

**IN THE COURT OF THE SENIOR CIVIL JUDGE, AIZAWL DISTRICT,
AIZAWL MIZORAM
Money Suit No.5/02**

The State of Mizoram,
(Represented by Secretary, Revenue Department)Plaintiff.

-Versus-

M/s Khuma
Business Enterprise,
MG Road, Aizawl.Defendant.

**BEFORE
R.VANLALENA, Senior Civil Judge-2**

For the Plaintiff : Asst. Govt. Advocates.
For the Defendants: Shri W.S.Joseph & Ors., Advocates.
Date of Judgement: 8.3.2012.

JUDGEMENT

7.5.2012

Plaintiff is represented by Shri R.K.Malsawmkima and Shri Jospeh Lalfakawma, Asst. Govt. Advocates.

Defendant is represented by Shri W.Sam Joseph, Advocate & others.

Today is fixed for preliminary hearing on maintainability of the instant Money suit.

The instant Money suit had been instituted by the State of Mizoram represented by the Secretary to the Government of Mizoram, Revenue Department against M/s Khuma Business Enterprise, M.G.Road, Khatla, Aizawl for recovery of Rs.7,00,122.80/- (Rupees Seven lakhs, one hundred twenty two and eighty paise) only with interest @ 15% per annum. The instant case had arisen from the supply order of Survey Instrument Wild – T-1010, Electronic Theodolite that had been placed by the plaintiff (Government of Mizoram) with the National Instruments Limited, Kolkata vide letter No.D.15018/1/91-93/DTE(REV) dated 08.01.1993 as per the recommendation of State Level Committee dated 14.09.1992. However, the said firm failed to supply the Instruments/Tools as aforementioned. Later, the present Defendant introduced himself as Dealer of National Instruments Ltd. for the State of Mizoram. Plaintiff therefore placed the supply order with the said defendant for supply of the aforementioned tools/mechineries at the same rate as agreed upon with the National Instruments Ltd. Kolkata for which the plaintiff released Rs.2,93,656.38p as advance payment and later Rs.4,06,466.42p to the Defendants (Total Rs.7,00,122.80p). However, the Defendant failed to fulfill the supply order within time due to the death of the proprietor of M/s Khuma Business Enterprise on 23.02.1997. The defendant prayed time for fulfillment of the supply order and was granted. As the Defendant failed to fulfil the supply order, the instant Money suit had been filed by the plaintiff on 04.03.2002.

Ld. Counsels for the plaintiff prayed this court to maintain the case and pass an order for further proceeding into the case stating the Defendant in her written statement admitted the facts of the liability. Hence there is a prima facie ground for further proceeding.

On the other hand, Ld. Counsel Shri W.Sam Joseph prayed this court to dismiss the case on the ground that the suit is barred by law of limitation 1963 stating the instant money suit was instituted after lapse of three years from the date the cause of action arose. The Money Suit has to be instituted within three years as per the Limitation Act 1963.

On hearing both parties, this court is of the opinion to dismiss the instant Money Suit on the ground of limitation.

Hence the case stands dismissed and disposed of accordingly.

Give copy of this order to all concerned.

Given under my hand and seal of this court on this 8th May,2012.

Sd/-R.VANLALENA
Senior Civil Judge – II
Aizawl District : Aizawl.

Memo No. /SCJ-I I(A)/2012: Dated Aizawl the 8th May,2012.
Copy to:

1. The District and Sessions Judge, Aizawl District, Aizawl, Mizoram for information.
2. The State of Mizoram, (Represented by Secretary, Revenue Department) through Asst. Govt. Advocates.
3. M/s Khuma, Business Enterprise, MG Road, Aizawl through counsels Shri W.Sam Joseph & ors.
4. Registry Section.
5. Case record.

PESHKAR

