Muntazuddin
Ahmad
Examination

(continued)

salt supply. Then the Government of B. introduced a Voyage Earning Scheme wholly Bangladeshee living and earning their living aboard, remit foreign exchange such as US\$ and £ sterling to banks in B'Desh and out of that foreign exchange the merchants are allowed foreign exchange to import commodities in short supply. The Government of B. announced shortage in salt and said this scheme could be used for the purchase of salt. 10
I first approached Ramesh Kumar & Co. but they were unable to supply me with supply. Next I approached Borath Salt Supply. They told me that since I had had no dealings with them in salt they were not prepared to supply me. They advised me to approach some Export House. Then I went to D.W.l. A month earlier in April 1977 I had been to see D.W.l personally. Subsequently I used to speak to him on the phone from Dacca. Besides other 20
interests I dealt with him on my visits in April. I also talked to him about salt. He told me that he will contact the dealers in salt and then come to me to make arrangements. On the 10th or 12th May 1977 I telephoned him from Dacca he told me he was still not ready. Then either on the 17th or 18th May either he rang me in Dacca or I rang him from Dacca he told me that he had 30
already finalised with 2 or 3 salt dealers and that I should come to Calcutta. I went to Calcutta on the 20th May. I discussed the matter. The quantity I was to purchase was 7,000 metric tons at US\$22/- per metric ton. I had to choose because ships carrying salt carried a minimum of 7,000 to 7,500 metric tons. There were certain difficulties about opening L.C. for the price of 7,000 metric tons of salt in Bangladesh. But it was possible to remit by bank draft or T.T. 40
the whole of purchase price in US\$110,000/-. But I had a personal difficulty in that. I did not have all that money. On the 14th or 15th May 1977. I telephoned from Dacca to Bhashani Bros. and Mr. Sharma, a partner of A.E. in Singapore. I telephoned Vaswani Bros I asked V. Bros. whether they could give me an L.C. for cotton yarn and salt and textile goods on commission basis. Vaswani Bros. declined in the case of salt but agreed 50
for other two items. It was then on the same day that I contacted Mr. Sharma. I told him that salt was available in India, "Can you help me by opening an L.C. for that purpose." Mr. Sharma told me that if an Indian party could supply the salt he would be prepared to open an L.C. He asked me about the quantity of salt I wished to

import from India. I told him that I had contracted for 7,000 metric tons of salt. On inquiry by him I told him that the price was US\$22/- per metric ton. Mr. Sharma then offered to open L.C. for the value of 5,000 metric tons of salt US\$110,000/-. Mr. Sharma wanted 10% commission. I offered 3%. He insisted 10%. I told him that if he settled a sugar claim of mine I would then pay him 10%. I finally agreed to 10%. He was to get US\$11,000/-. Mr. Sharma agreed to meet me in Calcutta on 22nd May. We were both staying at the Ritz Hotel and we met.

In the
High Court

No. 12
Muntazuddin
Ahmad
Examination

(continued)

Adj. to 10.00 a.m.

Thursday, 12th March 1981

12th March
1981

D.W.2 Muntazuddin Ahmad

The witness now says that the rate and Commission were left unsettled.

On 20th May I signed this contract (D1) with I.O.C. I recognised the document. We talked to each other in Hindi. I spent 30 or 35 minutes.

On 22nd May I saw P.W.1 and Mr. Sharma in my room at the Ritz. It was between 7.00 p.m. and 7.30 p.m. It was about salt. Mr. Sharma wanted to know whether the salt could be supplied from India. It was after P.W.1 had agreed to supply the salt that Mr. Sharma agreed to open L.C. for US\$110,000, the value of 5,000 metric tons. A.E. was to open the L.C. The commission was now finalised at 3%. I agreed not to claim for the sugar. One week after the 22nd I went back to Dacca.

Page 4 of Defts' Bundle.

Yes, I brought the draft in Dacca and sent it to A.E. This sum was meant to pay Sharma's 3% being \$3,300 and the insurance and the balance to be taken into account for the textile account. This document was handed to Mr. Sharma in Dacca on the 1st June at 4.00 p.m. That was when I told him how the sum of US\$25,000/- was made up. I received this.

Letter dated 4th June 1977 admitted and marked D7.

In the
High Court

No. 12
Muntazuddin
Ahmad
Examination

12th March
1981

(continued)

The vessel arrived at Chittagong on
26.7.77. I had to obtain import permit on
23.7.77. The original is collected by the
Customs.

Photostat copy, original now with the
Customs - D8.

Another copy of Invoice - D9.

To get these import permits I had to
produce Invoice and B. of Ladings. I received
the B. of L. and the Invoices on 21.7.77.
There were 2 Bills of Lading and 2 Invoices.
These documents were delivered to me by Mugamil
Miyam who was in contract with Mr. Sharma.
D2 was given to me by Mugamil Miyam. When I
was given D2 they were then as they are now.
There are copies of Invoices I handed to Import
Dept. to obtain the Import Licence.

10

P10 and P11 were received by me together
with a covering letter which I am now unable
to produce. I have left it in Dacca.

20

Ship arrived on 26.7.77. I obtained
the goods with the help of Import Permit and
Bank Guarantee, I did not have the original
B.D. The original B.L. were to be sent to
the bank which had opened the L.C. (the two
Banks in Singapore). The Bank would have
handed them to A.E. They would send it to a
collecting bank in Dacca. The undertaking
with Mr. Sharma was that he would send the
original B.L. to me direct. Instead of
which he sent them to Somali Bank against
payment on B.L. which had been doubled.
After I had given the guarantee I was hoping
that Mr. Sharma would over to Dacca.

30

On 28th or 29th July 1977 Mr. Sharma
was in Dacca. I spoke to him. I asked for
original B.L. Mr. Sharma promised to let me
have original B. of L. in a few days. I
deposited money with the Bank (Rupali)
Dhakas 2.7 million. As a result I was in
difficulties.

40

I received documents on pages 1 and 2
(P8 and P9).

I received P8 and P9 on 20th or 22nd
August or thereabout, 4 weeks after the
ship had arrived. I don't know when the
ship left Tuticorin. When I received P8
and P9 I had the shock of my life.

Plaintiffs agree to admit pages 15-20 (inc.) of Deft's Bundle.

In the
High Court

10 I had a verbal contract to purchase salt from Atlas Enterprise. The amount was for 5,000 tons at US\$22 per metric ton. The agreement was concluded on 22.5.77. This 5,000 tons salt agreement with Sharma was on the same terms as the 7,000 tons of salt from I.O.C. This 5,000 tons is part of the 7,000 tons which I had agreed to purchase from I.O.C.

No. 12
Muntazuddin
Ahmad
Examination

12th March
1981

(continued)

I would be prepared to pay US\$10,000/- I have money in the Bank for this. Dispute over textiles in sum of US\$49,000/-.

The claimant in the suit was by A.E. on the 9.3.81 for S\$200,000/-.

I wrote pages 22 and 27 of Defendant Bundle.

20 I have never had any dealings with Chabbra Corp. They came into the picture when I received P8 and P9.

12.40 Xxn.

I was asking Sonali Bank for postponement of payment.

Cross-
examination

Page 10 of Plaintiffs Bundle of Documents. Page 11 of same bundle.

30 Rupali Bank was asking me to produce the Bills of Lading. At the same time the Manager of Sonali Bank was telling me that it was a matter of shame to me for not collecting these documents for such a long time. This is also bringing bad name to the country and the name of your firm. Mr. Sharma, who was then in B'Desh (11.10.77) told me that he would be in difficulty with his banks in Singapore. Get more time from the Sonali Bank for payment and I will subsequently send you textiles of the value of \$110,000/- and thus it will all be settled
40 \$110,000/- for the salt and \$110,000/- for the textile which he promised to send. I signed Pages 10 and 11 for no other reason.

I know Mr. Mohamed Lutfor Rahman Khan, the Manager of the F.E. Section of the Sonali Bank. I have known him for years. No bad feelings between the two of us. Mr. Khan unduly pressed and threatened me to write that letter. I had taken my letter heads

In the
High Court

No. 12
Muntazuddin
Ahmad
Cross-
Examination

with me. Mr. Khan took one of them and had this letter typed on it and I signed it under pressure. He was bringing moral pressure on me. Not very bank-like conduct. It was the pressure from the bank and the inducements held out Mr. Sharma that made me sign these letters.

(continued)

There is another letter dated 14.11.77 (Page 28 of Deft. Bundle) which he made me sign. I am telling the Court the truth. Para. 2 of page 28 asks for reduction of \$30/- per ton from \$44/- per ton. I did not at that time this when I signed the letter. I had a copy given to me by Mr. Khan. Later in the day, now he says later in the week I came to know of the contract.

10

Adj. to 2.45 p.m.

2.45

D.W.2 Mumtazuddin Ahmad (o.f.o.)

I know Bihar Supply Syndicate. I cannot recognise any of the signatures of the B.S.S. officials. The signature of B.S.S. in D4 and P1, P2 and P6 and P7 appear similar except the signature on P2 is slightly different to what appears on D4 (Indorsement of shippers of 2 B. of L. are accepted as correct by Defts.)

20

The amount of Atlas invoices was in U.S. dollars. To get the Import Permits one has to show the equivalent currency in Taka. The Taka equivalent is on the Import Permit. Exchange rate 15 to 16 to 17 Takas for US dollar. I don't think it it could have been 26 Takas to a U.S. dollar. Atlas Enterprises - I deny that any blank forms were left me as suggested by Mr. S. The same for Packing Lists.

30

Pages 88 of Defts. Bundle. These were received by me on 21.7.77. Muzamit M. Muzamit is a Bangladeshi.

40

2 new negotiable B. of L. pages 8 & 9. Letter to my firm from A.E. asking me to give a guarantee to the Bank and get the cargo delivered and that he will forward the original B. of L. in a matter of days.

Page 7 is the first letter he ever wrote to me.

When Mr. S. wrote to me it would be on A.E. letterheads - Sample of letterhead P14.

In the
High Court

Page 7 is not on the letter head. There was no letter head to letter on page 7.

No. 12
Muntazuddin
Ahmad
Cross-
Examination

Letter heads do not have E & O.E. Packing List have E. & O.E.

(continued)

Put - Page 7 was given to me by Muzamit.

10 Put - Took a letter from the signed forms given to you and you concocted this letter.

Put - Pages 8 and 9 made up by you.

Packing List P15.

When I was with Sharma on the 22nd May I had this with me. I did not show him the contract, but I told him verbally.

Put - D1 not made out on 20.5.77 but later for purposes of case.

Page 19 of Defts. Bundle.

20 Not written under any pressure.

I have not paid any money into Court in Bangladesh. Order was to deposit in Court.

Not been invited by the shipping Co. to give evidence. No inducement to shipping Co. to carry on the litigation. Shipping Co. is fully protected by the indemnity.

I have said the 2 B. of L. are in the hands of Chabbra Corpn. Pte Ltd.

30 I don't have complaints if the bills were in the hands of A.E.

Declared value of importation at 27 of Taka. At 16 Takas it will be US\$168,000/-.

Put - To get the import permit you have not used A.E. invoices but some other invoices - No.

In the
High Court

4.20 Re-xn

Wage Earner's Scheme.

No. 12
Muntazuddin
Ahmad
Re-examination
(continued)

This transaction was under the Wage Earner's Scheme. Monies earned and remitted by Bangladeshis outside B. could be utilised for importing scheduled commodities. These monies go into scheduled bank. They have Y.C. Account. All those with money to spare are doing it. The Banks won't refuse.

By Court

10

I came to know on the 23rd July that the goods had already been shipped and that they were on . I was informed of this by Chittagong agents of the Shipping Co. By letter dated 22.7.77 and received by me on 23.7.77. They wrote to me because the B.L. has on it the indorsement notify me. On receipt of this letter I knew that the goods had been shipped on the Jag Shakti. It is possible that Mr. Sharma got the information (Page 7 of Defts. Bundle).

20

D9 - I have no dealings with I was not aware of where the contract between I.O.C. and B.S.S. was signed. I had to pay for the 2,000 tons of salt on 1.6.77 in order to tie up the goods which was delivered in September. Half of the ship was allocated to another party. B.S.S. said they could not get a steamer to carry the whole lot.

Released.

30

Defendants close their case.

Adj. to 10.30 a.m.

Friday, 13th March 1981

Pl6 admitted by consent.

Murphy addresses:

Bill of Lading Act 1855.

(1) Burdicks v. Sewell (1884) 10 A.C.

(2) Halsbury: Vol. 31 Statutes P.44

Reads page 44 and Notes

We have to find out whether the property in goods is with the Plaintiff.

10 Shipper of goods is B.S.S. Shipper then sent the bill of lading with relevant documents to U.C.B. (United Commercial Bank) before they had been paid off by Atlas Enterprise could have taken action on bills.

Notation of "notify is that he is the ultimate buyer".

20 If the U.C.B. before payment by A.E. present original bill with relevant documents to the carriers at Chittagong on arrival of goods the carriers must deliver the goods.

On the payment to B.S.S. then the L.C. the property in the goods passed to the Purchasers who was M.

The circumstances in which the A.E. paid off U.C. Bank does not give them property in the goods but a lien on the goods for the U.S. dollar.

11.40 a.m.

Arul addresses:-

30 I rely on Lord Denning (1959) A.C. 576 Sze Hai Tong Bank @ 586.

London Joint Stock Co.

Page 53: Carver on Carriage of Goods by Sea (12th Edn.) Para. 64.

