

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.02.2017

Pronounced on : 21.02.2017

CORAM

THE HON`BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.739 of 2012

Orchid Chemicals and Pharmaceuticals Limited,
"Orchid Towers", No.313, Valluvar Kottam High Road,
Nungambakkam, Chennai – 600 034
represented herein by its
Sr. General Manager – Legal &
Company secretary Mrs.Bhoomijha Murali .. Plaintiff

vs.

1. Cecil Pharmaceuticals Private Limited,
Regd. Officer : Plot No.2, 3, 8 & 9, EPIP SIDCO,
Kartholi, Bari Brahmana,
Jammu, Jammu & Kashmir – 181 133.

Also at No.13, Suit No.302, Cyber Heights,
Road No.2, Banjara Hills,
Hyderabad – 500 033.

2. Sanvi Organics Private Limited,
Regd. Office : Plot No.14, Flat No.302,
Rani Classic, Ayyappa Society,
Madhapur, Hyderabad – 500 081. .. defendants

Civil Suit filed under Order IV Rule 1 of Original Side Rules 1956 read
with Order VII Rule 1 CPC praying for the following judgment and decree
against the defendants.

a) directing the defendants joints and severally made payment of a sum of Rs.30,06,133/- (being Rs.20,32,795/- towards principal outstanding on the invoices along with Rs.9,73,338/- being interest at the rate of 17.5% p.a. From 23.1.2010 to till the date of this plaint) also with further interest at the rate of 17.5% per annum from the date of plaint till the date of realisation;

b) costs of the suit.

For plaintiff : T.S.Vijaya Raghavan

For defendants : Expave

J U D G M E N T

The suit is filed for recovery of a sum of Rs.30,06,133/- together with interest at the rate of 17% per annum on the principal sum of Rs.20,32,795/- from the date of plaint till the date of realisation.

2. The brief facts of the plaintiff case is as follows :

The plaintiff is a leading manufacturer of bulk drugs and having registered office at Chennai. The first defendant, who is also doing similar business, approached the plaintiff for purchase of various products manufactured by the plaintiff. Accordingly they purchased various drugs by way of purchase orders

from 09.09.2009. The account of the first defendant is a running account. During the course of the business, the first defendant paid a sum of Rs.10,00,000/- on 19.10.2010 and Rs.9,41,398/- on 29.09.2009. The above amounts were properly given credit to the first defendants' running account. The act of the first defendant claiming himself as a director of the second defendant herein, which is a group of companies of the first defendant also placed orders for supply of Cefazolin Sodium Sterile by way of purchase orders on 15.09.2010. The defendant also issued a cheque for a sum of Rs.4,72,416/- However, the said cheque was dishonoured on presentation. On 26.08.2011, the plaintiff has requested the second defendant to make entire payment and the said letter was also acknowledged and in fact, the second defendant has acknowledged the liability in writing on 26.08.2011. As the defendants failed to pay the amount, the present suit has been filed.

3. Though notice was served on the defendants, they have not chosen either to appear in person or through counsel. Therefore, they were set *ex parte* by this Court on 09.12.2013.

4. On the side of the plaintiff, the Executive Vice President of the plaintiff company was examined as P.W.1 and Ex.P.1 to Ex.P.25 were marked.

Exhibits produced on the side of the plaintiff:

S.No.	Exhibits	Date	Description
1.	P-1	13.02.2013	Original Board Resolution authorising P.W.1
2.	P-2	09.09.2009	Copy of the purchase order
3.	P-3	29.09.2009	Copy of the Invoice
4.	P-4	29.09.2009	Copy of excise challan
5.	P-5	29.09.2009	Copy of proof of despatch
6.	P-6	09.10.2009	Copy of Invoice
7.	P-7	09.10.2009	Copy of excise challan
8.	P-8	09.10.2009	Copy of proof of despatch
9.	P-9	23.10.2009	Copy of Invoice
10.	P-10	23.10.2009	Copy of excise challan
11.	P-11	23.10.2009	Copy of proof of despatch
12.	P-12	20.09.2010	The original cheque No.224480 issued to the plaintiff by the first defendant
13	P-13	15.10.2010	The original cheque No.224481 issued to the plaintiff by the first defendant
14.	P-14	15.11.2010	The original cheque No.224484 issued to the plaintiff by the first defendant
15.	P-15	15.09.2010	Copy of the purchase order
16.	P-16	07.10.2010	Copy of Invoice
17.	P-17	07.10.2010	Copy of excise challan
18.	P-18	07.10.2010	Copy of proof of despatch
19.	P-19	25.08.2011	Copy of the letter sent by the plaintiff to the second defendant

