IN THE EASTERN CARIBBEAN SUPREME COURT

TERRITORY OF THE VIRGIN ISLANDS

COMMERCIAL DIVISION

IN THE HIGH COURT OF JUSTICE

Claim No. BVIHC (COM) 0087 OF 2015

INTEGRAL PETROLEUM SA

Claimant/Respondent

AND

MELARS GROUP LIMITED

Defendant/Applicant

Claim No. BVIHC (COM) 0122 of 2015

EAST-WEST LOGISTICS LLP

Claimant/Respondent

AND

MELARS GROUP LIMITED

Defendant/Applicant

Appearances:

Ms Nadine Whyte and Mr David Abednego for the Defendant in each case Mr Ben Mays for the Claimant in each case

2016: 10, 18 February

JUDGMENT

Applications to set aside default judgments- whether judgments regular definition of 'claim for a specified sum of money' (CPR 2.4) considered and explained - requirements to be satisfied when applying for default judgment on claim for specified sum of money - nature of procedure for obtaining default judgments under CPR 12.4 or 12.5 considered and explained

[1] Bannister J (Ag]: These are two related cases in which default judgments (as defined by CPR 12.1) have purportedly been obtained by the respective claimant against the defendant in each case. The defendant in each case applies to the Court to have those judgments set aside under CPR 13. It is convenient to give judgment in one document, although there will have to be separate orders to reflect the decision in each case.

Background

[2] The Defendant ('Melars') is a commodity trader. In late 2011 it contracted to deliver to a buyer in Turkmenistan between 2,400 and 2,900 tonnes of diesel. To satisfy its obligation it purchased 2,400 tonnes of diesel from a third party and 300 tonnes from the claimant Integral Petroleum SA ('Integral'). Delivery of the oil was to be made under a charter party concluded between Melars and an associated company of Integral called East-West Logistics LLP ('East West'). The sale went off and Melars contracted to sell 2,400 tonnes out of the bulk to a company called Dartex Trade Ltd ('Dartex') and the balance of 300 tonnes back to Integral under a contract concluded on 15 April 2012. The April contract contained a very widely worded release by Melars of Integral, its managers and agents in respect of any matters arising out of or in connection with the original agreement for Melar's purchase of the 300 tonnes of diesel from Integral ('the December Agreement'), together with an indemnity in case of any breach. It is common ground that this agreement ('the Cancellation Agreement') was subject to an arbitration clause providing for arbitration 'in London.'

[3] Melars says that the oil was delivered to Dartex, but that Datrex has never paid for it. Melars says that Dartex is the 'alter ego' of Integral and that, accordingly, Integral has acquired the diesel for nothing. Accordingly, Melars began debt collection processes in Switzerland against both Integral and its Managing Director, Mr Seitnepesov, with the aim of recovering the money due under the Dartex contract from one or both of them. These processes are in the nature, broadly speaking, of statutory demands. In addition, a

criminal complaint has been made against Mr Seitnepesov in Switzerland. Integral and Mr Seitnepesov have unsuccessfully challenged these processes in the Swiss Courts.

[4]In August 2012 Integral commenced an LCIA arbitration under the Cancellation Agreement with the aim of recovering its costs incurred in dealing with the Swiss processes and damages for the injury to its reputation which it claimed to have suffered in consequence. The arbitrator held that he had no jurisdiction to entertain any claims arising out of the Swiss proceedings and dismissed the claims with costs. Integral appealed under section 67 of the UK Arbitration Act 1996, but although the High Court considered that the arbitrator had been wrong in holding that he had no jurisdiction under the Cancellation Agreement to consider the Swiss matters *at all,* he had been entitled to express the view that the Cancellation Agreement had no application to the Swiss complaints, so that it would be pointless to remit the matter to him. Leave to appeal was refused. I understand that Integral has now made a second attempt to have these matters arbitrated in London, but that those proceedings are still ongoing.

The Integral claim[1]

[5] The Integral claim was commenced on 17 July 2015. It seeks

(1) damages for harm to its reputation

(2) CHF 105,000 costs and expenses incurred in the Swiss proceedings

(3) CHF121,051 and £33,890 costs of the LCIA arbitration

(4) injunctions restraining Melars from continuing its proceedings in Switzerland or from uttering libels against Integral; and

(5) damages for libel and in respect of expenses incurred in fighting Melars in Switzerland and in the LCIA proceedings.