In the
High Court

No. 13
Proceedings

12th March
1981

(continued)

Damages:

Vol. 2 of Carver P. 1227.

Accept that the invoice value of goods covered by P1 and P7 amount to US\$110,000/-.

Buying contract.

Selling contract \$220,000/-.

The Plaintiff Invoice P8.

Taka 2.7 million @ 17 Takas per U.S. dollar US\$158,823.50.

Figure for 27.7.77 = S\$3389,117.62.

10

Figure for today \$331,941.15.

Interest to run at commercial rates from 27.7.77 to date of judgment.

Suggest interest fixed at the interest in 1977 @ 11%.

Interest 16:25%

I suggest 13.6%

16th March
1981

Monday 16th March 1981

Court: Judgment for Plaintiffs in the sum of \$389,117.62 and costs. Interest at the rate of 12% from 27.7.79 to date of judgment. Execution stayed on terms to be agreed between the parties or to be settled by me.

20

Sgd. A.P. Rajah

JUDGMENT

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

16th March
1981

Admiralty in Rem)
No. 256 of 1978)

Admiralty action in Rem
against the ship or
vessel "JAG SHAKTI"

Between

10 Chabbra Corporation Pte. Ltd. Plaintiffs

And

The Owners of and Other Persons
Interested in the Ship or
Vessel "JAG SHAKTI" Defendants

Coram: A.P. Rajah J.

JUDGMENT

This was an admiralty in rem action brought under section 3(1)(h) read with section 4(4) of the Admiralty Jurisdiction Act (Cap. 6).

20 In their Amended Statement of Claim the Plaintiffs claimed that at the time of the action and at all material times they were the holders for value and/or indorsees of 2 bills of lading Nos. 1 (Ex. P1) and 2 (Ex. P6) both dated the 15th July 1977. Their case was (1) that by the contract contained in or evidenced by the said two bills of lading the Defendants had acknowledged the shipment on board the vessel "Jag Dhir" in
30 apparent good order and condition and had undertaken to carry a total of 5,000 metric tons of Indian salt, the total value of which was US\$220,000/- in bulk from Tuticorin to Chittagong in their vessel "Jag Dhir" and there to deliver the said Indian salt to the party entitled to delivery thereof or to their order, (2) that, in breach of the said contract and/or their duty as carriers for reward, the Defendants had failed to deliver
40 the 5,000 metric tons of Indian salt to the Plaintiffs who were the party entitled to delivery thereof as holders for value and/or indorsees of the said two bills of lading, (3) that further or alternatively the Defendants had wrongfully converted the said

In the
High Court

No. 14
Judgment

16th March
1981

(continued)

5,000 metric tons of the Indian Salt and (4) that in the premises they had suffered loss and damages to the extent of S\$512,380, being the equivalent of US\$220,000/- at the rate of S\$2.3290 = US\$1/-.

To the Statement of Claim, later amended, the Defendants put in a Defence, which, to my mind, did nothing to define or narrow the issues which would have to be ultimately tried, admitting non-delivery of the said goods to the Plaintiffs but denying that under the two bills of lading, which were not admitted and of which strict proof was required, the Plaintiffs were the party entitled to delivery thereof or that they (the Defendants) were in breach of the said contract and/or their duty as carriers.

10

The case was tried before me on the 9th, 10th, 11th, 12th and 13th March 1981.

I made the following findings of fact:-

20

(1) That at all relevant and material times salt was in short supply in Bangladesh.

(2) Sometime in May 1977 K.C. Sharma (P.W.3), a partner in Messrs. Atlas Enterprises of Singapore, bought from Messrs. Indian Overseas Corporation of Calcutta (10C) 5,000 metric tons of Indian salt (the said cargo) at US\$22 per tons.

(3) That Atlas Enterprises had, through 2 letters of credit opened by them through their 2 Singapore banks, namely, the United Commercial Bank (BC) and the Banque National de Paris (BNP) in favour of 10C and later made transferable, effected payment for the said cargo in the sum of US\$110,000/-.

30

(4) That the said cargo was at the instigation of 10C shipped by Messrs. Bihar Supply Syndicate of Calcutta from Tuticorin in India to Chittagong in Bangladesh on the vessel "Jag Dhir" on the 15th July 1977 under 2 bills of lading Nos. 1 and 2 made out "unto Order or his or their assigns", both dated 15th July 1977 (Ex. P1 and P6) and marked with the notation "Notify; Mumtazuddin & Sons 101 Islampur Road, Dacca, Bangladesh".

40

(5) That Mumtazuddin & Sons (M) had been notified on 23rd July 1977 that the said cargo had been shipped on the vessel "Jag Dhir" and that it was on its way to Chittagong.

(6) That the vessel "Jag Dhir" arrived in Chittagong on 26th July 1977.

In the
High Court

(7) That M obtained an import permit for the said cargo on an Invoice prepared by him on a blank form previously signed by Messrs. Atlas Enterprises and left with him by the firm.

No. 14
Judgment

16th March
1981

10

(8) That M took delivery of the said cargo on or about the 26th July 1977 on an indemnity given to the Defendants by the Rupali Bank of Dacca, Bangladesh.

(continued)

(9) That the said Rupali Bank gave the indemnity to the shipping Company on M depositing with them the sum of Bangladesh Takas 2.7 million (It was agreed by the parties that this sum equates to S\$389,117.62).

20

(10) That the said 2 bills of lading arrived in Singapore on the 5th August 1977 when the 2 Singapore banks received settlement from Atlas Enterprises and at the latter's request was endorsed by each of the 2 banks to the Plaintiffs (the shareholders of which were the 2 partners of Atlas Enterprises, namely K.C. Sharma (P.W.3) and his wife), thus making the Plaintiffs indorsees of the said 2 bills of lading.

30

(11) That the Plaintiffs thereupon indorsed the said 2 bills of lading in blank and gave them to BNP for collection, which bank in turn indorsed them to the Sonali Bank of Dacca for collection.

(12) On the 8th and 9th August the Plaintiffs drew on M 2 bills of exchange for the respective sums of US\$61,000/- and US\$158,400/- totalling US\$220,000/- (Ex. P9) the sum alleged by K.C. Sharma (P.W.3) to be payable by M on the re-sale of the said cargo to M by him.

40

(13) That the Plaintiffs were indorsees of the said 2 bills of lading and were entitled to delivery of the said cargo.

(14) That the Defendants failed to deliver the said cargo to the Plaintiffs or to effect payment on the said 2 bills of exchange (Ex. P9).

(15) I found that M (D.W.2) a most unreliable witness.

In the
High Court

No. 14
Judgment

16th March
1981

(continued)

On these findings I gave judgment for the Plaintiffs on the 16th March 1977 in the sum of \$389,117.65 with costs and interest at the rate of 12 per centum per annum from the 27th July 1977, the date the Defendants delivered the goods to M, to date of judgment.

The Defendants are now appealing against that judgment.

As said by me earlier, this is a case brought under section 3(1)(h) read with section 4(4) of the Admiralty Jurisdiction Act (Cap. 6). At the time the said 2 bills of lading arrived in Dacca the Defendants had already parted with the goods to M on the strength of an indemnity provided for them by the Rupali Bank of Dacca. It is clear that a shipping company which delivers goods to someone other than the holder of the original bill of lading, does so at its peril (Sze Hai Tong Bank Ltd. V. Rambler Cycle Co.Ltd. (1959) A.C. @ page 587 para. 1). The Defendants in this case did exactly that when they parted with the goods to M and were unable to deliver the goods to the Plaintiffs when they took in the 2 original bills of lading to them. They are therefore liable to the Plaintiffs for damages in respect of the said 2 bills of lading. In my view disputes between K.C. Sharma (P.W.3) and M (D.W.2) as to the said cargo ventilated in Court are irrelevant to the question of the liability of the carriers to the holders of the said 2 bills of lading namely the Plaintiffs for failure to deliver to them the said goods. In the course of his submission it was put to me by counsel for the Defendants that the notation on the 2 bills - "Notify: Mumtazuddin & Sons" - meant that M was the consignee of the goods and that as the shipping company had delivered the goods to M they were freed of liability on the said 2 bills of lading. I reject this submission for which no authority was cited.

The question then arose as to what should be the quantum of damages. The Plaintiffs contended that it should be in the sum of the alleged resale of the said goods, namely US\$220,000/-. I rejected this contention and held that the damages should be related to the invoice value of goods shipped under the said 2 bills of lading. In the absence of reliable evidence as to what the value of the goods were at date of conversion I decided to accept the sum of Bangladesh

Takas 2.7 million, the amount of the indemnity against which the shipping company released the goods to M as the appropriate sum. It was agreed by the parties that Bangladesh Takas 2.7 million should convert to S\$389,117.62. In the monetary conditions then prevailing I felt that 12% per annum would be a fair and reasonable figure by way of interest on the said S\$389,117.62.

In the
High Court

No. 14
Judgment

16th March
1981

(continued)

10

Sgd. A.P. Rajah

JUDGE

SINGAPORE,
16th March 1981

Certified true copy

(Sgd)

Private Secretary to Judge
Court No. 3
Supreme Court, Singapore.

In the
High Court

No. 15

ORDER

No. 15
Order

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

16th March
1981

Admiralty in Rem) Admiralty action in Rem
No. 256 of 1978) against the ship or vessel
"JAG SHAKTI"

Between

CHABBRA CORPORATION PTE LTD. Plaintiffs

And

THE OWNERS OF AND OTHER PERSONS 10
INTERESTED IN THE SHIP OR VESSEL
"JAG SHAKTI" Defendants

J U D G M E N T

The 16th day of March 1981

This action having been tried before the
Honourable Mr. Justice A.P. Rajah on the 9th,
10th, 11th, 12th and 13th March 1981

IT WAS ORDERED that this action should stand
adjourned for judgment and the same coming on
for judgment this day in the presence of 20
Counsel for the Plaintiffs and for the
Defendants IT IS THIS DAY ADJUDGED that the

Defendants do pay the Plaintiffs the sum of
\$389,117.62 together with interest thereon
at the rate of 12% per annum from the 27th
July 1977 to this day amounting to \$169,889.81
and costs to be taxed and be paid by the
Defendants to the Plaintiffs and that there
be a stay of execution upon the Defendants 30
paying the Plaintiffs the amount adjudged
to be due by the Defendants to the Plaintiffs
including costs and the Plaintiffs at the
same time providing a guarantee by a bank in
Singapore that in the event of the Court of
Appeal ordering the Plaintiffs to repay any
sums or part of any sum paid by the Defendants
under the judgment the Bank will repay on
demand to the Defendants that sum or sums
including interest thereon at 12% per annum.

(Sgd)

Assistant Registrar

40

Entered in Volume 230 Page 110 on the 25th
day of March 1981 at 11.15 a.m.

Calculation of interest

27.7.77 to 31.12.77 = 158 days
1.1.78 to 31.12.80 = 1095 days
1.1.81 to 16.3.81 = 75 days

1328 days

389,117.62 x 12 x 1328
1 100 365

6200978392.32
36500 = \$169,889.81

169889.81

36500) 6200978392.32
36500

255097
219000

360978
328500

324783
292000

327839
292000

358392
328500

298923
292000

69232
36500

32732

In the
Court of
Appeal

No. 16

PETITION OF APPEAL

No. 16
Petition of
Appeal

IN THE COURT OF APPEAL IN SINGAPORE

12th November
1981

Civil Appeal No. 32)
of 1981)

Between

THE OWNERS OF AND OTHER PERSONS
INTERESTED IN THE SHIP OR VESSEL
"JAG SHAKTI" Appellants

And

10

CHABBRA CORPORATION PTE. LTD. Respondents

In the Matter of Suit No. 256 of 1978

Between

CHABBRA CORPORATION PTE. LTD. Plaintiffs

And

THE OWNERS OF AND OTHER PERSONS
INTERESTED IN THE SHIP OR VESSEL
"JAG SHAKTI" Defendants

PETITION OF APPEAL

To the Honourable the Judges of the Court of 20
Appeal

The Petition of the abovenamed Appellants
shown as follows:-

1. The claim arises out of a shipment of
5,000 metric tons of Indian Salt in bulk from
Tuticorin to Chittagong. The Plaintiffs
who claimed to be the owners of the cargo of
salt by reason of the fact that they had in
their possession Bills of Lading indorsed to
them alleged that the salt was delivered by
the Defendants, the Carriers, to a third
party and thereby the salt of which they were
the Owners was converted by the Defendants,
the Carriers. 30

2. By a Judgment dated the 16th day of March
1981, judgment was given in favour of the
Plaintiffs/Respondents against the Defendants/

Appellants for the sum of \$389,117.62 together with interest at the rate of 12% per annum from the 27th day of July 1977 until the date of judgment, together with costs to be taxed.

