

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 26.07.2017

PRONOUNCED ON: 22.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CS.No.439 of 2016

M/s.Madras Hardtools Private Limited by its
Executive Officer, K.Udayakumar
Chennai-1

Plaintiff

Vs

M/s.Essar Offshore Subsea Limited by its
Managing Director, Mumbai-70

Defendant

Prayer:- This Civil Suit is filed under Order IV Rule 1 of Original Side Rules
read with Order VII Rule 1 of CPC.

For Plaintiff : Mr.N.Kishore Kumar

For Defendant : Set Exparte

JUDGEMENT

This Civil Suit is filed to pass a Judgement and Decree, against the Defendant (i) directing the Defendant to pay the Plaintiff a sum of Rs.28,26,380.26p (Rupees twenty eight lakhs twenty six thousand three hundred and eighty and twenty six paise only) along with interest at 25% p.a. and penal interest at 2% per month on the sum of Rs.13,49,559/- from the date of filing of the plaint till the date of payment and (ii) for costs of the suit.

2. The case of the Plaintiff is as follows:-

a. The Plaintiff Company is carrying on the business of

manufacturing and selling all kinds of material handling equipments, wire ropes, strings and various hardware products. On the basis of the purchase request of the Defendant Company made on 7.2.2014, the Plaintiff had supplied mooring rope PP materials to the Defendant on 12.2.2014 through Classic Freight Carriers and had raised an invoice dated 12.2.2014 for a sum of Rs.13,09,559/-. The Plaintiff had also paid a sum of Rs.40,000/- towards Test Certificate, on behalf of the Defendant and a debit note was raised on 26.2.2014 for the said sum. The Plaintiff is liable and due to pay a total sum of Rs.13,49,559/- and testing charges and with interest at 24% from 15.2.2014 to 7.6.2016 being a sum of Rs.7,48,059.40p/-. The Plaintiff is also entitled to additional penal interest at the rate of 3 times the bank interest in terms of the regulation of Small and Medium Scale Industry. Thus, in all, the Plaintiff is entitled to a sum of Rs.28,26,380.26p/-. In spite of repeated demands, the Defendant did not make the payment. Hence, this civil suit has been filed for the reliefs as stated above.

3. Though the Defendant was served as early as on 14.2.2017, no written statement has been filed by the Defendant and hence, the matter was ordered to be listed under the caption of "Undefended Board". For non filing of the Written Statement, the Defendant was set exparte and exparte evidence was ordered to be recorded, by the order of this court dated 6.7.2017. One Pravasha Pati, General Manager of the Plaintiff Company, has filed the proof affidavit for his chief examination and receipt of seven documents as documentary evidence to prove the suit claim. In the Evidence, the said General Manager examined himself as PW.1 and marked Exs.P1 to P7 as

documentary evidence in order to prove the suit claim.

4. Considering the oral and documentary evidence, viz. Ex.P1 to Ex.P7 adduced by PW.1 and in the absence of rebuttal evidence, this Court is of the view that the plaintiff has proved the suit claim and hence, the Plaintiff is entitled for the reliefs, as asked for. Accordingly, this civil suit is decreed as prayed for, with costs. Time for payment is three months.

.08.2017

Index:Yes/No
Web:Yes/No
Srcm

1. List of Witnesses Examined on the side of the Plaintiff:-
 1. P.W.1 - Pravasha Pati
2. List of Exhibits Marked on the side of the Plaintiff:-
 1. Ex.P1 (series) is the incorporation certificate, memorandum of articles of association of the Plaintiff Company.
 2. Ex.P2 is the Board Resolution of the Plaintiff Company who filed the case and represent the Company.
 3. Ex.P3 is the original invoice IP No.5884 dated 12.2.2014.
 4. Ex.P4 is the original test certificate issued to the Plaintiff dated 13.2.2014.
 5. Ex.P5 is the original debit note issued by the Plaintiff to the Defendant dated 26.2.2014.
 6. Ex.P6 is the original consignment note no.5211 and duplicate copy with acknowledgement dated 12.2.2014.
 7. Ex.P7 is the certificate issued to the Plaintiff Company by the Government of Tamil Nadu in entrepreneur memorandum no.3300112 00179 Part II small.