[6] Melars was served in the BVI on 17 July 2015. Melars then had until 6 August 2015 to acknowledge service. On 7 August 2015 Integral filed a request in Form 7 for judgment in default of acknowledgement of service. The request

1 BVIH(COM)2015/0087

was for $280,640.46 (described as 'Amount claimed') and various amounts for costs and Court fees. The 'Amount for which judgment is to enter' was staled to be $285,935.22. As I understand it, the Court Office was concerned whether the amount claimed was a 'specified sum' within the meaning of CPR Rule 2.4, and sent the matter to Leon J for determination. He was persuaded that the claim was indeed for a specified sum and on 5 October 2015 he purported to give judgment in default in the amount of $288,234.99. How this figure was arrived at I do not know, but nothing turns on it for present purposes. The order was perfected on 8 October 2015.

[7] The judgment was served on Melars on 14 October 2014. It reached Mr Palivoda, who describes himself as Melars' 'authorised officer' and who appears to have had the conduct on behalf of Melars of the dispute with Integral, on 22 October 2015. Mr Palivoda lives in Talinn, Estonia, and there seems to have been some breakdown in communication between himself and his local agents which contributed to the delay. On 26 November 2015 Melars issued its application to have the judgment set aside. The grounds for setting aside the judgment tracked the provisions of CPR Rule 13.3, stating that Melars had applied to the Court as soon as reasonably practicable after finding out that judgment had been entered; that it has a good explanation for its failure to file an acknowledgement of service; and that it has a real prospect of successfully defending the claim. The last contention was based upon the fact that the proceedings had been brought in breach of the Cancellation Agreement and of the arbitration agreement; and that the matters raised were the subject of final decisions of the Swiss Federal and Swiss Supreme Courts. Alternatively, ii was said that the judgment should be set aside because of the existence of exceptional circumstances, being that they constitute an attempt to reopen the decision in the LCIA arbitration and are res *judicata* in consequence of the decisions of the Swiss Courts. In contravention of CPR 13.4(3), Mr Palivoda's affidavit in support of the application did not exhibit a draft of Melars' proposed defence.

[8] On a date which is not clear from Melar's application notice, but which Mr Ben Mays, for Integral, described (without contradiction) as being 'at the very last minute,' Melars amended its application to assert that the judgement should be set aside as irregular, because it was not founded upon a claim for a specified sum within the meaning of CPR 2.4.

Discussion

[9] This application cannot be determined without careful analysis of the provisions of the CPR as they relate to the obtaining and setting aside of defaulc judgments.

[10] The starting point is CPR 12.4

Conditions to be satisfied . judgment for failure to file acknowledgment of service

12.4 The court office at the request of the claimant must enter judgment for failure to file an acknowledgmentof service if

(a) the claimant proves service of the claim form and statement of claim;

(b) the defendant has not filed-

(i) an acknowledgment of service or

(ii) a defence to the claim or any part of it;

(c) the defendant has not satisfied in full the claim on which the claimant seeks judgment;

(d) the only claim is for a specified sum of money, apart from costs and interest, and the defendant has not filed an admission of liability to pay all of the money claimed together with a request for time to pay it;

(e) the period for filing an acknowledgment of service under rule 9.3 has expired; and

(f) (if necessary) the claimant has the permission of the court to enter judgment.

It will be noticed that the judgment is entered, not by the judge, but by the Court Office; and that if the claim falls within the terms of CPR 12.4 the Court Office has no discretion in the matter - it must enter judgment. It will also be noticed that the only claim for which default judgment may be entered for failure to acknowledge service is a claim for a specified sum of money - and not even that if the defendant has filed an admission of !ability with a request for time to pay.

[11] A claim for a specified sum of money is defined by CPR 2.4 as:

(a) a claim for a sum of money that is ascertained or capable of being ascertained as a matter of arithmetic and is recoverable under a contract

There is a further limb (b) to this defintion which is not relevant for present purposes. The sum of money for which default judgment is sought must thus be both recoverable under a contract and either ascertained or capable of being ascertained as a matter of arithmetic. In my judgment, the expression 'recoverable under a contract' connotes an entitlement to payment conferred on the claimant by the provisions of a contract - for example, the right to receive rent over a period covered by a lease or the price of a certain quantity of goods sold and delivered. It is not apt to describe the recovery of damages for breach of contract. Damages for breach are not recoverable 'under a contract'2, they are compensation for its non-performance. There is nothing in **Harris v Mason3,** to which Mr Mays referred me, to contradict any of this. On the contrary, the specified sum in that case was admittedly due and owing for work done under a contract. In my judgment, CPR 12.4 is designed to provide, in the circumstances to which it applies, a swift remedy for non payment of what are sometimes called simple contract debts in cases where a defendant fails to acknowledge service.