In the Court
of Appeal

No. 16
Petition of
Appeal

12th November
1981

3. Your Petitioners are dissatisfied with the Judgment on the following grounds:-

(continued)

- 10 a) At the end of the trial, the Learned Judge stated when he gave his judgment that he did not intend to decide the case on the evidence other than the documents but on the documents alone and that the other evidence in his view was irrelevant.
- 20 b) The Learned Judge in his grounds of judgment has set out findings of fact including one of a contract of sale which Sharma claimed to have made and in respect of which the Learned Judge had stated that he did not intend to make a finding.
- 30 c) The Learned Judge was wrong in stating and holding that the disputes between Sharma and Mumtazuddin as to the cargo and the ownership thereof were irrelevant to the question of liability of the Carriers to the holders of the Bills of Lading. The Carriers could not be liable to holders of Bills of Lading who had no title to the goods and the Learned Judge failed to make any decision as to the true ownership of the goods or the persons entitled thereto.
- 40 d) The Learned Judge was wrong in law in holding that the holder of the two Bills of Lading was, without any evidence of ownership of the goods to which they laid claims, entitled to delivery of the said goods against claims by other claimants.
- 50 e) The Learned Judge was wrong in finding as a fact that Messrs. Atlas Enterprises of Singapore bought from Messrs. Indian Overseas Corporation of Calcutta 5,000 metric tons of Indian Salt at \$22 per ton. Such a finding was against the weight of the documentary and verbal evidence given by the witnesses including the alleged sellers who denied that they sold the goods to Sharma of Atlas Enterprises and provided written evidence in support of a sale to Mumtazuddin & Sons for the goods sold.

In the Court
of Appeal

No. 16
Petition of
Appeal

12th November
1981

(continued)

- f) The Learned Judge was mistaken in thinking that Counsel for the Defendants urged and submitted that the notation on the two bills "Notify Mumtazuddin & Sons" meant that Mumtazuddin was the consignee of the goods. It was stated that the notifying party is usually the person entitled to delivery and that was why he had to be notified. No submission was made on this. 10
- g) The Learned Judge made no findings and expressly failed to deal with the evidence of the second invoice purporting to show a sale by the Plaintiffs to Mumtazuddin & Sons, the sale on which the claim was based.
- h) The Learned Judge should have found on the documents and evidence that there was a contract for the sale and purchase of salt between Mumtazuddin and Indian Overseas Corporation and that Atlas Enterprises were merely financing agents. 20
- i) The Learned Judge should have held as a fact that the Bills of Lading were held by Atlas Enterprises as agents for Mumtazuddin and that the cargo was properly delivered to Mumtazuddin. The rates of exchange used by the Judge in converting from Takas into U.S.\$ and from US.\$ to Singapore \$ were not the proper rates of exchange. The amount of interest and the rate of interest is too high. 30
- j) The Learned Judge failed to differentiate between Atlas Enterprises and the Plaintiffs and failed to make any finding as to any sale by the Plaintiffs to Mumtazuddin or to make any finding which would entitle the Plaintiffs to make a claim. 40
- k) The assessment of the damages was arrived at by the Learned Judge on a wrong basis. There was no proper evidence on which the Judge could have awarded the sum of \$389,117.62 as damages.

Dated the 12th day of November 1981.

(Sgd) Godwin & Co.

Solicitors for the Appellants

To: The Registrar
Supreme Court
Singapore

In the Court
of Appeal

And to:

The Respondents/Plaintiffs
and their solicitors
Messrs. Karthigesu & Arul
Singapore.

No. 16
Petition of
Appeal

12th November
1981

(continued)

10

The address for service of the
Appellants is at the office of Messrs.
Godwin & Co. of 19th Floor, Straits Trading
Building, Battery Road, Singapore 0104

In the Court
of Appeal

No. 17

NOTICE UNDER ORDER 57 RULE 7(1)

No. 17
Notice under
Order 57
Rule 7(1)

IN THE COURT OF APPEAL IN SINGAPORE

CIVIL APPEAL NO. 32 OF 1981

18th November
1981

Between

The Owners of and other persons
interested in the ship or vessel
"JAG SHAKTI" Appellants

And

Chabbra Corporation Pte. Ltd. Respondents 10

(In the Matter of Admiralty in Rem No. 256
of 1978)

Between

Chabbra Corporation Pte Ltd. Plaintiffs

And

The Owners of and other persons
interested in the ship or vessel
"JAG SHAKTI" Defendants

RESPONDENT'S NOTICE UNDER ORDER 57 RULE 7(1)

TAKE NOTICE that the abovenamed Plaintiffs 20
intend upon the hearing of the appeal under
the Defendants' notice of appeal dated the
8th day of April 1981 from the Judgment of
the Honourable Mr. Justice A.P. Rajah given
on trial of the aforementioned action on the
16th day of March 1981 to contend that so
much of the judgment as adjudged that the
value of the Plaintiffs' cargo was
\$389,117.62 should be varied to such extent 30
as to reflect the true value of the
aforesaid cargo at the time when the cause of
action arose and for an order that the
costs of the Defendants' appeal and this notice
be paid to the Plaintiffs by the Defendants.

AND FURTHER TAKE NOTICE that the ground
of this appeal is that the Learned Judge,
having found that the Defendants failed to
deliver the aforesaid cargo to the Plaintiffs
in breach of the terms of the contracts of
carriage, and were thus liable to the 40

Plaintiffs for the value of the said cargo,
and quantified such damages at the sum of
\$389,117.62 failed sufficiently to
consider :

In the Court
of Appeal

No. 17
Notice under
Order 57
Rule 7(1)

18th November
1981

10

- (1) that the sale value of the cargo
to Mumtazuddin and Sons was
US\$220,000;
- (2) that the invoice value of the
cargo when shipped is only reflective
of the price paid for the said
cargo by the Plaintiffs;
- (3) that the indemnity issued by Rupali
Bank on behalf of Mumtazuddin and
Sons is not limited to the sum of
Bangladesh Takas 2.7 million,
nor any sum whatsoever.
- (4) that there is no evidence whatsoever
to show that the value of the cargo
at the relevant time was Bangladesh
Takas 2.7 million.

20

Accordingly, the Learned Judge erred in
Law and in fact in awarding judgment for a
sum of less than US\$220,000.

Dated the 18th day of November 1981.

(Sgd) KARTHIGESU & ARUL

Solicitors for the Respondents

JUDGMENT

IN THE COURT OF APPEAL OF THE REPUBLIC OF
SINGAPORE

CIVIL APPEAL NO 32 OF 1981

Between

THE OWNERS OF AND OTHER PERSONS
INTERESTED IN THE SHIP OR VESSEL
"JAG SHAKTI"

Appellants

And

10

CHABBRA CORPORATION PTE. LTD.

Respondents

(In the Matter of Admiralty in Rem No 256 of 1978)

Between

CHABBRA CORPORATION PTE LTD.

Plaintiffs

And

THE OWNERS OF AND OTHER PERSONS
INTERESTED IN THE SHIP OR VESSEL
"JAG SHAKTI"

Defendants

Coram: Wee Chong Jin C J
Lai Kew Chai J
F A Chua J

20

Mr Denis Murphy for Appellants
Mr C Arul with Miss Carol Wong
for Respondents

J U D G M E N T

This is an appeal against a judgment of the High Court under which the Respondents recovered the sum of \$389,117.62 (equivalent to US\$110,000.00), interest thereon and costs. The sum of \$389,117.62 was fixed by the learned trial judge on the arrived market value of the goods. He, however, based the arrived market value of the goods on the amount of the indemnity given by the receivers of the goods at destination to the Appellants' agent without production of the original bills of lading.

30

The Respondents had sued in contract as indorsees of two bills of lading to whom the property in 5,000 metric tons of edible salt ("the goods") had passed or, alternatively, in tort, for conversion of the same.

In the Court
of Appeal

No. 18
Judgment

19th August
1982

(continued)

10 The Appellants as carriers had delivered the goods to Mumtazuddin & Sons ("Mumtazuddin") at Chittagong, Bangladesh against their indemnity, which was countersigned by the Rupali Bank of Bangladesh, without the production of the original bills of lading duly endorsed. The Respondents had claimed US\$220,000/- as the value of the goods on the basis that they had bought the goods from Indian Overseas Corporation ("IOC") of Calcutta, India at US\$110,000/- C&F Chittagong and had sub-sold the same to Mumtazuddin for US\$220,000/-. The learned trial Judge based 20 the value of the goods on the Calcutta suppliers' invoices of the goods totalling US\$110,000/- as the amount of the damages which the Respondents had suffered. He did not say anything about the alleged sub-sale of the goods by the Respondents to Mumtazuddin.

30 By a Respondents' notice, the Respondents sought an increase of the value of the goods from US\$110,000/- to US\$220,000/- on the basis that there was, as the learned trial Judge ought to have found, a sub-sale.

40 On the other hand, the Appellants contended before us that IOC had in truth and in fact sold 7,000 metric tons of edible salt to Mumtazuddin under a written contract dated 20th May 1977, of which the goods were a part, and that one K C Sharma who had caused the bills of lading to be endorsed to the Respondents, had agreed to finance Mumtazuddin's purchase of the goods by arranging for the issues of the Letters of Credit by two banks in Singapore. In the circumstances, the Appellants contended that they had delivered the goods to the true owner and the Respondents being mere pledgees had no cause of action against them, relying on *Sewell v Burdick* (1884), 10 A.C. 74.

50 It is plain beyond doubt from the contemporaneous documents that the facts are as follows. By a contract in writing dated 20 May 1977 IOC agreed to sell to Mumtazuddin 7,000 tons of edible salt at US\$22/- per ton C&F Chittagong/Chalna, Bangladesh. The suppliers were Bihar Supply Syndicate of

In the Court
of Appeal

No. 18
Judgment

19th August
1982

(continued)

Calcutta who in writing had contracted to sell to IOC 21,000 metric tons of salt plus or minus 10% at US\$22/- per ton C&F Chittagong/Chalna, Bangladesh by three ship loads of 7,000 metric tons per ship. The fact that IOC was not making a profit was because it was permitted by reason of the export of the goods to import certain scheduled goods into India to the value of one-third the value of any goods exported by it. One K C Sharma, who with his wife were the two partners of a Singapore firm, Atlas Enterprises, agreed with Mumtazuddin that Atlas Enterprises would finance Mumtazuddin by causing Letters of Credit to be opened by banks in Singapore in favour of IOC to pay for the goods.

10

In the event, Atlas Enterprises caused the Singapore branch of the United Commercial Bank and Banque Nationale de Paris to open the Letters of Credit for the respective sums of US\$30,800/- and US\$79,200/- to pay for 1,400 metric tons and 3,600 tons of sale (sic) respectively. It was agreed before us that Atlas Enterprises incurred the sum of \$275,620.82 in respect of the two Letters of Credit, bank charges and insurance premia. The Letters of Credit were made transferable and Bihar Supply Syndicate was duly paid. Bihar Supply Syndicate shipped the goods on board the Appellants' sister vessel, m.v. "Jag Dhir" and the bills of lading Nos 1 and 2 for 1,400 metric tons and 3,600 tons of salt, which were issued by the Appellants' agents, were generally endorsed by Bihar Supply Syndicate and handed over to the paying banks who eventually sent them to the opening banks. Having paid the opening banks, Atlas Enterprises caused the bills of lading to be endorsed over to the Respondents for value.

20

30

In the meantime, Mumtazzudin took delivery of the goods from the Appellants without the production of the original bills of lading against their indemnity which was countersigned by the Rupali Bank.

40

The Respondents, who were not sellers then, invoiced Mumtazzudin for US\$220,000/- and sent the bills of lading through their bankers for collection from Mumtazuddin who refused to take up the documents and pay. The Respondents accordingly sued the Appellants as carriers and obtained judgment in the court below for US\$110,000/-.

50

With reference to the cross appeal of the Respondents for US\$220,000 on the basis of an

alleged sub-sale by them to Mumtazzudin, there was no evidence before the trial judge of a sub-sale and the Respondents' cross appeal must accordingly fail.

In the Court
of Appeal

No. 18
Judgment

19th August
1982

(continued)

10 We disagree with the Appellants' contention that the Respondents had no title to sue in contract as indorsees to whom property had passed or in tort for conversion. Counsel for the Appellants relied on Sewell v Burdick. A good summary of the effect of this decision is found in the editors' note to Article 93 in Scrutton on Charterparties and Bills of Lading, 18th edn. It says as follows:

20 "The decision in Sewell v Burdick has made it clear that the effect of the indorsement of a bill of lading depends entirely on the particular circumstances of each indorsement and that there is no general rule that indorsement passes the whole legal property in the goods, as had been strongly contended by Brett M.R. in the court below, and in Glyn, Mills & Co v East and West India Docks. In the light of this decision, the special verdict in Lickbarrow v Mason, which recites that 'the property is transferred by indorsement,' must be read 'the property which it was the intention to transfer is transferred';..."

30
40
50 Having regard to the arrangements made between Mumtazuddin and Sharma, it was the plain intention of Mumtazuddin that the suppliers of the goods could on shipment transfer the property in the goods by generally endorsing the bills of lading, as they did, to the banks opening the letters of credit and eventually to Atlas Enterprises or as Atlas Enterprises shall order. The Respondents became the endorsees for value and holders of the bills of lading. They became a party to the two contracts of carriage with the Appellants as the carriers, as contemplated by the operation of the Bills of Lading Act, 1855. The Respondents are therefore entitled to sue the carriers in contract. In the circumstances, the Respondents are not entitled to recover on the basis of the arrived market value of the goods. They are entitled to recover what they had incurred under the two letters of credit. They are accordingly entitled to recover the said sum of \$275,620.82. As for interest thereon, it should be payable

In the Court
of Appeal

No. 18
Judgment

19th August
1982

(continued)

from the dates the suppliers of the goods were paid under the letters of credit and therefore should run from 5 Aug 77.