3. List of Witnesses Examined on the side of the defendant:-

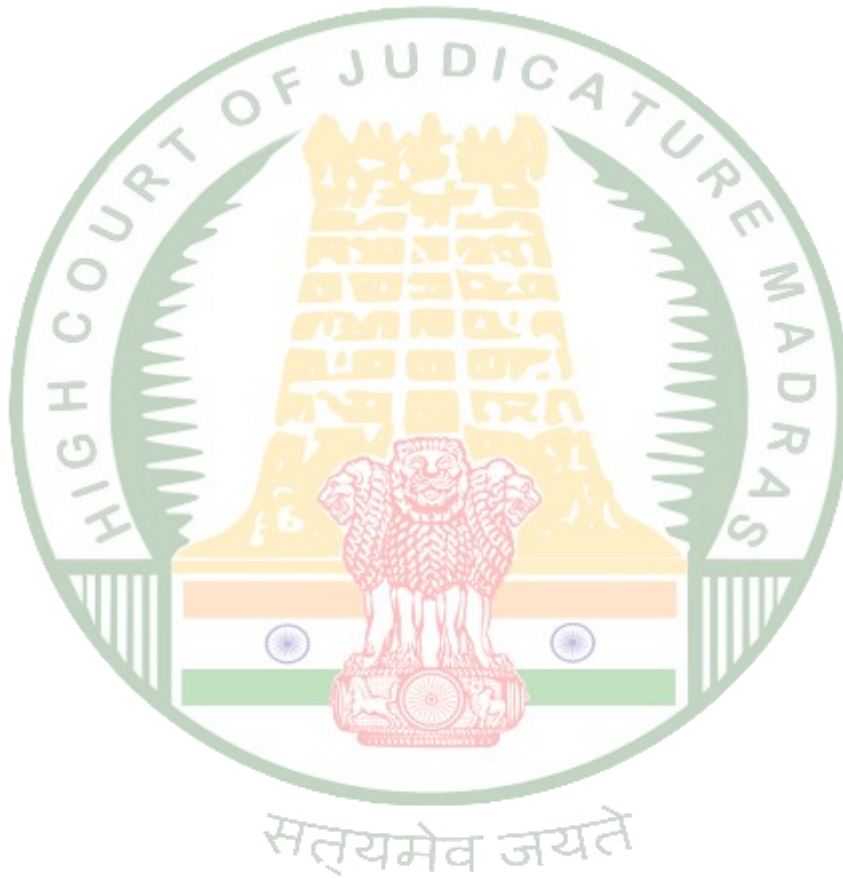
Nil

4. List of Exhibits Marked on the side of the defendant:-

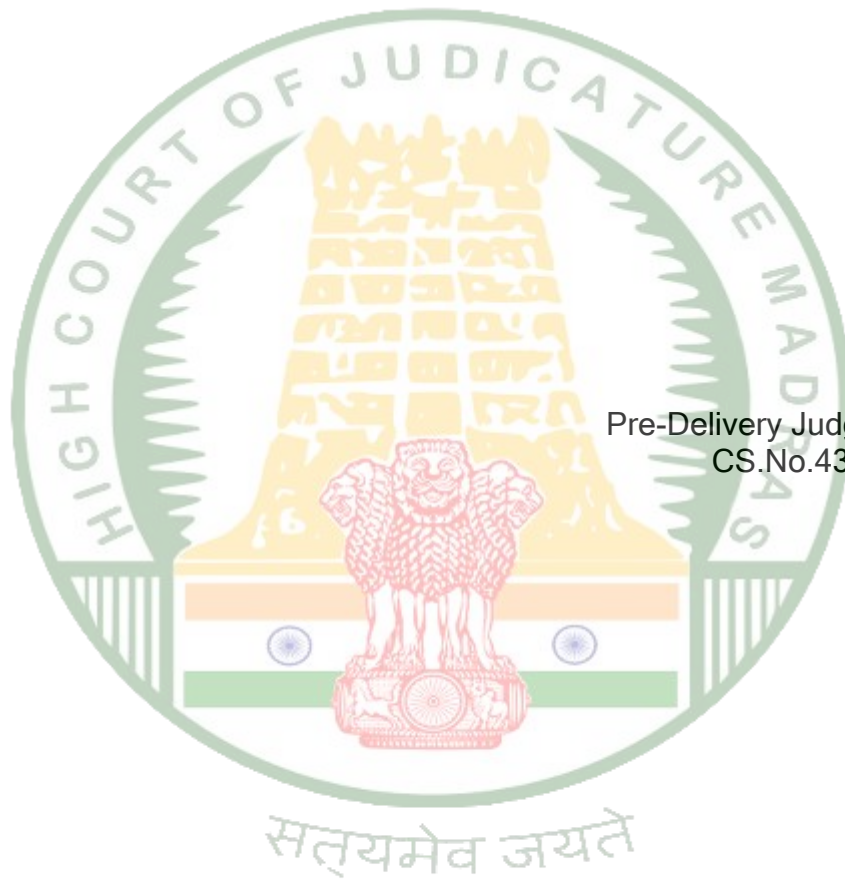
Nil

22.08.2017

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Pre-Delivery Judgement in
CS.No.439 of 2016

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