[12] II seems to me plain that in order for a claimant to be in a position to request default judgment on a claim for a specified sum of money, his statement of claim must be such as to enable the Court Office to see whether the sum for which judgment is claimed is (assuming the facts pleaded to be true) an ascertained or ascertainable sum recoverable under a contract, in the sense explained above. If the Court Office is not in a position to make that

2 unless pursuant to a liquidated damages clause

determination from a consideration of the pleading as it stands, the request should be rejected on those grounds. I shall return to this point a little later.

[13]A different regime operates under CPR 12.5 in cases where judgment is sought for failure to defend:

Conditions to be satisfied - judgment for failure to defend

12.5 The court office at the request of the claimant must enter judgment for failure to defend if-

(a) (i) the claimant proves service of the claim form and statement of claim; or

(ii) an acknowledgement of service has been filed by the defendant against whom judgment is sought;

(b) the period for filing a defence and any extension agreed by the parties or ordered by the court has expired;

(c) the defendant has not

(i) filed a defence to the claim or any part of it (or the defence has been struck out or is deemed to have been struck out under rule 22.1(6)): or

(ii) (if the only claim is for a specified sum of money) filed or

served on the claimant an admission of liability to pay all of the money claimed, together with a request for time to pay it; or

(iii) satisfied the claim on which the claimant seeks judgment; and

(d) (if necessary) the claimant has the permission of the court to enter judgment.

In contrast to CPR 12.4, CPR 12.5 applies to claims of whatever nature, although if the claim is for a specified sum, default judgment may not be entered if the defendant has admitted liability and asked for time to pay. In order for the Court Office to be obliged to enter judgment for a specified sum, the claim must come within the definition in CPR 2.4 - discussed in paragraph [11] above.4

[14] Nature of default judgment CPR 12.10 deals with the 'Nature of default judgment':

4 see also CPR 12.lO(l)(a)

12.10 (1) Default judgment on a claim for

(a) a specified sum of money - must be judgment for payment of that amount or, a part has been paid, the amount certified by the claimant as outstanding -

(i) if the defendant has applied for time to pay under Part 14 - at the time and rate ordered by the court; or

(ii) in all other cases - at time and rate specified in the request for judgment;

• Rule 2.4 defines "a claim for a specified sum of money" and sets out the circumstances under which a claim for the cost of repairing property damaged in a road accident can be treated as such a claim.

• Part 65 deals with the quantification of costs.

(b) an unspecified sum of money - must be judgment for the payment of an amount to be decided by the court and must be in Form 32.

• Rule 16.2 deals with the procedure for assessment of damages where judgment is entered under this paragraph.

(c) goods - must be-

(i) judgment requiring the defendant either to deliver the goods or pay their value as assessed by the court;

(ii) judgment requiring the defendant to pay the value of the goods as assessed by the court; or

(iii) (if the court gives permission} a judgment requiring the defendant to deliver the goods without giving the defendant the alternative of paying their assessed value.

(2) An application for permission to enter a default judgment under paragraph (1} (c} (iii} must be supported by evidence on affidavit.

(3) A copy of the application and the evidence under paragraph (2) must be served on the defendant against whom judgment has been sought even though that defendant has failed to file an acknowledgment of service or a defence.

(4) Default judgment where the claim is for some other remedy shall be in such form as the court considers the claimant to be entitled to on the statement of claim

(5) an application for the court to determine the terms of the judgment under paragraph (4) need not be on notice but must be supported by evidence on affidavit and rule 11.15 does not apply.