Insofar as conversion is concerned, the Respondents are in exactly the same circumstances as the successful plaintiff bank in London Joint Stock Bank (Limited) v British Amsterdam Maritime Agency Limited /1910/ 16 Com. Cas. 102. Mumtazuddin, not having paid for the goods, were not entitled to the possession of the Bills of Lading and therefore were not entitled to the delivery which was wrongful.

10

We accordingly dismiss the appeal with costs, but the judgment of the Court below is varied so that Respondents recover the sum of \$275,620.82 and interest thereon at 12% per annum from 5 Aug 77 up to date hereof.

Sgd WEE CHONG JIN
CHIEF JUSTICE

20

Sgd LAI KEW CHAI J
JUDGE

F A CHUA
Judge

SINGAPORE, 19th August 1982

Certified true copy

(Sgd)
Private Secretary to Judge
Court No 5
Supreme Court Singapore

30

ORDER

No. 19
Order

IN THE COURT OF APPEAL OF THE REPUBLIC OF
SINGAPORE

19th August
1981

CIVIL APPEAL NO. 32 OF 1981

Between

THE OWNERS OF AND OTHER PERSONS
INTERESTED IN THE SHIP OR VESSEL
"JAG SHAKTI" Appellants

10

And

CHABBRA CORPORATION PTE LTD. Respondents

(In the Matter of Admiralty in Rem No. 256
of 1978)

Between

CHABBRA CORPORATION PTE LTD. Plaintiffs

And

THE OWNERS OF AND OTHER PERSONS
INTERESTED IN THE SHIP OR VESSEL
"JAG SHAKTI" Defendants

20

J U D G M E N T

Coram:

THE HONOURABLE THE CHIEF JUSTICE IN OPEN
MR. JUSTICE WEE CHONG JIN COURT
MR. JUSTICE F.A. CHUA
MR. JUSTICE LAI KEW CHAI

The 19th day of August, 1982

30

This Appeal having been called on for
hearing before the Court of Appeal on the
15th and 16th days of March 1982 in the
presence of Counsel for the Appellants and for
the Respondents AND UPON HEARING Counsel as
aforesaid IT WAS ORDERED that this Appeal do
stand for judgment.

And this Appeal standing for judgment on
the 20th day of May 1982 and 19th day of August
1982 in the presence of Counsel for the
Appellants and for the Respondents IT IS
ORDERED that:-

1. This appeal do stand dismissed out

In the Court
of Appeal

No. 19
Order

19th August
1981

(continued)

of this Court with costs to be taxed
and paid by the Appellants to the
Respondents.

2. The Respondents' cross-appeal be
dismissed.
3. The judgment of the Court below be
varied so that the Respondents
recover the sum of S\$275,620.82
with interest thereon at the rate
of 12% per annum from 5th August
1977 to this date.
4. The deposit of \$500.00 paid into
Court by the Appellants as security
for costs of this appeal be paid out
to M/s Karthigesu & Arul,
Solicitors for the Respondents.

10

Sgd

Asst. Registrar

No. 20

In the Court
of Appeal

ORDER GRANTING LEAVE TO APPEAL TO
CHABBRA CORPORATION PTE. LTD.

No. 20
Order granting
leave to
Appeal to
Chabbra
Corporation
Pte. Ltd.

IN THE COURT OF APPEAL IN SINGAPORE

CIVIL APPEAL NO. 32 OF 1981

17th January
1983

Between

THE OWNERS OF AND OTHER PERSONS
INTERESTED IN THE SHIP OR VESSEL
"JAG SHAKTI" Appellants

10

And

CHABBRA CORPORATION PTE. LTD. Respondents

(In the Matter of Admiralty in Rem No. 256
of 1978)

Between

CHABBRA CORPORATION PTE. LTD. Plaintiffs

And

THE OWNERS OF AND OTHER PERSONS
INTERESTED IN THE SHIP OR VESSEL
"JAG SHAKTI" Defendants

20

ORDER OF COURT

BEFORE THE HONOURABLE THE CHIEF JUSTICE
MR. JUSTICE WEE CHONG JIN, THE HONOURABLE IN OPEN
MR. JUSTICE T.S. SINNATHURAY, THE COURT
HONOURABLE MR. JUSTICE A.P. RAJAH

The 17th day of January 1983

30

UPON motion preferred unto this Court this
day by Mr. C. Arul of Counsel for the abovenamed
Respondents in the presence of Mr. Denis Murphy
of Counsel for the Appellants AND UPON READING
the affidavit of K.C. Sharma filed herein on
the 29th day of October 1982 and the affidavit
of Denis Murphy filed herein on the 14th day
of January 1983 AND UPON HEARING Counsel as
aforesaid IT IS ORDERED that:-

In the Court
of Appeal

No. 20
Order granting
leave to
Appeal to
Chabbra
Corporation
Pte. Ltd.

17th January
1983

(continued)

1. Leave be given under Section 3 (1)(a) of the Judicial Committee Act (Cap. 8) to appeal to the Judicial Committee of Her Britannic Majesty's Privy Council against part of the judgment of the Court of Appeal delivered herein at Singapore on the 19th day of August 1982 in dismissing the Respondent's cross appeal and in varying the judgment of the Court below so that the Respondents recover the sum of S\$275,620.82 with interest at 12% per annum from 5th August 1977 to 19th August 1982.

10

2. The time for the Appellants to prepare the index of proceedings pursuant to Order 58, Rule 5 (1) be extended to 4 weeks.

Sgd

Asst. Registrar

ORDER GRANTING LEAVE TO THE OWNERS
OF AND OTHER PERSONS INTERESTED IN
THE "JAG SHAKTI"

No. 21
Order granting
leave to the
Owners of
and other
persons
interested
in the "Jag
Shakti"

IN THE COURT OF APPEAL IN SINGAPORE

CIVIL APPEAL NO. 32 OF 1981

21st February
1983

Between

THE OWNERS OF AND OTHER PERSONS
INTERESTED IN THE SHIP OR VESSEL
"JAG SHAKTI"

Appellants

10

And

CHABBRA CORPORATION PTE. LTD. Respondents

(In the Matter of Admiralty in Rem No. 256
of 1978)

Between

CHABBRA CORPORATION PTE. LTD. Plaintiffs

And

THE OWNERS OF AND OTHER PERSONS
INTERESTED IN THE SHIP OR VESSEL
"JAG SHAKTI"

Defendants

20

ORDER OF COURT

CORAM: THE HONOURABLE THE CHIEF JUSTICE,
MR. JUSTICE WEE CHONG JIN,
THE HONOURABLE MR. JUSTICE F.A. CHUA
THE HONOURABLE MR. JUSTICE T.S.
SINNATHURAY

THE 21st DAY OF FEBRUARY, 1983 IN OPEN COURT

UPON MOTION preferred unto this Court
this day by Mr. Denis Murphy of Counsel for the
abovenamed Appellants AND UPON READING the
Notice of Motion dated the 26th day of
January 1983 and the affidavits of Denis Murphy
filed herein on the 14th day of January 1983
and the 28th day of January 1983 AND UPON HEARING
Counsel for the Appellants and for the
Respondents IT IS ORDERED:-

30

In the Court
of Appeal

No. 21
Order granting
leave to the
Owners of
and other
persons
interested
in the "Jag
Shakti"

21st February
1983

(continued)

1. That the time for making this application be extended notwithstanding that it is made more than three months after the date on which the judgment appealed from was given under Section 3 (1) (a) of the Judicial Committee Act (Cap. 8) to cross appeal to the Judicial Committee of the Britannic Majesty's Privy Council against part of the Judgment of the Court of Appeal delivered herein at Singapore on the 19th day of August 1982 in dismissing the Appellants' claim to the effect that the Respondents had no title to sue in contract or in tort for conversion and in awarding the Respondents \$275,620.82 and interest thereon and in although varying the Judgment in the Court below by reducing the claim by \$113,456.80 and interest thereon and dismissing the cross appeal ordering the Appellants to pay the whole of the costs of the appeal without any costs on the cross appeal. 10 20
2. That the time for the Appellants and Respondents to prepare the index of proceedings pursuant to Order 58, Rule 5(1) be extended to four weeks from the date hereof. 30
3. That the Appellants do pay the Respondents \$150.00 fixed costs.

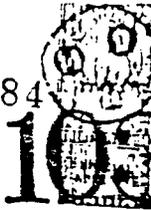
Dated the 21st day of February, 1983

Sgd: LIM POO TOON

ASSISTANT REGISTRAR

Unused specimen copies of the Bill of Lading
as appearing in this Record will be available
at the hearing of the Appeal.

Exhibit 1
 Bill of Lading, 1400 Metric
 Tons of Salt - 15th July 1977



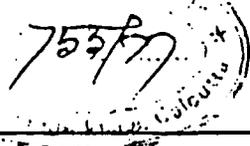
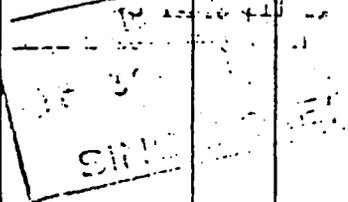
The Great Eastern Shipping Company, Limited, Bombay.
 (Incorporated in India)

1

Shippers are requested to note particularly the terms and conditions of the Bill of Lading with reference to the validity of their insurance upon the Goods.
 The Goods are shipped and this Bill of Lading granted subject to the following express conditions—
 NOTICE OF CLAIMS: Any claim for short delivery of or damage done to goods and all other claims whatsoever, to be presented at the Company's option at Port of Discharge or Bombay or at no other Port.
 No claim for damage will be admitted unless notified in writing before the Goods are removed.
 No claim for short delivery, shortlanded, non-delivery, total loss, or any other claim whatsoever, in respect of the within-mentioned goods will be entertained unless made in writing within one month from the date of completion of vessel's discharge and subject to conditions in this Bill of Lading.

PARTICULARS OF THE PIECES AND/OR MERCHANDISE/PACKAGES DECLARED BY THE SHIPPER

MARKS and NUMBERS	NO. OF PACKAGES	DESCRIPTION OF GOODS	SAID TO WEIGH	SAID TO MEASURE	RATE	PER TON OF	FREIGHT RA.
IN BULK		INDIAN SALT IN BULK SAID TO WEIGH 1400 METRIC TONS AS PER DRAFT SURVEY (ONE THOUSAND FOUR HUNDRED METRIC TONS) G.R.I. FORM NO. M.D 500972 dt. 8/7/77 FREIGHT PRE-PAID "ALL TERMS, CONDITIONS AND EXCEPTIONS OF CHARTER PARTY DATED 1ST JULY, 1977 SHALL BE DEEMED TO BE INCORPORATED IN THIS BILL OF LADING." STOWED IN H.Nos. III & V					



Counter Marks and Numbers unknown.

TOTAL Re....

E & O E

Freight Payable at BOMBAY By the Shipper, Vessel and/or Cargo lost or not lost.

TWO

In WITNESS whereof Commander or Agents of the said Vessel have affirmed to TWO Bills of Lading of this tenor and date one of which at Lading being accomplished, the others stand void.

Dated BOMBAY this 15TH day of JULY, 1977

For The Great Eastern Shipping Co., L

[Signature]
 As Agents

BL NO. 1

SHIPPED, in apparent good order and condition by BIHAR SUPPLY SYNDICATE, 3, BENTICK ST., CALCUTTA-1.

on board the Ship JAG DHIR Voy. 10. lying in or at the port of TUTICORIN to be delivered at CHITTAGONG

or so near thereto as the Vessel may always safely get, lie, discharge and leave always afloat at all stages and condition of water and weather and there to be delivered to the consignee or to his or their assigns on payment of the charges thereon but with liberty either before or after proceeding towards that Port to proceed to, and stay at any ports or places whatsoever although in a contrary direction to, or out of or beyond the ordinary or usual route to the said Port of Discharge once or oftener, in any order, backwards, or forwards for loading or discharging cargo or passengers or for any purpose whatsoever and all such ports, places and sailings shall be deemed included within the intended voyage, also with liberty to tow and assist Vessels in all situations and to deviate for the purpose of saving the life or property; also to sail with or without pilots: packages being marked as per order

The said goods to be carried and delivered, subject to the terms and conditions of this Bill of Lading in the like good order and condition at the port of destination or his or their assigns.

64
H 10

Bill of Lading, 1400 Metric Tons of Salt (with different Bank Markings) - 15th July 1977 (Contd.)

Bill of Lading, 1400 Metric Tons of Salt (with different Bank Markings) - 15th July 1977 (Contd.)

Bill of Lading, 1400 Metric Tons of Salt (with different Bank Markings) - 15th July 1977 (Contd.)

Endorsement
To the order of
United Commercial Bank.
The Great Eastern Bank Ltd.
Manager
Pte Pro BIHAR S.P.P. ANDRAT

Notify: Muntazzudin & Sons,
101, Islampur Road,
Dacca, Bangladesh.

Bill of Lading, 1400 Metric Tons of Salt (with different Bank Markings) - 15th July 1977 (Contd.)

Bill of Lading, 1400 Metric Tons of Salt (with different Bank Markings) - 15th July 1977 (Contd.)

Bill of Lading, 1400 Metric Tons of Salt (with different Bank Markings) - 15th July 1977 (Contd.)



Great Eastern Shipping Company, Limited, Bombay.
 (Incorporated in India)

It is to be noted particularly the terms and conditions of the Bill of Lading with reference to the validity of their insurance upon the Goods.
 and this Bill of Lading granted subject to the following express conditions—
 for short delivery of or damage done to goods and all other claims whatsoever, to be presented at the Company's option at Port of Discharge or Bombay and
 to be admitted unless notified in writing before the Goods are removed.
 shortlanded, non-delivery, total loss, or any other claim whatsoever, in respect of the within-mentioned goods will be entertained unless made in writing
 of completion of vessel's discharge and subject to conditions in this Bill of Lading.

