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**IN THE HIGH COURT OF DELHI AT NEW DELHI**

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**EX.P. 372/2010**

**UNIVERSAL TRACTOR HOLDING LLC** ..... Decree Holder

Through Mr. Samar Singh Kachwaha, Adv.

versus

**ESCORTS LIMITED**

..... Judgement Debtor

Through

Mr. Simran Mehta, Adv.

Mr. Puneet Rai, Standing Counsel for  
Income Tax.

Ms. Geetika Matta, Adv. for Mr. C.  
Mukund, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**ORDER**

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**06.12.2018**

**EX.APPL.(OS) 372/2015**

1. This is an application moved on behalf of the Judgment Debtor.
2. Mr. Mehta says that in view of the RBI taking the stand that the remittance can be made in U.S. Dollars in the proceedings held on 30.10.2014, this application does not survive.
3. This application is, accordingly, disposed of.

**EX.APPL.(OS) 1125/2015**

4. I am informed by counsel for the parties that this application has already been disposed of vide an order dated 19.11.2015.
5. The Registry is directed not to show this application in the cause list.

**EX.P. 372/2010 & EX.APPL.(OS) 694/2013 & EX.APPL.(OS) 569/2014**

6. *Inter alia* the record shows that not only has the RBI taken the stand

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that the amount deposited in this Court can be remitted in U.S. Dollars upon relevant formalities being fulfilled but also it would facilitate transfer of funds albeit via an authorized dealer.

6.1 As a matter of fact, on 19.11.2015 a direction had been issued by my predecessor to the Registrar General of this Court to release the moneys deposited by the judgment debtor along with accrued interest to Citi Bank. These aspects are reflected in the orders dated 30.10.2014 and 19.11.2015.

6.2 It appears that thereafter an issue arose with regard to the deduction of withholding tax which resulted in the Decree Holder having to approach the the Income Tax Department.

6.3 This aspect of the matter is reflected in the order dated 15.3.2018.

7. Learned counsel for the Decree Holder says that the Decree Holder did approach the Income Tax Department and, thereafter, an order under Section 197 of the Income Tax Act, 1961 (in short 'the Act') was passed.

7.1 A copy of this order, which is dated 31.07.2018, has been placed before the Court.

7.2 A copy has also been furnished to the counsel for the Judgment Debtor.

7.3 A perusal of the order would show that the Income Tax Department has ruled that withholding tax at the rate of 40 per cent would have to be paid on damages and similarly, withholding tax, at the rate of 15 per cent would have to be paid on interest.

7.4 In these circumstances, learned counsel for the Decree Holder says that he will be happy if the Registry of this Court were to release the balance amount after retaining the withholding tax.

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7.5 Accordingly, for this purpose, learned counsel for the parties will appear before the Joint Registrar (Judicial) on 18.12.2018 at 3:00 p.m. The Joint Registrar (Judicial) after examining the original order dated 31.07.2018 passed by the Income Tax Department and upon making suitable adjustments towards withholding tax will release the balance amount to the Decree Holder. The Joint Registrar (Judicial) will have the withholding tax deposited with the Income Tax Department albeit to the credit of the Decree Holder. Requisite Certificate will also be issued to the Decree Holder.

8. Renotify the matter before the Court on 7.3.2019.

9. In the meanwhile, since the counsel for the Judgment Debtor says that the decree has been satisfied, which is contested by the counsel for the Decree Holder, calculation sheets will be filed by both the parties, in case the same are not already on record.

9.1 The needful will be done within four (4) weeks from today.

10. For the purpose of good order and record, the Registry will scan and upload the order of Income Tax Department dated 31.7.2018.

11. Needless to say, this will not come in the way of the Decree Holder seeking necessary benefits under the Double Taxation Treaty and the provisions of the Income Tax Act, 1961.

**RAJIV SHAKDHER, J**

**DECEMBER 06, 2018**  
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