

**IN THE HIGH COURT OF JUDICATURE AT MADRAS****Dated : 07.12.2017****Coram:****The Honourable Mr. Justice M. SUNDAR****C.S.No. 557 of 1999**

M/s. Guardolificio Monsummanese  
Via F. Orsini, 5-7-51015,  
Monsummano Terms,  
Italy,  
Represented by Power of Attorney holder,  
Mr. Rajamurugan

...Plaintiff

Versus

A. S. Nisar Ahmed & Co. Ltd.,  
Situating at No.26, Landons Road,  
Kilpauk,  
Chennai – 600 010.  
India,  
Represented by its Director Mr. A. S. Nisar Ahmed

...Defendant

**Prayer :**

This Plaint is filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 of Civil Procedure Code praying to pass a judgment and decree directing the defendant to pay a sum of Rs.1,01,26,363/-

WEB COPY

together with future interest at the rate of 24% per annum on the due and payable of plaint till date of realization and costs of the suit.

For Plaintiff : No appearance

For Defendant : Ms. Jaya Aruni  
for  
Mr. S. Vijaya Kumar

**ORDER**

Read this in conjunction with the earlier proceedings of this Court dated 04.12.2017. Pursuant to the earlier proceedings of this Court dated 04.12.2017, the matter was shown in the cause list under the caption, "For Dismissal" today(07.12.2017).

2. When the matter was called in the forenoon session, there was no representation for the plaintiff. However, Ms. Jaya Aruni, for Mr.S.Vijaya Kumar, learned counsel on record for the sole defendant is before the Court. With the intention of giving one more opportunity to the plaintiff, the matter was passed over and called again in the afternoon session. Even in the afternoon session, there is no

representation for the plaintiff but the sole defendant is present before the Court.

3. It would be evident from the earlier proceedings of this Court, dated 04.12.2017 that this suit qualifies to be heard by the Commercial Division. For the purpose of abundant caution, earlier proceedings of this Court dated 04.12.2017 is extracted, which reads as follows:

*"There is no representation for the plaintiff. Mr.S. Vijaya Kumar, learned counsel is present on behalf of the sole defendant.*

*Mr. S. Vijayakumar, learned counsel, fairly submits that the suit transaction will qualify as 'commercial dispute' as it is based on goods sold and delivered. It is his say that it qualifies under Section 2(1)(c)(xii) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (4 of 2016) (hereinafter referred to as 'Act 4 of 2016' for brevity).*

*It is also seen from the plaint that the suit claim is over Rs.1 Crore, i.e., Rs.1.01 Crore and odd and therefore, it qualifies qua 'specified*

value'under Section 2(1)(i) of the Act 4 of 2016.

*There is no representation for the plaintiff as aforesaid. In the usual course, this matter would have been posted tomorrow under the caption 'For Dismissal'. However, as Mr.S. Vijayakumar, learned counsel appearing on behalf of the sole defendant says that he has some difficulty tomorrow (personal inconvenience), post the matter under the caption 'For dismissal' day after tomorrow, i.e., 06.12.2017."*

4. Owing to the narrative supra, the suit is dismissed for default or non-prosecution. All the pending interlocutory applications, if any, shall stand closed.

**07.12.2017**

mrr

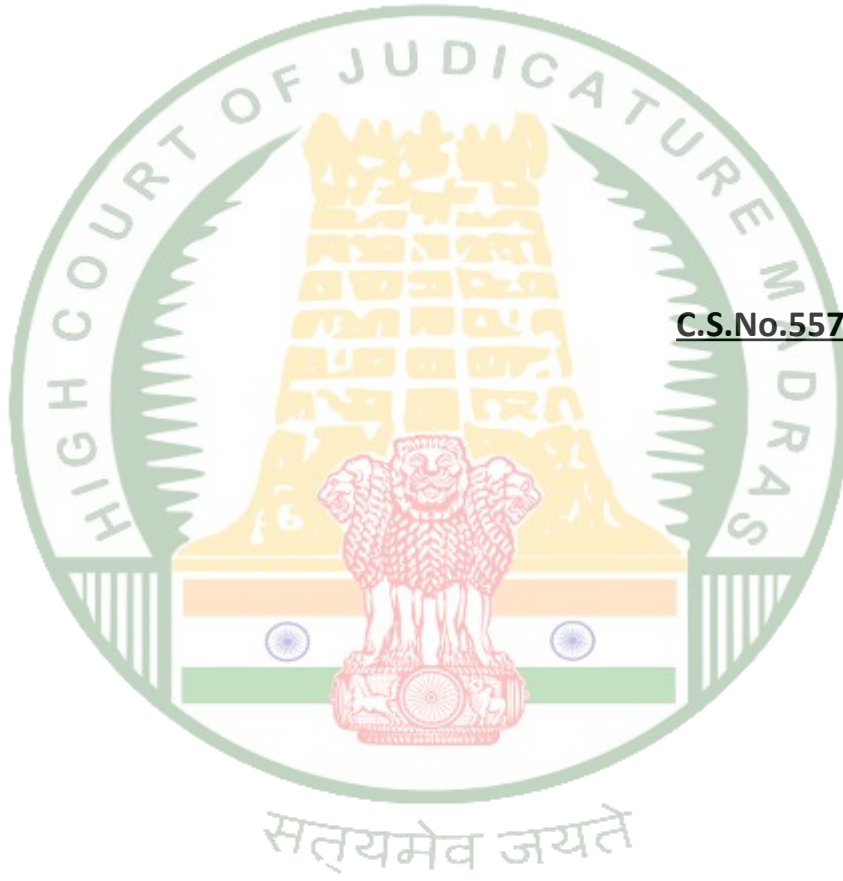
Index: Yes/No

Speaking Order (or) Non-Speaking Order

WEB COPY

**M. SUNDAR, J.,**

mrr



**C.S.No.557 of 1999**

**07.12.2017**

WEB COPY