PARTICULARS OF THE PIECES AND/OR MERCHANDISE PACKAGES DECLARED BY THE SHIPPER

DESCRIPTION OF GOODS	SAID TO WEIGH	SAID TO MEASURE	RATE	PER TON OF	FREIGHT Rs. p.
<p>INDIAN SALT IN BULK SAID TO WEIGH</p> <p>G.R.I. No. M.S.D 500972 dt. 8/7/77</p> <p>"FREIGHT PREPAID"</p> <p>"ALL TERMS, CONDITIONS AND EXCEPTIONS OF CHARTER PARTY DATED 1ST JULY, 1977 SHALL BE DEEMED TO BE INCORPORATED IN THIS BILL OF LADING."</p> <p>STOWED IN H. Nos. III & V</p>	<p>3600 METRIC TONS AS PER DRAFT SURVEY (THREE THOUSAND SIX HUNDRED METRIC TONS)</p>				
TOTAL Re....					

BNE
 802050
SINGAPORE

756/77

Numbers unknown.

E & O.E

BOMBAY By the Shipper, Vessel and/or Cargo lost or not lost.

Commander or Agents of the said Vessel have affirmed to **TWO**
 this **15TH** day of **JULY, 1977**

Bill of Lading of this tenor and date one of which B/Ls
 For the Great Eastern Shipping Co., Ltd.
 As Agents

in good order and condition by **JAG DHIR** **10** lying in or at the port of **TUTICORIN** to be delivered at **CHITTAGONG**
BIHAR SUPPLY SYNDICATE, 3, BENTUCK ST., CALCUTTA-1.

The Vessel may always safely get to, discharge and leave always afloat at all stages and condition of water and weather and there to be delivered to the consignees named herein, terms and conditions herein incorporated or contained whether written, printed or stamped on the face or back hereof to the consignees named herein on payment of the charges thereon but with liberty either before or after proceeding towards that Port to proceed to, and stay at any ports, or place in any direction to, or out of or beyond the ordinary or usual route to the said Port of Discharge) once or oftener, in any order, backwards, or forwards, and to call at any ports, or place for any purpose whatsoever and all such ports, places and callings shall be deemed included within the intended voyage, also with liberty, in all situations and to deviate for the purpose of saving the life or property; also to sail with or without pilots; packages being marked and

The said goods, to be carried and delivered, subject to the terms and conditions of this Bill of Lading in the like good order and condition of the port of origin **Order** or his or their assigns.

AGREED BUNDLE 5

LETTER, DONALDSON & BURKINSHAW TO
KARTHIGESU & ARUL

Agreed
Bundle 5

Letter,
Donaldson &
Burkinshaw to
Karthigesu
& Arul

DONALDSON & BURKINSHAW

6th May 1978

Clifford Centre
Raffles Place
Singapore

SR/EC

6th May 1978

10 Messrs Karthigesu & Arul,
2500 Clifford Centre,
Singapore 1

Attn: Mr. P. Gurbani

Dear Sirs,

Re: Admiralty in Rem No. 256 of 1978
"JAG SHAKTI"

We enclose herewith draft Guarantee.

20 As the shipowners are extremely anxious
to sail the vessel today, we should be obliged
if you would kindly let us know by telephone
whether or not the draft is in order.

We should also be obliged if you would
have the release papers ready, for the release
of the vessel today.

Yours faithfully

(Sgd) DONALDSON & BURKINSHAW

Encl:

Agreed
Bundle 6

AGREED BUNDLE 6

LETTER, DONALDSON & BURKINSHAW TO
KARTHIGESU & ARUL

Letter,
Donaldson &
Burkinshaw
to Karthigesu
& Arul

DONALDSON & BURKINSHAW

8th May 1978

Clifford Centre
Raffles Place
Singapore 1

8th May 1978

SR/EC/Mc

Messrs Karthigesu & Arul
2500 Clifford Centre,
Singapore 1

10

Attn: Mr. P. Gurbani

Dear Sirs,

Re: Admiralty in Rem No. 256 of 1978
"JAG SHAKTI"

We enclose herewith the Guarantee by
American Express International Banking
Corporation. It has not been stamped.
Would you kindly stamp it and let us know what
the stamp fee is and we will pay same.

20

Would you kindly let us have the release
papers. We will arrange for them to be
stamped and you can reimburse us later.

Yours faithfully,

(Sgd) DONALDSON & BURKINSHAW

Encl:

AMERICAN EXPRESS INTERNATIONAL BANKING
CORPORATION
Shing Kwan House, 4 Shanion Way,
Singapore 1.

Agreed
Bundle 6

Our Ref: PG // 270/7B

Letter,
Donaldson &
Burkinshaw to
Karthigesu
& Arul

8th May 1978

(continued)

To:
Chabbra Corporation Pte Ltd.
c/o Karthigesu & Arul
250 Clifford Centre
Raffles Place
Singapore 1

Re: Admiralty in Rem No. 256 of 1978
In the High Court of the
Republic of Singapore

In consideration of your releasing the "JAG
SHAKTI" now under arrest in the above action
and refraining from rearresting or otherwise
detaining her and further refraining from
arresting or otherwise detaining any other
ship in the same ownership, associated
ownership or management in respect of your
claim in the aforesaid suit, We American
Express International Banking Corporation of
Shing Kwan House, 4 Shenton Way, Singapore 1
do hereby guarantee payment to you or your
order any sum adjudged to be due to you in
the abovementioned proceedings (Admiralty
in Rem No. 256 of 1978) or appeal therefrom,
including interest and costs, Provided Always
that our total liability hereunder shall not
exceed the sum of United States Dollars
Three Hundred Thousand (US\$300,000.00).

We further agree and consent to the
jurisdiction of the Supreme Court of Singapore
and to obey any order or judgment of the
said Court in respect of the premises as if
the head office of this Bank were within the
jurisdiction of the said Court and that when
and so far as it may be necessary that any
instrument or order issued from the Court in
Singapore or the Court of Appeal or the Privy
Council should be served on us in proceedings
to be taken for the enforcement of the
Guarantee hereby given, the service of such
instrument or order on us by leaving the same
at our office at Shing Kwai House, 4 Shenton
Way, Singapore 1 shall be in all respects as
operative and effective as if the same were
the principal office of the said Bank and such
instrument or order had been served on the

Agreed
Bundle 6

Officer in charge of the same.

Letter,
Donaldson &
Burkinshaw to
Karthigesu
& Arul

8th May 1978

(continued)

We the guarantors hereby further consent and agree that the Guarantee aforesaid shall equally apply to any compromise or settlement between you and the Defendants in the aforementioned proceedings or to any admission of liability therein and to any amount by way of damages, interest and costs agreed by the Defendants in the aforesaid proceedings to be paid in the said proceedings or appeal therefrom or assessed by the Court after admission of liability or compromise so that if the Defendants shall not pay such amounts we shall be liable for the same in the same manner as if they had been adjudged by the Court. 10

We further agree that this Guarantee shall be a continuing Guarantee for a period of one year from the date hereof and the granting of any time or other indulgence to the Defendants in the aforesaid proceedings by you, your servants or agents shall not in anywise avoid or prejudice your rights herein. 20

Finally we agree that without being called upon to do so we will either before or after the expiry of this Guarantee issue to you a fresh Letter of Guarantee in the same terms and conditions as this Letter of Guarantee including this present covenant for renewal Provided Always that you shall be entitled to any number of renewals of this Guarantee each for a further period of one year until the final disposal of your aforesaid claims. 30

Dated this 8th day of May, 1978.

AMERICAN EXPRESS INTERNATIONAL
BANKING CORP.
SINGAPORE.

(Sgd) Illegible

Authorised Signatures

40

AGREED BUNDLE 7

Agreed
Bundle 7

LETTER, KARTHIGESU & ARUL TO DONALDSON
& BURKINSHAW

Letter,
Karthigesu
& Arul to
Donaldson &
Burkinshaw

CA/PG/273/78/FT/ES
LBH/SP/Mc.23995A

20th February 1979

20th February
1979

Messrs. Donaldson & Burkinshaw
Singapore.

Dear Sirs,

Re: Admiralty in Rem No. 256 of 1978

10 We refer to the above matter and to the
Defence filed by you on your client's behalf
in the proceedings.

We would be obliged if you would let us
have further and better particulars of the
Defence the form of pleadings as itemised
below.

Under paragraph 2:

20 Of "save that it is denied that
delivery was to be made to the shippers
named in the said bills of lading or to
their order paragraph 2 of the Statement of
Claim is admitted"

Specifying

- (i) to whom was delivery to be made
to.
- (ii) the reasons why delivery was made
to such person or persons.

Yours faithfully,

(Sgd) KARTHIGESU & ARUL

Agreed
Bundle 8

AGREED BUNDLE 8

Letter,
Donaldson &
Burkinshaw to
Karthigesu
& Arul

LETTER, DONALDSON & BURKINSHAW TO
KARTHIGESU & ARUL

DONALDSON & BURKINSHAW

23rd February
1979

Clifford Centre
Raffles Place
Singapore 1

DM/BAC/Mc.23995A
CA/PG/273/78/FT/ES

23rd February 1979

10

Messrs Karthigesu & Arul
2500 Clifford Centre
Raffles Place
Singapore 1

Dear Sirs

Admiralty in Rem No. 256 of 1978
"JAG SHAKTI"

We thank you for your letter of the
20th instant.

We do not think you are entitled to
the particulars for which you ask but if you
were to look at paragraph 4 of the affidavit
of Mr Shivlal Nainsukh Sanklecha of the 5th
of August 1978 you will probably find the
answer you require.

20

Yours faithfully

(Sgd) DONALDSON & BURKINSHAW

Letter, Karthigesu & Arul to
Donaldson & Burkinshaw

Letter,
Karthigesu
& Arul to
Donaldson &
Burkinshaw

1st March 1979

CA/PG/273/78/BN
DM/BAC/Mc.23995A

1st March
1979

10 M/s. Donaldson & Burkinshaw
Clifford Centre
Raffles Place
Singapore 1.

Dear Sirs,

Re: Admiralty in Rem No. 256 of 1978
"JAG SHAKTI"

We thank you for your letter of 23rd
February 1979.

20 Enclosed herewith is an Order of Court
dated the 16th February 1979 and the amended
Writ of Summons in this action. You will
note that the Order of Court stipulates that
prayers 28 and 29 of the Summons-for-
Directions be adjourned sine die with liberty
to restore. The Learned Chief Justice
made such an Order as he was of the opinion
that the Defence filed by you in this action
did not contain sufficient particulars of
the nature of the Defence pleaded.

30 The contents of the affidavit of Mr.
Shivlal Nainsukh Sanklecha referred to in
your letter were brought to the attention of
the Learned Chief Justice at the hearing of
the Summons-for-Directions in this action.
However the Learned Chief Justice rightly
pointed out that affidavits are not pleadings
and proceeded to adjourn prayers 28 and 29
of the Summons-for-Directions sine die in
order to enable us to seek particulars of
the Defence.

40 In the circumstances we will have no
option but to apply for an Order of Court for
the further and better particulars sought by
us in our letter of the 20th February 1979 if
the same are not supplied by you within the
next 14 days.

Yours faithfully

(Sgd) KARTHIGESU & ARUL

Agreed
Bundle 10

AGREED BUNDLE 10

LETTER, KARTHIGESU & ARUL TO REGISTRAR,
SUPREME COURT

Letter,
Karthigesu
& Arul to
Registrar,
Supreme
Court

CA/PG/273/78/FT/ES

3rd May 1979

3rd May 1979

The Registrar
Supreme Court
Singapore.

Dear Sir,

Re: Admiralty in Rem No. 256
of 1978 "JAG SHAKTI"

10

We refer to the Summons-for-Directions
No. 93 of 1979 prayers 28 and 29 of which
were adjourned sine die with liberty to
restore.

Please restore the said Summons-
for Directions for hearing before the
Judge as soon as possible.

Yours faithfully

c.c. Messrs. Donaldson & Burkinshaw
(Your ref. DM/BAC/Mc.23995A)

20

AGREED BUNDLE 11

LETTER, KARTHIGESU & ARUL TO
DONALDSON & BURKINSHAW

CA/PG/273/78/FT/ES
DM/BAC/Mc.23995A

3rd May 1979

Agreed
Bundle 11

Letter,
Karthigesu
& Arul to
Donaldson &
Burkinshaw

3rd May 1979

Messrs. Donaldson & Burkinshaw
Clifford Centre
Raffles Place
Singapore.

10 Dear Sirs,

Re: Admiralty in Rem No. 256
of 1978 "JAG SHAKTI"

We refer to the above matter and note
that you have not filed your List of
Documents which is now overdue.

Please file your List of Documents as
soon as possible and serve us with a copy
thereof.