These provisions deal with the types of order to be made by the Court Office when entering judgment under CPR 12.4 or, as the case may be, CPR 12.5. The Court Office, as has been seen, is under a mandatory requirement to enter judgment if the conditions of CPR 12.4 or 12.5 are satisfied and it is the Court Office which enters the default judgment. CPR 12.10 tells the Court Office what type of judgment it should enter in the cases dealt with by the Rule. Thus, if the claim is for an unspecified sum of money, the Court Office will enter judgment for such amount as may be decided by the Court. It will then be for the claimant to take that judgment to the Court and ask for quantum to be determined (something which will usually, but not necessarily always, be done under the procedures laid down by CPR Part 16). Judgment on a claim not falling within CPR 12.10(1)(a) to (c) will be for such remedy as the Court may determine that the claimant is entitled to on the statement of claim.5 The judgment creditor will then need to make application to the Court for that entitlement to be determined.

[15] I am aware that in**Fellows v Carino Hamilton Development Company Ltd and Anor6** Mitchell JA [Ag], sitting alone on an unopposed appeal, made certain statements, not essential to his decision (the reasons for which are to be found at paragraph [14] of the judgment), which suggest that an application (under CPR 11) is required to be made by a claimant seeking a default judgment for an unspecified sum of money. It is true that some of the language in CPR 16.2 reads as though default judgment under CPR 12.10(1}(b} must be sought by application notice, but CPR 12.7 is quite clear as to the manner in which a default judgment is to be sought and CPR 12.4 and 12.5 are quite clear by whom it is to be entered. It is, in my judgment, significant that the side heading to CPR 16.2 reads:

'Assessment of damages after default judgment' [emphasis added] CPR 16.2 seems to be rather loosely worded and is dealing with no more than the approach to the Court for the claim to be quantified. In my judgment, therefore, and despite what Mitchell JA said, obiter, in **Fellows,** the default *judgment* is the judgment entered by the Court

6 HCVAP 2011/006

5 CPR 12.10(4)

Office, even though the remedy or remedies obtainable under the judgment may need to be the subject of judicial determination, in which case an application to the Court will, obviously, be required.

[16] CPR 13 deals with setting aside or varying default judgments. CPR 13.2 is in the following terms:

Cases where court must set aside default judgment

13.2 (1) the court must set aside a judgment entered under Part 12 if judgment was wrongly entered because in the case of-

(a) a failure to file an acknowledgment of service - any of the conditions in rule 12.4 was not satisfied; or

(b) judgment for failure to defend - any of the conditions in rule 12.5 was not satisfied.

(2) The court may set aside judgment under this rule on or without an application.

This sub-Rule leaves the Court no discretion. If the request for default judgment is based upon a failure to file an acknowledgment of service, then if it turns out that any of the conditions in CPR 12.4 was not satisfied, the judgment must be set aside. Equally in the case of failure to defend. Finally, it is to be noticed that the Court has a discretion to set aside a judgment under this rule regardless whether an application has been made for the purpose.

[17] CPR 13.3 is quite different in purpose:

CPR 13.3 Cases where the court may set aside or vary default judgment

13.3. (1) If Rule 13.2 does not apply, the court may set aside a judgment entered under Part 12 only if the defendant-

(a) applies to the court as soon as reasonably practicable after finding out that judgment had been entered;

(b) gives a good explanation for the failure to file an acknowledgment of service or a defence as the same case may be; and

(c) has a real prospect of successfully defending the claim.

(2) In any event the court may set aside a judgment entered under Part 12 if the defendant satisfies the court that there are exceptional circumstances.

(3) Where this Rule gives the court power to set aside a judgment, the court may instead vary ii.

CPR 13.3 does not deal with irregular judgments, the selling aside of which is made mandatory under CPR 13.2. CPR 13.3 deals with regular default judgments and gives the Court a discretion to set them aside, but only when each of the three conditions set out in sub-Rule (1) is satisfied or where there are exceptional circumstances.

[18] With this background in mind, I turn to the specific questions raised by Melar's set aside application.

[19] The first question which arises is whether the judgment is regular. Mr Mays says that this point was raised far too late for Melars to be allowed to take it. I cannot accept that. Although ii is, of course, highly regrettable when a party does not disclose its hand to its opponent in good time, Mr Mays did not seek an adjournment and in any event if the judgment is indeed irregular, CPR 13.2 requires it to be set aside, whether an application for that purpose is made or not. Mr Mays also points to the fact that no draft defence was attached to the affidavit in support of the set aside application, but for the same reasons that fact cannot require the Court to allow the judgment to stand if otherwise it ought to be set aside.

