IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23/02/2017

CORAM

THE HONOURABLE MR.JUSTICE **K.KALYANASUNDARAM**

**C.S.No.234 of 2016**

Sree Vari Iron Steels (Pvt) Ltd.,
Rep. by Director, A.Marimuthu,
No.183/6 L, T.H.Road,
Tondiarpet, Chennai-600 081. ... Plaintiff

Vs

1.PEE YEM ENTERPRISES,
Represented by Partner V.P.Mohammed Hussain,
51/E, Old Slaughter House Road,
Royapuram, Chennai-600 013.

2.U.P.MOHAMED HUSSAIN,
S/o.U.Peer Mohamed,
Partner, Pee Yeem Enterprises,
Old No.37, New No.A/71,
Ibrahim Mani Road, (Basheera Manzil),
I Floor, near Royapuram Bridge,
Chennai-600 001.

3.U.P.HAJA MOHIDEEDN,
4.P.BASHEERA BEGAM ... Defendants

The Civil Suit is filed under Order VII Rule 1 of CPC read with Order IV Rule 1 of H.C.O.S. Rules, (a) to direct the defendants to pay to the plaintiff the sum of Rs.28,12,359/- together with interest at 12% per annum on the principal amount of Rs.23,76,192/- from the date of the plaint till date of realization, (b) direct the defendants to pay the costs of the suit.

For Plaintiff : Mr.T.Viswanatha Rao

For Defendant : Set ex-parte

**J U D G M E N T**

The brief facts of the case are as follows:-

The plaintiff has filed this suit for recovery of money. The plaintiff is the dealer in Iron and Steel carrying on business at No.183/6 L, T.H. Road, Tondiarpet, Chennai-600 081. The defendants 1 to 3 purchased goods and materials from them at Madras on credit between 08.03.2011 and 09.03.2011 under various credit bills for a total value of Rs.17,47,200/- and became indebted to the plaintiff in a sum of Rs.17,47,200/- as shown below:-

Credit bill No.2258, dated 08.03.2011 : Rs.2,83,920.00

Credit bill No.2259, dated 08.03.2011 : Rs.2,67,904.00

Credit bill No.2260, dated 08.03.2011 : Rs.2,78,096.00

Credit bill No.2261, dated 09.03.2011 : Rs.2,86,832.00

Credit bill No.2262, dated 09.03.2011 : Rs.2,92,656.00

Credit bill No.2262, dated 09.03.2011 : Rs.3,37,792.00

**Total : Rs.17,47,200.00**

The respondent executed a promissory note on 09.03.2011, promising to repay the sum of Rs.17,47,200/- together with interest thereon at 12% per annum. The defendants once again on 27.03.2013 acknowledged in their letter dated 27.03.2013, their liability to pay the amount and passed a cheque for the said of Rs.17,47,200/- bearing No.825750, dated 25.05.2013, Indian Overseas Bank, Royapuram Branch, but the cheque was presented for encashment through ING Vysa Bank, Anna Salai, duly got dishonoured and returned to the plaintiff vide Banker's Memo, dated 28.03.2013 for the reason "exceeds arrangement". Under the credit bills, the amounts are due immediately and if not paid interest charged on the unpaid bill amount 12% per annum. When in spite of demands, the defendants 1 to 3 failed and neglected to repay any portion of the amounts, the plaintiff threatened taking of legal action. The defendants 1 to 3 pleaded for time and persuaded the plaintiff to accept a promissory note for the total sum of principal and accrued interest and executed at Madras an on demand promissory note on 01.03.2014 in faovur of plaintiff promising to repay the total sum of Rs.23,76,192/-, then due with further interest at 12% per annum on demand. The defendants, so far, owe a sum of Rs.28,12,359/-, towards principal and interest to the plaintiff. Hence, the present suit.

2. The learned counsel for the plaintiff would submit that the plaintiff examined himself as P.W.1 and marked the following documents as Exs.P1 to P10 as documentary evidence in order to prove the suit claim:-

1) Ex.P1 is the Suit Promissory Note, dated 01.03.2014

2) Ex.P2 is the letter from Defendants to plaintiff, dated 25.11.2014

3) Ex.P3 is the returned cheque of IOB for Rs.23,76,192/- issued by defendants with banks cheque return memo, dated 15.12.2014.

4) Ex.P4 is the returned cheque for Rs.23,76,192/- Vijaya Bank, issued by the fourth defendant to plaintiff with Bank's CTS return memo, dated 30.12.2014.

5) Ex.P5 is the plaintiff counsel's notice to defendants 1 to 4, dated 07.01.2015

6) EX.P6 is the letter of reply from defendants 1 to 3 to plaintiff, dated 05.02.2015

7) Ex.P7 is the returned cheque for Rs.1,00,000/- from defendant with Kotak Mahindra Bank, CTS returned memo, dated 22.06.2015.

8) Ex.P7 is the returned cheque for Rs.5,00,000/- from defendant on IOB together with Kotak Mahindra Bank, CTS Return Memo, dated 07.11.2015, dated 05.11.2015

9) Ex.P9 is the returned cheque for Rs.23,26,192/- from defendants on IOB together with Kotak Mahindra Bank CTS returned Memo, dated 16.02.2016.

10) Ex.P10 is the plaintiff's counsel notice to defendants 1 to 4 with 3 postal acknowledgments from defendants 2 to 4 and returned cover from first defendant, dated 29.02.2016.

3. The learned counsel for the plaintiff further submitted that the plaintiff has proved his case and the Suit will have to be decreed.

4. Though notice has been served and the name of the defendants have been printed in the cause list, there is no representation on behalf of the respondents. Hence, the defendants set-exparte on 10.11.2016. Taking into consideration, the pleadings, the evidence of P.W.1 and Exs.P1 to P10, this Court is of the view that the plaintiff has proved his case and the Suit is liable to be decreed and accordingly, the Suit stands decreed with cost.

**23/02/2017**

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**K.KALYANASUNDARAM, J.**

r n s

To

The Sub Assistant Registrar,
Original Side,
High Court, Madras.

**C.S.No.234 of 2016**

**23/02/2017**

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