Yours faithfully

Agreed
Bundle 12

AGREED BUNDLE 12

Letter,
Donaldson &
Burkinshaw
to Karthigesu
& Arul

LETTER, DONALDSON & BURKINSHAW TO
KARTHIGESU & ARUL

1st June
1979

DONALDSON & BURKINSHAW

Clifford Centre
Raffles Place
Singapore 1

DM/SR/EC/Mc.23995A
CA/PG/273/78/FT/ES

1st June 1979

Messrs. Karthigesu & Arul
2500 Clifford Centre
Singapore 1

10

Dear Sirs

Re: Admiralty in Rem No.256 of 1978
"JAG SHAKTI"

We beg to refer to the Guarantee which
we sent to you with our letter of the 8th
May 1978 and which your Mr. P. Gurbani
agreed to reduce to US\$275,000.00 when our
Mr. Murphy spoke to him yesterday.

20

Could we have this in writing and then
we will write to the American Express
International Banking Corporation and ask
them to give us a new Guarantee for the
reduced amount.

Yours faithfully

(Sgd) Donaldson & Burkinshaw

AGREED BUNDLE 13

LETTER, KARTHIGESU & ARUL TO
DONALDSON & BURKINSHAW

CA/PG/273/78/ES
DM/SR/MC/Mc.23995A

4th June 1979

Messrs. Donaldson & Burkinshaw
Clifford Centre
Raffles Place
Singapore 1.

10

Dear Sirs,

Re: Admiralty in Rem No.256 of 1978
"JAG SHAKTI"

We refer to your letter of 1st June 1979
and confirm that we have our clients'
instructions to accept a Guarantee for
US\$275,000.00.

Yours faithfully,

(Sgd) KARTHIGESU & ARUL

20

c.c. Clients

Agreed
Bundle 13

Letter,
Karthigesu
& Arul to
Donaldson &
Burkinshaw

4th June
1979

Agreed
Bundle 14

AGREED BUNDLE 14

LETTER, KARTHIGESU & ARUL TO
DONALDSON & BURKINSHAW

Letter,
Karthigesu
& Arul to
Donaldson &
Burkinshaw

CA/PG/273/78/BN
DM/SR/EC/Mc.23995A

4th July
1979

4th July 1979

M/s. Donaldson & Burkinshaw
Clifford Centre,
Raffles Place,
Singapore 1.

10

Dear Sirs,

Re: Admiralty in Rem No. 256
of 1978
"JAG SHAKTI"

We refer to your letter of 1st June 1979
and our reply of the 4th June 1979.

Please forward to us a Guarantee for
US\$275,000.00 as agreed. It has now been
nearly 2 months since the Guarantee provided
by American Express International Banking
Corporation has expired and our clients are
still awaiting a fresh letter of Guarantee.

20

Yours faithfully

(Sgd) KARTHIGESU & ARUL

AGREED BUNDLE 15

LETTER, GODWIN & CO. TO KARTHIGESU
& ARUL

Agreed
Bundle 15

Letter,
Godwin & Co.
to
Karthigesu
& Arul

LBH/ML/M.482
CA/PG/273/78/BN

12th February
1981

12th February 1981

Messrs. Karthigesu & Arul,
2500 Clifford Centre,
Singapore.

10 Dear Sirs,

Re: Admiralty in Rem No. 256 of
1978 - "JAG SHAKTI"

We refer to your clients' List of
Documents filed on the 16th March, 1979.

We feel that the Plaintiffs have not
given full disclosure. They should have
disclosed the following documents:-

- 20 (a) alleged contract between Bihar
Supply Syndicate and the Plaintiffs
in respect of the alleged sale
to the Plaintiffs of the salt,
the subject matter of the above
suit;
- 30 (b) all correspondence and telexes
exchanged between Bihar Supply
Syndicate and the Plaintiffs
relating to negotiation of
the alleged contract of sale of
the said salt and the shipment
and carriage of the said goods in
the "JAG DHIR" from Tuticorin
to Chittagong;
- (c) alleged contract or all letters
and/or telexes containing or
evidencing a contract between the
Plaintiffs and Mumtazzudin &
Sons for the alleged sale of the
salt by the Plaintiffs to

Agreed
Bundle 15

Mumtazzudin & Sons @
US\$44/- per metric ton;

Letter,
Godwin & Co.
to
Karthigesu
& Arul

12th February
1981

(continued)

- (d) all documents exchanged between the Plaintiffs and Mumtazzudin & Sons in relation to the shipment and carriage of the said goods in "JAG DHIR" from Tuticorin to Chittagong; and
- (e) all letters and telexes exchanged between the Plaintiffs and Banque Nationale De Paris and United Commercial Bank in relation to the opening of the Letters of Credit Nos. 101235 and SL 164595, negotiations of the shipping documents against these Letters of Credit and the shipment of the goods on the "JAG DHIR" and the payment to the banks by the Plaintiffs in respect of the bills of lading Nos. 1 and 2.

10

20

Please file a Supplementary List of Documents on or before the 14th February 1981.

Yours faithfully

(Sgd) GODWIN & CO.

29
 106
 125

THE GUARANTY CORPORATION LTD.
 GENERAL MANAGERS

To The Captain and/or Agent or Owners of the s.s. " ASPIN "

Caribbean,

We should be obliged by your granting delivery order to M/s. Tokay's Enterprise, 1987, in respect of the undernoted goods with production of Bill of Lading, and in consideration of your so doing, to undertake to pay on demand all freight and/or General and particular average and/or charges whatsoever thereon, to indemnify you and each of you against all claims and/or demands which may be made against you or any of you in respect of the undernoted goods and to hold you harmless from any and all consequences that may arise by your granting such Delivery Order and acting thereon, including losses, damages, cost or any other expenses, which you or any of you may sustain or incur by reason of the promises or in any way relating thereto.

We further undertake to hand you Bill of Lading duly endorsed within two months from the date of this guarantee, and further if any proceeding is instituted against you or any of you from time to time in respect of the said goods whether by a holder of Bill of Lading or otherwise, we undertake to provide you with sufficient funds to defend the same, and to meet any proved claims, and if claimed upon, undertake at any time whilst the said goods are in our hands to deliver the same to you.

Marks & Numbers	Quantity & Contents.	Shipped by.	Port of Shipment.	Part of Destination.
IN BULK 2600 5000	1/2 Tons Indian Salt In Bulk	M/s. Atlas Enterprise, Singapore.	Tuticorin	Chittagong.

Bill of Lading, Dated I. c. 2 Dt. 15.7.77.

Shippers For Muntazuddin & Sons
 or
 Consignees. M. H. M. M.

Date: 2/2/77

Bankers.

SJ:KH.
 1/2 Tons 14/24/77
 5000 2
 10/23 21/9/1977

Twisted 131 (83)

P3 Irrevocable Letter of Credit, No. SL 164595 and Advices

P3 Irrevocable Letter of Credit, No. SL. 164595 and Advices

United Commercial Bank

131

CABLES: "UCOBANK"

RAFFLES PLACE
P. O. BOX 164

MESSRS. INDIA OVERSEAS CORPORATION, SINGAPORE-1. 23RD MAY, 1977
41 RIE EZRA STREET,
CALCUTTA 1, INDIA.

OPENED BY ~~TELEGRAM~~ Cable

THROUGH UNITED COMMERCIAL BANK, CALCUTTA

DEAR SIR/S.

IRREVOCABLE CREDIT No. SL 164595 This is a confirmation of today's cabled ~~164595~~ 164595

AT THE REQUEST AND FOR ACCOUNT OF ATLAS ENTERPRISES, SINGAPORE

WE ESTABLISH IN YOUR FAVOUR AN IRREVOCABLE CREDIT FOR A SUM OR SUMS NOT EXCEEDING A TOTAL OF US\$30,800/- C&F SAY US DOLLARS THIRTY THOUSAND EIGHT HUNDRED ONLY.

FOR FULL INVOICE VALUE OF MERCHANDISE TO BE DESCRIBED IN INVOICE AS ABOUT 1,400 TONS INDIAN SALT INVOICED AT US\$22/- PER TON C&F CHITTAGONG.

SHIPPED FROM INDIA TO CHITTAGONG
IN ONE OR MORE SHIPMENTS. TRANSHIPMENT ~~IS~~ NOT ALLOWED. AVAILABLE BY YOUR DRAFTS AT SIGHT DRAWN ON ATLAS ENTERPRISES, SINGAPORE

WITHOUT RECOURSE TO DRAWER, ACCOMPANIED BY THE FOLLOWING DOCUMENTS COVERING THE ABOVE MENTIONED MERCHANDISE: INDIAN

SIGNED DETAILED INVOICE IN TRIPPLICATE CERTIFYING GOODS ARE OF INDIAN ORIGIN.

FULL SET OF CLEAN "SHIPPED" OR "ON BOARD" BILLS OF LADING SIGNED BY MASTER OR S.S. AGENTS MARKED "FREIGHT PREPAID" UNTO ORDER OF UNITED COMMERCIAL BANK OR TO SHIPPERS' ORDER ENDORSED IN BLANK, (FORWARDING AGENTS' RECEIPTS NOT ACCEPTABLE) EVIDENCING SHIPMENT OF GOODS AS DESCRIBED ABOVE.

MARINE AND WAR RISK INSURANCE POLICIES OR CERTIFICATES IN DUPLICATE (BROKERS' CERTIFICATES NOT ACCEPTABLE) IN CURRENCY OF THE CREDIT IN NEGOTIABLE FORM COVERING THE FULL INVOICE AMOUNT PLUS A MARGIN OF NOT LESS THAN 10%, W.A. INCLUDING CUSTOMARY INSTITUTE WAREHOUSE TO WAREHOUSE CLAUSE. WAR RISK IS TO BE COVERED IN CONFORMITY WITH CURRENT INSTITUTE WAR CLAUSES. CLAIMS TO BE PAYABLE AT PORT OF DESTINATION.

BILLS OF LADING MUST BE DATED NOT LATER THAN 23TH JUNE, 1977

BILLS OF EXCHANGE MUST BE DATED AND NEGOTIATED NOT LATER THAN 30TH JUNE, 1977

ALL BILLS MUST BE MARKED "DRAWN UNDER UNITED COMMERCIAL BANK SINGAPORE BRANCH CREDIT NO. SL. 164595" AND SHOULD BE ENFACED "PAYABLE AT CURRENT SELLING RATE OF EXCHANGE ON NEW YORK WITH CHARGES AND INTEREST AT 9 1/2 PER CENT PER ANNUM FROM DATE HEREOF TO APPROXIMATE ARRIVAL DATE OF RETURN REMITTANCE."

TO REIMBURSE ITSELF FOR PAYMENTS MADE UNDER THIS CREDIT THE NEGOTIATING BANK WILL DRAW ON OUR LONDON OFFICE AT MICHOLAS LANE, LONDON E.C. 4. ALL INCIDENTAL CHARGES, SUCH AS, STAMPS, POSTAGES, COMMISSION ETC. OF THE NEGOTIATING BANK SHOULD BE RECOVERED FROM THE DRAWERS AS IS THE CUSTOM. BOTH COMPLETE SETS OF DOCUMENTS ARE TO BE SENT DIRECT BY AIRMAIL TO US AT SINGAPORE AND A CERTIFICATE FROM ANY NEGOTIATING BANK TO THAT EFFECT, ENUMERATING THE DOCUMENTS THAT HAVE BEEN SO SENT STATING THAT ALL TERMS AND CONDITIONS OF THE CREDIT HAVE BEEN COMPLIED WITH. ACCOMPANY THEIR REIMBURSEMENT DRAFTS TO OUR LONDON OFFICE. BANKERS TRUST CO., NEW YORK.

SPECIAL INSTRUCTIONS: FOR FURTHER DETAILS PLEASE SEE BUYERS LIST

ATTACHED WHICH FORMS AN INTEGRAL PART OF THIS CREDIT.

OUR ACCOUNT WITH BANKERS TRUST CO., NEW YORK

WE ENGAGE WITH THE DRAWERS, ENDORSERS AND BONAFIDE HOLDERS OF DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT THAT SUCH DRAFTS SHALL BE DULY HONOURED ON PRESENTATION AND DELIVERY OF DOCUMENTS AS SPECIFIED ABOVE.

"EXCEPT AS OTHERWISE EXPRESSLY STATED, THIS CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS 1976 (REVISION), INTERNATIONAL CHAMBER OF COMMERCE BROCHURE NO. 222."

Very truly yours,

ACCOUNTANT.

C.O. BANKERS TRUST CO., NEW YORK

Please pay to the order of ATLAS ENTERPRISES of the amount of US\$30,800/- plus charges, NEW YORK account

Irrevocable
Letter of
Credit,
No.SL 164595
and Advices

MESSRS. INDIA OVERSEAS CORPORATION
41 EZRA STREET
CALCUTTA 1, INDIA 2nd June 1977

2nd June
1977

Advised through United Commercial Bank
Calcutta

(continued)

By Cable
Amendment No. 1

This is a confirmation of
today's cable.

10

Dear Sirs

Our letter of Credit No. SL 164595
Dated 23rd May, 1977
a/c: Atlas Enterprises, Singapore

Please be advised that in accordance
with the instructions of our principals we
amend the above-mentioned credit as follows:-

~~THIS CREDIT IS ASSIGNABLE-DIVISIBLE-AND~~
TRANSFERABLE TO PARTY/PARTIES IN INDIA.

All other terms & Conditions remain unchanged.
This letter is to be attached to our original credit
instrument, of which this forms an integral part.

20

UNITED COMMERCIAL BANK

P3

Irrevocable
Letter of
Credit,
No.SL 164595
16th June 1977

MESSRS. INDIA OVERSEAS
CORPORATION
41 EZRA STREET
CALCUTTA 1
INDIA

16th June 1977

(continued)

Advised through United
Commercial Bank, Calcutta

By cable.

