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[9] "The set-off for defects in the goods is admissible. Set-off is not admissible if the contract contains an explicit or implicit (e.g. a 'net cash against...' clause) prohibition of set-off. All contracts [between the parties] contain the payment clause 'Net Cash against...', and thus a contractual prohibition of set-off (BGHZ 14, 62; 23, 134; NJW 1976, 852; tribunals, see the numerous decisions in HSG/RKS Volumes 1-6 Section J 5 a).

[10] "There are no circumstances objectively making the [seller's] request for payment appear to be 'abusive' (see the 'Cash against documents' clause in Sect. 13 Conditions of Business of the Waren-Verein of the Hamburg Stock Exchange,3 which in this respect codifies an expression of the principle of good faith). In particular, he counterclaim is not undisputed nor has it been established. It is not even qualified, that is, no decision theron can be directly rendered..."

3 Sect. 13 of the Conditions of Business of the Waren - Verein der Hamburger Börse e. V. (Commodities Association of the Hamburg Stock Exchange) reads in relevant part: "13 Cash against document. Other cash clauses. Payment from letter credit. (1) Where 'cash against documents' terms have been agreed upon the buyer shall pay the agreed purchase price without delay upon delivery by the seller of all the contractual documents duly constituted in accordance with the contract. The buyer may neither set off nor withhold the purchase price. He has no right to refuse performance. In particular he may not make payment dependant on prior inspection of the commodities not even in the event that the commodities have already arrived at their destination. The buyer's obligation to pay is not affected by any claims, objections or pleas on the grounds that the commodities do not correspond to the contract description. Any claims, objections or pleas of the buyer are only to be considered if particular circumstances make the seller's demand for payment appear to be abusive; seller's demand for payment especially is to be regarded as being abusive if and as far as the buyer has set off a claim which is undisputed or has become res judicata...."

Referring Principles:

III.1 - Set-off