

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2017

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.253 of 2011

M/s.Thai Clothing,
rep. by its partners

1.Messrs. C.Chockalingam, (Deceased)
Managing Partner

2.Senthilnathan, Partner

3.S.Sundar, Partner

Carrying on business at 12-A/27,
Umayal Road, Kilpauk, Chennai - 10.

[2nd plaintiff is recorded as legal
representative of the deceased
1st plaintiff as per the order dated
19.08.2015 in A.No.5167 of 2015]

... Plaintiffs

Versus

1.M/s.Melwani Apparel, SDN, BHD,
rep. by its Proprietor,
Lechman Melwani, 734 156 X
Suite 19-01 Level 19th Kupleks,
Antarabangsa,
Jalan Sultan Ismail 50250 Kuala Lumpur.

2.Melwani's Apparel (P) Limited.
Rep. by its Proprietor,
Lechman Melwani,
1, North Bridge Road, 19-04/05
High Street Centre,
Singapore - 179094.

3.Salvadore Valentine SDN,BHD,
rep. by its Proprietor,
Lechman Melwani,
Suite E.5-17 Block E.Plaza Mont Kiare,
No.2, Jalan Kiara Mont Kian 50480.
Kuala lumpur, Malaysia.

... Defendants

Plaint filed under Order IV Rule 1 of Original Side Rules and Order VII
Rule 1 & 2 of Civil Procedure Code praying to pass a judgment and decree:

- a)to pay a sum of Rs.97,41,240.26 to the plaintiff;
- b)to pay interest @ 12% p.a. being the commercial interest on the
principal suit claim of Rs. 97,41,240.26 from the date of plaint till date of
realization and
- c)to pay the cost of the suit.

For Plaintiffs : Mr.V.Chokalingham

J U D G M E N T

This suit is one for recovery of a sum of Rs.97,41,240.26/-, on the
basis of various invoices under which the plaintiff has exported various
garments to the defendants 1 to 3 who are at Kuala Lumpur and Singapore.

2. The defendants who had not entered appearance, were set exparte on 11.11.2016. On 28.11.2016, the matter was listed before the learned Additional Master for recording evidence.

3. One Mr.C.Senthilnathan, who is the partner of the plaintiff M/s.Thai Clothing has been examined as P.W.1. He has produced Exs.P1 to P5 documents to show that the plaintiff is a registered Firm and that it is also involved in Import and Export as well as Foreign Trade.

4. He has filed the proof affidavit stating the transactions between the plaintiff and the defendants 1 to 3. Invoices under which the goods were sent has been filed as Ex.P7 to P10 (series). Those invoices and the shipping bills viz., Ex.P11 to P25 are the proof for the supply of goods by the plaintiff to the defendants on various dates mentioned therein.

5. The Exs.P26 to P36 are various E-mail correspondence between the parties. It is seen from Ex.P29 that the defendants have promised settlement of the pending amounts through Indian Overseas Bank, Chennai. Ex.P45 is the statement of accounts showing the outstanding dues from the defendants 1 to 3 to the plaintiff.

6. The above documents establish the genuineness of the transaction and the case of the plaintiff that the defendants are due and liable to pay a sum of Rs.97,41,240.26/-.

7. Hence, the suit is decreed as prayed for with costs.

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List of the witnesses examined on the side of the plaintiff:

PW1 - Mr.C.Senthilnathan

List of Exhibits marked on the side of the plaintiff:

<i>Sl. No.</i>	<i>Exhibits</i>	<i>Description</i>	<i>Dated</i>
1	Ex.P1	Xerox copy of the Partnership Deed executed between the above three partners.	19.05.2006
2	Ex.P2	Xerox copy of the Certificate of Registration of Partnership registered as document No.729.	21.07.2006
3	Ex.P3	Xerox copy of the certificate of Import and Export, Foreign Trade, Chennai issued by Director General of Foreign Trade, Chennai.	21.09.2006
4	Ex.P4	Xerox copy of the Import and Export licence No.0430004175/5/1100 issued to the plaintiff firm by Joint Director-General of Foreign Trade, Chennai.	04.10.2006
5	Ex.P5	Xerox copy of the registration certificate of Membership, by the Apparel Export Promotion Council, Chennai.	01.09.2006