10

Amendment No. 2

YOUR REF: 20306 THIS IS A CONFIRMATION
OF TODAY'S CABLE.

Dear Sirs,

Our Letter of Credit No. SL 164595
Dated 23rd May, 1977
A/C Atlas Enterprises, Singapore

Please be advised that in accordance
with the instructions of our principals we
amend the above-mentioned credit as follows:

20

1. Shipment and negotiation extended up
to 15th and 22nd July 1977
respectively.
2. Delete "Messrs. Ashraf Corporation,
Dacca" from Clause 5 from buyers list.
3. Chartered Party Bills of Lading
acceptable.
4. Part shipment allowed.

All other terms and conditions remain unchanged.

30

This letter is to be attached to our original
credit instrument, of which this forms an
integral part.

Very Truly Yours

(Sgd)
Accountant

(Sgd)
Manager

c.c. Bankers Trust Co., New York.

UNITED COMMERCIAL BANK

Irrevocable
Letter
of Credit,
No.SL164595
and
Advices

MESSRS INDIA OVERSEAS 18th June 1977
CORPORATION
41 EZRA STREET
CALCUTTA 1, INDIA.

18th June
1977

Advised through United
Commercial Bank, Calcutta.

(continued)

By cable.
Amendment 3.

This is a confirmation 10
of today's cable.

Your ref: 20306.

Dear Sirs

Our Letter of Credit No. SL 164595.
Dated 23rd May 1977
A/C Atlas Enterprises, Singapore

Please be advised that in accordance
with the instructions of our principals we
amend the above-mentioned credit as
follows:- 20

1. Goods are to be shipped in one lot only.
2. Cancel buyers list attached which forms
an integral part of this credit.

All other terms and conditions remain
unchanged.

This letter is to be attached to our
original credit instrument, of which this
forms an integral part.

Very truly yours,

(Sgd)
Accountant

(Sgd)
Manager

30

c.c. Bankers Trust Co., New York.

P4

P4

LETTER, UNION BANK OF INDIA TO
UNITED COMMERCIAL BANK

Letter,
Union Bank
of India
to United
Commercial
Bank

ORIGINAL BY REGD. AIR MAIL

UNION BANK OF INDIA

22nd July
1977

Date 22/7/77

Our Ref 755/77

EXCH. RSH

10 United Commercial Bank,
Raffles Place,
P.O. Box 1611,
SINGAPORE

Dear Sirs,

Your L/C No. SL 164595 dated 23/5/77
Fyg: M/s. India Overseas Corporation,
Calcutta
A/c: M/s. Atlas Enterprises, Singapore

20 We have today negotiated a Sight bill
for Stg. US\$30800.00 in words U.S. Dollars
thirty thousand eight hundred only under the
captioned Letter of Credit and enclose:-

1/2 Draft for US \$30800.00

3/6 Invoice

1/1 Copy of Cable

1/1 Copy of Letter

1/2 Inspection Certificate
Certificate of Origin
Declaration of Steamship Co.

1/1 Non-negotiable B/L

30 1/2 Bill of Lading No. 1 dated 15/7/77
covering shipment of 1400 Metric Tons
Indian Salt per s.s. "JAG DHIR" to
Chittagong.

The remaining documents are being sent
to you by the next Regd. Airmail.

P4

Letter,
Union Bank
of India
to United
Commercial
Bank

We further certify that all the terms
and conditions of the above Letter of Credit
have been complied with. In terms of the
credit we are reimbursing ourselves on
Bankers Trust Co., New York for US\$30800.00.

22nd July
1977

Yours faithfully,

(continued)

(Signed)

Accountant

P5

LETTER, ATLAS ENTERPRISES
TO UNITED COMMERCIAL BANK

8th August 1977

United Commercial Bank
Inward Bills Dept
Raffles Place
Singapore 1.

Dear Sirs,

10 Re: Documents on L/C No. SL 164595 for
1400 M/Tons Indian Salt

With reference to the above documents, please
endorse the documents in the name of M/s.
Chhabra Corporation (Pte) Ltd.

Kindly do the needful and oblige.

Thanking you.

Yours faithfully,

ATLAS ENTERPRISES

(Signed)

(Partner)

20

P5

Letter,
Atlas
Enterprises
to United
Commercial
Bank

8th August
1977

P8

Invoices
1400 metric
tons and 3600
metric tons
of Indian
salt

8th August
1977

P8

INVOICES, 1400 METRIC TONS
AND 3600 METRIC TONS OF INDIAN SALT

CHABBRA CORPORATION (PTE) LTD.

8th August 1977

INVOICE NO: CC/004/77

Invoice of 1400 M/Tons Indian Salt

Shipped per "JAG DHIR" Sailing on or about
15th July, 1977 from Tuticorin to
Chittagong for account and risk of
Messrs. Mumtazzudin & Sons, 101 Islampur
Road, Dacca (Bangladesh) drawn under D/P.

10

CIF CHITTAGONG

1400 Metric Tons Indian Salt
@ US\$44/- per M/Ton.....US\$61,600.00

Total: 1400 Metric Tons
(US Dollars Sixty One Thousand & Six
Hundred Only)

CHABBRA CORPORATION (PTE) LTD.

(Sgd) Illegible

Secretary.

20

CHABBRA CORPORATION (PTE) LTD

P8

8th August, 1977

INVOICE NO: CC/005/77

Invoices
1400 metric
tons and 3600
metric tons
of Indian
salt

Invoice of 3600 M/Tons Indian Salt

8th August
1977

Shipped per "JAG DHIR" Sailing on or about
15th July, 1977 from Tuticorin to
Chittagong for account and risk of
Messrs. Mumtazzudin & Sons, 101 Islampur
Road, Dacca (Bangladesh) drawn under
D/P.

10

3600 Metric tons Indian Salt @
US\$44/- per M/Ton
CIF CHITTAGONG US\$158,400.00

Total: 3600 Metric Tons

(US Dollars One Hundred Fifty Eight
thousand & Four Hundred Only)

CHABBRA CORPORATION (PTE) LTD.

(Signed) Illegible

Secretary

P9
Bills of Exchange
for US Dollars 61,600
and 158,400
8th August 1977

P9
BILLS OF EXCHANGE FOR U.S. DOLLARS
61,600 and 158,400

No. CC/004/77 Drawn under
AMIR MARKET,
CHITTAGONG.

披加新 Exchange for

P9

法國國家巴黎銀行

SINGAPORE. 8th August, 1977

At sight D/P
Exchange (Second of the same tenor being unpaid) of this FIRST of
order of B. N. P. - Banque Nationale de Paris the sum of

Value received

To M/s. Muntazuddin & Sons
101, Islampur Road
Dacca (Bangladesh)

301

SINGAPORE

Muntazuddin & Sons (Pte) Ltd.

OD SG 21 (1) 4-75 (5000 x 2)

P9
in Rem. 256/78
Date 9/3/81

No. CC/005/77 Drawn under AMIR MARKET,
PLEASE PRESENT THIS DRAFT THROUGH HUPALI BANK / CHITTAGONG

142

Exchange for US\$158,400.00 SINGAPORE.

At days after sight D/P

Exchange (First of the same tenor being unpaid) pay to the order of B. N. P. - Banque Nationale de Paris the sum of

Value received

To M/s. Kuntazzudis & Sons B N P
101, Islampur Road
Dacca (Bangladesh) /322246

Chhabra Corporation (Pte) Ltd.

SINGAPORE

新加坡 法國國家巴黎銀行

95.

OD SG 271 (2) 4-73 (3000 x 2)

P9
Bills of
Exchange
for US
Dollars
61,600 and
158,400
8th August
1977
(continued)

P10

P10

Invoice
1400 tons
of Indian
Salt

INVOICE 1400 TONS OF
INDIAN SALT

18th July
1977

BIHAR SUPPLY SYNDICATE

Manufacturer's Representatives
Importers & Exporters

3 Bentinck Street,
Calcutta

Invoice No. (Illegible) Messrs Atlas Enterprise

Date 18/7/77

Singapore

10

PARTICULARS	Amount
	US \$
For the value of 1400 Tons Indian salt @ US\$ 22/- per ton C&F Chittagong	30,800.00

Certified that goods shipped under this
invoice are of Indian origin.

US\$ Thirty thousand and
eight hundred only Total 30,800.00

E. & O.E.

20

Yours faithfully
(for Bihar Supply Syndicate)

(Signed)

P11

INVOICE, 3600 tons of
INDIAN SALT

P11

Invoice,
3600 tons
of Indian
salt

BIHAR SUPPLY SYNDICATE

18th July
1977

Manufacturer's Representatives
Importers & Exporters

3 Bentinck Street, Calcutta.

Invoice No. BSS/Salt/B.Desh/1
Date 18.7.77

10

Messrs. Atlas Enterprise
82B, Room No. 1,
High Street,
Singapore 6.

PARTICULARS	Amount
For the value of 3600 Tons Indian Edible Salt @ US\$22/- per Ton C&F Chittagong.	79200.00

20

C.E.I. No. Ca.D 500972
dt 5/7/77

"Certified that goods shipped under
this invoice are of Indian origin".

US \$ Seventy nine thousand two hundred only	Total 79,200.00
---	-----------------

E. & O.E.

Yours faithfully

for Bihar Supply Syndicate

P12

Letter,
Mumtazuddin
& Sons to
Sonali Bank

11 October
1977

P12

Letter, Mumtazuddin & Sons
to Sonali Bank

MUMTAZUDDIN & SONS

Importer, Exporter, Wholesaler
of Cloth, Yarn, Dyes & Chemicals

Date 11.10.77

The Asstt. General Manager,
Sonali Bank
Local Office
Dacca

10

Dear Sir

Re: Notice dated 4.10.77 by Mahbub
and Associates on behalf of
Sonali Bank, Local Office,
Hotijhool, Dacca

With reference to the above, we beg to
inform you that the matter has been
discussed with Mr. K.C. Sharma, Representative
of Atlas Enterprise and Chabbra Corporation
and in terms thereof I undertake to pay the
amounts of 2 (two) documents sent for
collection by Banque Nationale De Paris,
Singapore covering shipment of 1400 & 5600
Tons of INDIAN SALT per S.S. "JAGDIR" under
Bill of Lading No. 1 & 2 both dated 15.7.77
for U.S. \$61,600/00 and U.S. \$ 1,58,000/00
drawn on ourselves, the first and the second
of which will be retired within 10 days and
within 30.10.77 respectively from the date
hereof.

20

30

Thanking you,

Yours faithfully,
For Mumtazuddin & Sons

(Sgd)

Proprietor.

P13

LETTER, MUMTAZUDDIN & SONS TO
SONALI BANK

MUMTAZUDDIN & SONS

Date 31/10/77

The Manager,
Sonali Bank,
Foreign Exchange Dept.,
Local Office
Dacca

10

Dear Sir,

2 Bills for U \$ dollar
amounting to \$ 2.20.000/00

Further to our letter dated 11/10/77,
we have to request you to kindly extend the
time up to 10/11/77 to enable us to retire
the above 2 Bills at a time without any
further delay.

Thanking you,

Yours faithfully

(Sgd) Illegibly

20

Copy to:

Mr. K.C. Sharma, Representative, M/s
Chabbra Corporation (Private) Limited,
Singapore for information.

For Mumtazuddin & Sons

(Sgd) Illegibly

Proprietor

P13

Letter,
Mumtazuddin
& Sons to
Sonali Bank

31st October
1977

P14

Specimen
letter head
of Atlas
Enterprises

P14

SPECIMEN LETTER HEAD
OF ATLAS ENTERPRISES

ATLAS ENTERPRISES

Importers Exporters

&

Wholesalers

Cable Address:

SANTOSHA

Telex No: RS 33405

A/B DEEPAK

Telephone: 3370973-
3384504

82B High Street,

Suite 1 & 2

SINGAPORE 0617

Colombo Court

P.O. Box 139

SINGAPORE 9117.

10

Our Ref:

Your Ref:

Date19

D1

LETTER, INDIAN OVERSEAS CORPORATION
TO MUMTAZUDDIN & SONS

D1

Letter,
Indian
Overseas
Corporation
to Mumtazuddin
& Sons

INDIAN OVERSEAS CORPORATION
CAL/F-51/425/77

20th May 1977

20th May 1977

Mumtazuddin & Sons
Dacca
Bangladesh

Dear Sirs

10 We M/s. India Overseas Corporation hereby
agree to supply you 7000 M/Tons of Salt @
US \$ 22/- per M/ton on C&F Chittagong/
Chalna Bangladesh basis by steamer. The
goods shall be shipped by M/s. Bihar Supply
Syndicate, Calcutta on our behalf.

20 The L/C should be established in our favour
but the same should be transferrable,
divisible and assignable. Shipment will be
effected within two/three months from the
date of receipt of L/C.

It has been further agreed that if the
L/C is established by third party from
Singapore on your behalf we have no objection
and we shall arrange shipment against that
L/C on this contract as per your instructions.

Thanking you,

Yours faithfully,
For India Overseas Corporation

(Sgd) Illegible

30 Partner

Agreed by us
for Mumtazuddin & Sons.

D2

Invoices

18th July
1977

D2

INVOICES

ATLAS ENTERPRISES
82-B HIGH STREET
P.O. BOX 1448
SINGAPORE

INVOICE No. BSS/SALT/B.DESH/1
Singapore 18.7.1977

INVOICE of 3600 TONS INDIAN SALT

Shipped per "JAG DHIR" Sailing on or about
from TUTICORIN to CHITTAGONG for account and
risk of Messrs. MUMTAZUDDIN & SONS,
101 ISLAMPUR ROAD, DACCA, BANGLADESH.