S.No.	Exhibits	Date	Description
20.	P-20	26.08.2011	Copy of the letter sent by the second defendant to the plaintiff
21.	P-21 series	17.12.2011	Copy of the letter sent by the plaintiff to the defendants along with returned covers
22.	P-22	02.01.2012	Copy of the letter sent by the plaintiff to the second defendant along with returned covers
23.	P-23	24.01.2012	Copy of the letter sent by the plaintiff to the defendants along with returned covers
24.	P-24	18.02.2012	Copy of the letter sent by the plaintiff to the second defendant with acknowledgment
25.	P-25	--	Statement of Accounts

Witnesses examined on the side of the plaintiff:

P.W.1. - L.Chandrasekar

5. Heard the learned counsel for the plaintiff and perused the records.

6. On the side of the plaintiff, one Chandrasekar Executive Vice President of the Plaintiff company is examined as P.W.1. P.W.1 in his evidence has stated about the supply of bulk drugs on the basis of purchase orders and invoices and issuance of the cheque by the defendants and also acknowledgment in writing made by the second defendant. He has further stated in his evidence that as per their accounts, a sum of Rs.20,32,795 is the

outstanding from the defendants. The evidence of the plaintiff remained unchallenged.

7. Ex.P.1 is the resolution of the plaintiff company authorising P.W.1 to give evidence. Ex.P.3 is the invoice dated 29.09.2009 issued in the name of the first defendant. Ex.P.9 is the invoice dated 23.10.2009 for a sum of Rs.7,47,203/- issued by the plaintiff to the first defendant. Ex.P.12 is the cheque issued by the defendant dated 20.09.2010 in favour of the plaintiff for a sum of Rs.9,41,398/-. Ex.P.13 is the cheque dated 15.10.2010 issued by the defendant for a similar amount. Ex.P.14 is the cheque dated 15.11.2010 issued by the defendant for Rs.9,41,398/-. Ex.P.17 dated 07.10.2010 is the invoice issued by the plaintiff to the first defendant for a sum of Rs.4,72,416/-. Ex.P.19 is the letter issued by the plaintiff claiming a sum of Rs.25,05,211 only from the second defendant. The second defendant acknowledged the liability of the first defendant on 26.08.2011. Wherein, he has also admitted the liability as against the supply made to the first defendant. Ex.P.21 series legal notice sent by the plaintiff shows that the same has been returned. Ex.P.22 is also such notices sent by the plaintiff which was returned unserved. Ex.P.23 is the legal notice also unserved. Ex.P.24 letter dated 18.02.2012 addressed by the plaintiff to one Apparao, the Director of the second defendant's requesting to pay the amount. He has received the above letter. Ex.P.25 accounts maintained by the plaintiff shows that the outstanding dues as on 21.01.2010. a sum of Rs.20,32,795/-

and subsequent interest. Though other documents are also exhibited by the plaintiff, those documents are only xerox copies. Therefore, the same has not been given credance by this Court. The fact remains that the acknowledgment of liability and original cheques and invoices and the account statement of the plaintiff clearly prove the case of the plaintiff. The above documents have not been denied by the defendants. From the above documents and invoices and statement of accounts of the plaintiff, it can be easily seen that in the course of business, the defendants 1 and 2 having purchased various medicines on credit basis and failed to pay the amount. From the above documents and oral evidence of P.W.1 and the documents exhibited, this Court hold that the plaintiff has proved its case.

8. In the result, the suit is decreed for recovery of a sum of Rs.30,06,133/- (Rupees thirty lakhs six thousand one hundred and thirty three only) with costs together with subsequent interest at the rate of 6% per annum on the principal amount from the date of suit till the date of realization.

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Index : Yes
Internet: Yes

N.SATHISH KUMAR, J

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Judgment in

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