Sl. No.	Exhibits	Description	Dated
6	Ex.P6	Sanction Advice - Credit facility by the Indian Overseas bank, Chennai.	08.08.2006
7	Ex.P7	Purchase order in P.O.No.MEL/01030/IND/003 for Garments as detailed therein for total value in USD 300145-00.	23.04.2007
8	Ex.P8 (series)	6 Nos. of invoices JBA/004, 005, 013, 014, 015, 016/07-08 sent to the 1 st defendant by plaintiff.	19.04.2007 to 19.06.2007
9	Ex.P9 (series)	7 Nos. of invoices JBA/006, 007, 008, 009, 010, 011, 012/07-08 sent to the 2 nd defendant by the plaintiff.	17.05.2007 to 25.05.2007
10	Ex.P10	2 Nos. of invoices JBA 019/07-08 and JBA 20/07-08 sent to the 3 rd defendant by the plaintiff.	26.09.2007
11	Ex.P11	Air Shipping Bill JBA 004/07-08.	19.04.2007
12	Ex.P12	Air Shipping Bill JBA 005/07-08.	20.04.2007
13	Ex.P13	Air Shipping Bill JBA 013/07-08.	14.06.2007
14	Ex.P14	Air Shipping Bill JBA 014/07-08.	14.06.2007
15	Ex.P15	Air Shipping Bill JBA 015/07-08.	16.06.2007
16	Ex.P16	Air Shipping Bill JBA 016/07-08.	19.06.2007
17	Ex.P17	Air Shipping Bill JBA 006/07-08.	17.05.2007
18	Ex.P18	Air Shipping Bill JBA 007/07-08.	19.05.2007
19	Ex.P19	Air Shipping Bill JBA 008/07-08.	21.05.2007
20	Ex.P20	Air Shipping Bill JBA 009/07-08.	22.05.2007
21	Ex.P21	Air Shipping Bill JBA 010/07-08.	23.05.2007
22	Ex.P22	Air Shipping Bill JBA 011/07-08.	24.05.2007
23	Ex.P23	Air Shipping Bill JBA 012/07-08.	25.05.2007
24	Ex.P24	Air Shipping Bill JBA 19/07.	26.09.2007
25	Ex.P25	Air Shipping Bill JBA 20/07.	26.09.2007
26	Ex.P26	The plaintiff's letter by G-Mail 286/511 to the	16.06.2007

Sl. No.	Exhibits	Description	Dated
		1 st defendant.	
27	Ex.P27	Letter by G-Mail (message) 283/511 to the 1 st defendant.	18.06.2007
28	Ex.P28	The plaintiff's letter to the 1 st defendant.	12.07.2007
29	Ex.P29	Reply to the plaintiff with copies of letters promising settlement of payment to Indian Overseas Bank, Chennai.	31.07.2007
30	Ex.P30	The plaintiff's G-Mail letter 230/511 to the 1 st defendant.	15.08.2007
31	Ex.P31	The plaintiff's G-Mail with regard to Debit Note 228/51 of the 1 st defendant.	16.08.2007
32	Ex.P32	The plaintiff's G-Mail letter 216/511 to the 1 st defendant.	19.08.2007
33	Ex.P33	The plaintiff's G-Mail letter 205/511 to the 1 st defendant.	25.08.2007
34	Ex.P34	The plaintiff's letter to the 1 st defendant.	15.10.2007
35	Ex.P35	The plaintiff's G-Mail letter 133/511 to the 1 st defendant.	23.10.2007
36	Ex.P36	The plaintiff's G-Mail letter 123/511 to the 1 st defendant.	16.11.2007
37	Ex.P37	The 1 st defendant's Debit Note sent to the plaintiff for USD 55484.	07.01.2008
38	Ex.P38	The 1 st defendant's letter enclosing 4 post dated cheques for Rs.9,55,990/- drawn on HSBC Bank.	09.01.2008
39	Ex.P39	The plaintiff's G-Mail letter to the 1 st defendant.	29.01.2008
40	Ex.P40	The plaintiff's G-Mail letter to the 1 st defendant.	29.01.2008
41	Ex.P41	The plaintiff's G-Mail letter to the 1 st defendant.	12.02.2008

Sl. No.	Exhibits	Description	Dated
42	Ex.P42	The plaintiff's Lawyer's notice of Demand issued by M/s.Amaresan and Meera, Advocates, Kuala Lumpur, Malaysia to the 1 st defendant.	14.07.2008
43	Ex.P43	The plaintiff's G-Mail letter to the defendants.	25.09.2008
44	Ex.P44	Notice to the 1 st and 2 nd defendants issued by the High Commission of India, Kuala Lumpur, Malaysia on behalf of the plaintiff.	09.12.2008
45	Ex.P45	Statement of Accounts showing the outstanding due by the defendant's 1 to 3 to the plaintiff firm.	--

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Index : Yes/ No

Internet : Yes/ No

Speaking Order/ Non-speaking Order

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R.SUBRAMANIAN, J.

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