10

Quantity	Description	Unit Price	Amount
<u>PER TON C&F CHITTAGONG</u>			
3600 TONS	INDIAN SALT IN BULK	US\$ 22.00	US\$ 79,200.00

US DOLLARS SEVENTY NINE
THOUSAND TWO HUNDRED ONLY.

20

"Certified that goods
shipped under this invoice
are of Indian Origin".

GRI.NO.Ca.D. 500972
dt. 8.7.77

We, the undersigned, hereby certify that
the goods mentioned above are of INDIA
origin and all the above statements are true
and correct to the best of our knowledge.

30

ATLAS ENTERPRISES

(Sgd)

P.P. Manager

E. & O.E.

ATLAS ENTERPRISES

Invoices

82-B High Street
P.O.Box 1448
SINGAPORE

18th July
1977

(continued)

INVOICE No. BSS/SALT/B.DESH/2
Singapore 18.7.77

INVOICE of 1400 TONS INDIAN SALT

Shipped per "JAG DHIR"

from TUTICORIN to CHITTAGONG for account and
risk of
Messrs MUMTAZUDDIN & SONS, 101, ISLAMPUR
ROAD, DACCA, BANGLADESH.

10

Quantity	Description	Unit Price	Amount
		<u>PER TON</u>	<u>C&F CHITTAGONG</u>
1400 TONS	INDIAN SALT IN BULK	US\$ 22/-	US\$ 30,800.00

20

US DOLLARS THIRTY
THOUSAND EIGHT
HUNDRED ONLY.

"Certified that goods
shipped under this
Invoice are of
Indian Origin"

GRI.NO.Ca.D.500972
dt. 8.7.77

30

We, the undersigned, hereby certify
that the goods mentioned above are of INDIA orig.
and all the above statements are true and
correct to the best of our knowledge.

ATLAS ENTERPRISES

(Sgd) Illegible

E. & O.E.

P.P. Manager

D3

Contract,
Bihar
Supply
Syndicate
to India
Overseas
Corporation

D3

CONTRACT, BIHAR SUPPLY SYNDICATE
TO INDIA OVERSEAS CORPORATION

30th May
1977

30th May 1977

(contd.)

Messrs. India Overseas Corporation
5th floor
41 Ezra Street
Calcutta 1.

Dear Sirs,

Sub: Shipment of Edible salt to B'Desh

10

This has reference to the discussion the under-
signed had with your Mr. Sushil Patwari. As agreed
between ourselves during the said discussion we
hereby confirm having sold to you 3 ship load of
Edible Crushed salt for export to Bangladesh on
following terms and conditions:-

1. Quality : Edible crushed salt in bulk

2. Quantity : 3 ship loads, each ship
will load 7000 M/tons +
10% of salt at ship
owner's option.

20

3. Price : US \$ 22.00 only per M/ton.
F.I.O.T. C & F Chittagong/
Chalna in Bangladesh. The
exact name of the port is
to be informed by the
buyers later on.

4. Payment : By irrevocable, valid,
divisible transferrable
Letter of Credit for 100%
value opened in our favour.

30

5. Delivery : 1st Steamer viz.
MV Samudrasai or its
substitute will be loaded
by us between 17th June to
23rd June, 1977. Second
steamer will be loaded
during middle of July, 1977
and 3rd steamer will be
loaded by the end of July,
1977.

40

6. Insurance: Insurance for the same is
to be covered by the buyers.

D3

: Our above price is on FIOT Basis and the buyers have to pay all the expenses incurred for discharge of cargo at Bangladesh ports. The rate of discharge will be 750 M/tons per weather working day as per the terms of charter party.

Contract
Bihar
Supply
Syndicate
to India
Overseas
Corporation

30th May
1977

10 7. Discharge/ The rate of despatch (illegible) (contd.)
Demurrage: is USD 750 per day. The demurrage
is USD 1500 per day. You
will be responsible to fulfil
all the terms of the
chartered party for the
discharging port which will
be given to you by us.

20 : As on today there is no duty
of any kind levied by
government for export of
salt to Bangladesh. If any
duty on export of salt to
Bangladesh is levied by the
government later on will be
on account of buyer.

30 8. Arbitration: Any dispute arising of this
contract will be referred
to the arbitration in Calcutta
as per the rules and regulations
of Indian law, and the
decision of the same will be
binding of both the parties.

9. Force The sale is subject to Force
Majeure : majeure clause.

Please sign one copy of this contract and
return to us as a token of your acceptance.

Thanking you,

Yours faithfully,

BIHAR SUPPLY SYNDICATE

We confirm.

40 (Sgd) Illegible

(Sgd) Illegible

Manager

Buyers.

D4

Letter,
Union Bank
of India to
Mumtazuddin
& Sons with
Invoice

29th
October
1977.

D4

LETTER, UNION BANK OF INDIA
TO MUMTAZUDDIN & SONS, with Invoice

EXCH: NKM:2535

29th October 1977

M/a Mumtazuddin & Sons,
101/1 Islampur Road
Dacca. 1.

Dear Sir,

Re: Shipment of 2000 M/Tons Salt
to Chittagong per M.V. JAGDEV
on our CA.663/77 a/c Bihar
Supply Syndicate, Calcutta 1.

10

We are forwarding the document as per
advice of our above client. Please note
that full payment already received
by them.

1. 3 Invoice
2. 1 Shipping document
3. 1 Certificate of Superintendent.

Yours faithfully

20

(Sgd) Illegible

Accountant.

Letter,
Union Bank
of India to
Mumtazuddin
& Sons with
Invoice

29th October
1977

(continued)

Telegram: "VALIAGO"

Telex: 021-7158

BIHAR SUPPLY SYNDICATE

MANUFACTURER'S REPRESENTATIVES

IMPORTERS & EXPORTERS

3, BENTINCK STREET, CALCUTTA-700001.

Phone **162**
Res. 47-8748

Invoice No. <u>SALT/BU/HSS/103.</u>	Messrs: <u>Mumtazuddin & Sons,</u>
Date <u>14.9.77</u>	<u>101/1, Islampur Road,</u>
R.R./L.R. No. _____ Date _____	<u>Bacca.</u> Dr.
Central S.T. No. <u>RB/40A/Central</u>	
West Bengal S.T. No. <u>RB/832/A</u>	

PARTICULARS	Quantity	Rate	Per	Amount
				XXXXXXXXXX US\$
White dry clean crystal salt in Bulk	2000 M/Tons	\$ 22/-	M/T C&F Chittagong.	44000.00
G.R.I No. <u>MaD576882</u> dt. <u>3.9.77.</u>				
Payment received in advance vide FDD No. <u>0534</u> dt. <u>1.6.77</u> for US\$ <u>44000.00</u>				
				Total Rs. 44000.00
XXXX US Dollars Forty four thousand only.				

Money Order & Cheque to be made payable to
the Company & Cheques to be crossed.

E. & O. E.

Yours faithfully,
For BIHAR SUPPLY SYNDICATE
Per Pr. Pr. BIHAR SUPPLY SYNDICATE

Constituted

Messrs: _____

Received from M/s. BIHAR SUPPLY SYNDICATE 3, Bentinck Street, Calcutta-700001.

Bill No. _____ Date _____ For Rs. _____

Please sign & return.

Signature _____

D5

Indian
Overseas
Corporation
Contract
Letter
(Shree
Bajrang
Trading &
Supply
Co.)

D5

INDIAN OVERSEAS CORPORATION CONTRACT
LETTER (SHREE BAJRANG TRADING AND
SUPPLY CO.)

CAL/G-2/2297/77

13th June 1977

13th June
1977

M/s Shree Hajrang Trading & Supply Co.
22, Burtolla Street
Calcutta 7

Dear Sirs,

10

Sub: Export of salt to Bangladesh per
'SS APJ Sushan from Tutikorine

We confirm having booked 9000 tonnes common
salt in bulk on behalf of our Bangladesh
buyers to be shipped in the month of June,
1977.

The above material is to be shipped per 'SS
APJ Sushan' from Tuticorin and the quantity
may be shipped subject to 10% variation.

The rate of the material will be US\$22.50 per
M/ton C & F Chittagong or Chalna port on FIOT
Basis, subject to other terms and conditions
of the chartered party agreement of the
steamer company.

20

Kindly sign 2 (two) copies of this letter and
return to us in confirmation, so that we can
advise our buyers to open Letter of Credit
in your favour.

This contract is subject to the permission
to be obtained from State Trading Corporation
of India Ltd. or any other Government
Agencies. 1% commission on FOB is to be
paid by you to STC and balance if any will
be to our a/c.

30

Thanking you,

We confirm
For SHREE BAJRANG
TRADING & SUPPLY CO.

Yours faithfully,
For INDIA OVERSEAS
CORPORATION

(Sgd) Illegible

(Sgd) Illegible

(MUMTAZUDDIN AHMED)

40

(Sgd) Illegible

D5

INDIAN OVERSEAS CORPORATION CONTRACTS
LETTER

D5

Indian
Overseas
Corporation
Contracts
letter

CAL/F-61/77

18th June '77

18th June
1977

Messrs. Bharat Salt Supply Co.
4 Jagmohan Mullick Lane
Calcutta-7

Dear Sirs,

10 This has reference to the personal discussion
with your Mr. J.K. Jajodia, our Mr. S.K.
Patwari and our buyers representative
Mr. Mumtazuddin Ahmed of M/s Mumtazuddin &
Sons held in our office.

It was agreed that you will supply
15000 tons of Uncrushed/Crushed Salt @
U.S. \$21.00 per M/Ton C & F Chittagong/
Chalna.

20 Regarding shipment one steamer "State of
Cochin" during the second weeks of July for
which one L/C for US \$147,000/- covering
7,000 M/Ton (L/C No: 06-52-0001-548-20-WBS
dt. 9.5.77 is being transferred in your
favour). The balance quantity will be
shipped during the end of July or in the
first week of August. The L/C for the
second steamer will be given to you after
completion of shipment of steamer State of
Cochin.

30 All the formalities in this connection for
obtaining permission will be observed
by you.

Please confirm in three copies of the
contract duly signed and return the same.

Yours faithfully
For India Overseas
Corporation

We confirm,
For Bharat Salt
Supply Co.

(Sgd)
Sushil Patwari

(Sgd)
J.K. Jajedia

(Sgd) Mumtazuddin Ahmed

D6
Draft,
US Dollars
44,000
1st June
1977

D6
DRAFT, US DOLLARS, 44,000

Account Payee Only

BANK OF CREDIT & COMMERCE
International (OVERSEAS) LTD.
DACCA
BANGLADESH.

FDD No. 0534

No. 349/77

Date: June 1, 1977

ON DEMAND pay to the order of M/S
BIHAR SUPPLY SYNDICATE, 3 BENTICK STREET,
CALCUTTA the sum of US DOLLARS FORTY FOUR
THOUSAND ONLY

10

US \$ 44,000/-

For Bank of Credit & Commerce
International (Overseas)
Ltd.

(Sgd) Illegible
Officer

(Sgd) Illegible
Manager

20

To Bank of Credit & Commerce
International S.A.
100 Leadenhall Street,
LONDON EC 3A 3AD (UK)

Please obtain reimbursement from our
US \$ A/c No. 103162/0415.

D7

D7

LETTER, INDIA OVERSEAS CORPORATION TO
MUMTAZUDDIN & SONS

Letter,
India
Overseas
Corporation
to
Mumtazuddin
& Sons

CAL/F-61/ F80/77

4th June 1977

4th June
1977

M/s. Mumtazuddin & Sons,
Dacca
Bangladesh

Dear Sirs,

10

Ref: Contract No: CAL/F-61/425/77
for 7000 M/Tons Salt

We confirm having received L/C No: SL 164595
dt. 23.5.77 for US\$30800/- of United
Commercial Bank, and L/C no: 101235 dated
23.5.77 of Banque National De Paris, for
US\$79,200/- (Total US\$ 1,10,000/-) covering
shipment of 5000 M/Tons Salt opened by M/s.
Atlas Enterprises, Singapore on your
behalf.

20

Please note that we have accepted these
L/Cs against our contract dated 20th May
1977 with you.

For Balance 2000 Tons salt against our
contract we also confirm having received one
draft no: 349/77 dt. 1.6.77 of BCCI Dacca
for US\$44000/- favouring our shipper M/s.
Bihar Supply Syndicate Calcutta.

30

In view of above L/C and Draft we are
arranging shipment for the full quantity
against our contract at the earliest.

Thanking you,

Yours faithfully
for India Overseas Corpn.

(Sgd) Illegible

Partner

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

O N A P P E A L
FROM THE COURT OF APPEAL IN SINGAPORE

B E T W E E N :

CHABBRA CORPORATION PTE LTD Appellants

- and -

THE OWNERS OF AND OTHER PERSONS
INTERESTED IN THE SHIP OR
VESSEL "JAG SHAKTI" Respondents

RECORD OF PROCEEDINGS

PHILIP CONWAY THOMAS & CO
61 Catherine Place
London SW1E 6HB

Solicitors for Chabbra
Corporation Pte. Ltd

CLYDE & CO
30 Mincing Lane
London EC3R 7BR

Solicitors for the Owners
of and other persons
interested in the ship
or vessel "Jag Shakti"