[20] This judgment is plainly irregular. Although Integral's statement of claim relies upon part of the 'indemnity' clause in the Cancellation Agreement, it does not claim that any part of the amount for which judgment was sought was recoverable under it. On the contrary, the sum is claimed as 'loss and damage' suffered as a result of Melar's activities in Switzerland and Integral's unsuccessful efforts to obtain recompense for them in the LCIA arbitration. For the reasons given above, that is not a claim for a specified sum of money because, in short, it is not a claim for an ascertained or ascertainable sum payable to Integral pursuant to the provisions of a pleaded contract. It follows that the conditions in CPR 12.4 are not satisfied and that the judgment must be set aside in accordance with CPR 13.2(1)(a) accordingly.

Mr Mays submits that if I set aside the judgment, I should enter judgment under CPR 12.5 for failure to file a defence. I do not intend to do that.

[21] Although ii is true that Melars did not file a defence in time or at all, Integral applied one day after acknowledgment of service was due for judgment in default. By so doing it elected to bring the proceedings to an end in its favour. It cannot, in those circumstances, now complain that Melars has yet filed no defence.

[22] Mr Mays further contends that the hearing before Leon J on 5 October 2015 and his order dated 8 October 2015 giving judgment in default estops Melars from now challenging the order. Melars' proper course, he submits, was to challenge the order under CPR 11.18, and it is now too late for Melars to do that. Persuasively though they were argued, these points are bad. As I have explained, it was not for the Court to grant a default judgment. That is a function of the Court Office. Secondly, no estoppel can be created by an irregular judgment.

[23] These conclusions make it unnecessary for me to consider the position under CPR 13.3. In case this matter goes further, however, I should say that I would not have set aside judgment under that rule. I do not consider that Melars' reasons for not acknowledging service amount to a 'good explanation' for the purposes of CPR 13.3(1)(b). They are, put shortly, that Mr Palivoda took the view that the Court would decline jurisdiction on the grounds that there were on-going arbitral proceedings covering the same subject matter. It is not for a properly served defendant to take a view about the jurisdictional sustainability of the proceedings with which he has been served and on the basis of his own views as to the matter to fail to take steps which the rules requires him to

take. Nor do I consider that the fact that the parties were engaged in overlapping disputes in other proceedings constitutes exceptional circumstances for the purposes of CPR 13.3.

[24] Although CPR 13.5 (filing of defence where judgment is set aside under CPR 13.3) has no application to this case, I direct under my general case management powers that Melars serves its defence within seven days after the delivery of this judgment. Pleadings will thereafter be continued in accordance with the provisions of the CPR.

The East-West claim[7]

[25] This case is closely linked factually to Integral's claim, since East-West was the owner of the vessel chartered by Melars to transport the oil for delivery to the original purchaser under the December contract which, as mentioned in paragraph [2] above, never completed.

[26] East-West issued its proceedings on 9 October 2015 and served on Melars on the same day. Acknowledgment of service was due by 26 October 2015. East-West made its request for judgment in default on the following day. The evidence of Mr Palivoda, for Melars, is that the proceedings did not actually come to the attention of Melars in Estonia until 2 November 2015, after Melars had made its request for judgment in default. Melars retained Appleby in the matter, who filed an acknowledgment of service on 11 November 2015, asking for an extension of time to file a defence. That letter was acknowledged, but not replied to. On 13 November 2015 the Court Office entered default judgment against Melars in the sum of $637,056.58.

West and Melars on 14 December 2011, under which East-West agreed to

[27] East-West's statement of claim pleads a charter party, made between East- West and Melars on 14 December 2011, under which East-West agreed to provide Melars with transportation for certain cargoes on board MT Valeriy Kalachev or other substitute vessels. The statement of claim then alleges that Melars gave instructions varying the route of the originally intended voyage(s) and pleads that when MT Optimaflot (which from the evidence does not seem to have been the subject of a charter party between East-West and Melars) arrived at the port of discharge, Melars ordered it not to discharge, with substantial demurrage incurred as a result. It is also pleaded that MT Optimaflot had to wait several months for the arrival of the Valeriy Kalachev because it was fast in ice in Astrakhan.

[28] The statement of claim then pleads that 'in accordance with the provisions of the charter party' Melars is liable to pay to East-West 'the additional costs associated with the additional instructions.' Those costs are set out as being:

(1) freight in the amount of $82,309 in connection with the voyage of both vessels to the original port of discharge;

(2) demurrage in the amount of $278,542 arising out of the delays connected with the 'issues with the cargo' aboard the MT Optimafiot in Okarem and the delays caused to both vessels as a result of the Valeriy Kalachev having become fast in ice;

(3) damages for delay due to ice in a sum of $259,000; and

(4) transhipment charges in the sum of $12,104

These are said, in breach of the charter party, to remain unpaid. Finally, it is pleaded that

as a *result* of*these contractual breaches, the Claimant has suffered loss and damage*

[29] The Registrar appears to have been unhappy about entering judgment on the basis of this statement of claim and sought further particulars from East-West. Those particulars were supplied by Mr Chissick, of East-West's lawyers, in an affidavit made by him on 12 November 2015. By that affidavit Mr Chissick relates the amounts claimed to the Valeriy Kalachev charter party, of which he exhibits a very obscure copy, and to the Asbatankvoy form, to which he says the charter party was subject. On the basis of this material, it is to be inferred, the Court Office entered judgment on 13 November 2015 for the aggregate sums claimed.

[30] Melars' application to set aside was made on 26 November 2015, originally under CPR 13.3. But by an amendment intimated only on 5 February 2016 and not served until Monday 8 February 2016 (the hearing was on 10 February 2016) the point was taken that the judgment was irregular. I agree with Mr Mays that it is very unfortunate that this was done so late, but as I have said in respect of the Integral claim, Mr Mays did not seek an adjournment. The issue is one of pure law and if it is the case that the judgment is irregular, then the sooner it is set aside the better.

[31] I accept that freight and demurrage will be recoverable, if at all, under a contract, but the definition of 'claim for a specified sum' requires that the sums claimed, as well as being recoverable under a contract, be ascertained or ascertainable as a matter of arithmetic. This means, in my judgment, that the claim itself must show either that the sum is an ascertained sum (e.g. a claim for repayment of an outstanding loan) or, if it is only ascertainable (such as a contractual entitlement to unpaid hire), the contractual terms which enable the Court Office to see that the sum has been correctly ascertained - for example, by multiplying a contractual daily rate by the amount of days for which hire has remained unpaid. The latter type of claim cannot be described as ascertained and without the pleading of the relevant contractual terrn(s) and the necessary multiplier(s), the claim is not ascertainable.

[32] Because the statement of claim does not plead the terms of the contract which are

supposed to have given rise to a contractual obligation on the part of Melars to pay $83,209 of freight or demurrage of $278,542, the judgment is in my opinion irregular. The position in respect of 'damages for delay' and 'transhipment charges' is even less satisfactory. The sums claimed under these heads do not even purport to be recoverable under a contract. As I have said in paragraph [12] above, if the statement of claim (or the statement of claim together with any document referred to in and annexed to the statement of claim) is insufficient to enable the Court Office to see that the claimant is claiming a specified sum within the meaning of CPR 2.4, the request for default judgment should be rejected on that ground. The Court Office should not seek further and better particulars or make further inquiries of the requesting claimant. This is because default judgment (under CPR 12.4) can be given only where the *claim* is for a specified sum as defined by CPR 2.4. The statement of claim itself must, therefore, spell out the facts required to show the contractual entitlement to payment and the facts required to show that the sum claimed is ascertained or, if not, the facts which, pursuant to the contract in question, enable it to be ascertained as a matter of arithmetic. The statement of claim in this case fails to do that. The judgment is therefore irregular and must be set aside.

[33] That is sufficient to dispose of this application, but I wish to add that, had I not decided that the judgment must be set aside under CPR 13.2, I would nevertheless have set it aside pursuant to CPR 13.3. The delays are short and Melars gives satisfactory explanations under CPR 13(1)(a) and (b). I am satisfied that Melars, on the basis of the defence exhibited to Mr Palivoda's second affidavit, has a real prospect of successfully defending the claim.

[34]I direct under my general case management powers that Melars serves its defence within seven days after the delivery of this judgment. Pleadings will thereafter be continued in accordance with the provisions of the CPR.

Conclusion

[35] For the reasons given above, the default judgment obtained by the Claimant in each of these cases is set aside.

Commercial Court Judge (Ag.)

[18] February 2016