**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA No.926 of 2018 (O&M)
Date of decision: 09.02.2018

M/s Brar Motors and another

.......Appellants

versus

M/s Bridgestone India Pvt. Ltd.

......Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Kamaldeep S. Sidhu, Advocate, for the appellants.

RAMENDRA JAIN, J. (ORAL)

CM-2269-C-2018

For the reasons mentioned in the application, same is allowed. Delay of 29 days in refiling the accompanying appeal is condoned.

RSA-926 of 2018

After remaining unsuccessful before both the Courts below, defendants have preferred this Regular Second Appeal assailing the judgment and decree of the First Appellate Court dated 22.08.2017 affirming the judgment and decree of the trial Court dated 12.02.2015 whereby suit of the respondent-plaintiff for recovery of ₹ 1,97,458.85 against the appellants-defendant was decreed along with interest @ 9% per annum.

In nutshell, respondent-plaintiff filed a suit for recovery of the aforesaid amount against the appellants-defendant pleading that it had supplied various consignments of tyres and tubes from time to time to the appellants-defendant on credit basis against orders by appellants-defendant to the office of the respondent-plaintiff's company at Chandigarh for which a running account was maintained. Initially, the appellants-defendant kept on making payments for the goods, but lateron started defaulting in payments. Consequently, after adjusting security deposit of the appellants-defendant, amount of ₹ 1,97,458.85 remained due to be recovered from them.

Appellants-defendant contested the suit pleading that they had made entire payments of the goods supplied to them by the respondent-plaintiff and thus, nothing was due to be recovered from them.

The trial Court after holding trial, decreed the suit for recovery of ₹ 1,97,458.85 along with interest @ 9% per annum w.e.f. 01.02.2009 till the date of decree and thereafter @ 6% per annum till realization vide judgment and decree dated 12.02.2015.

Being aggrieved, appellants approached the First Appellate Court, but remained unsuccessful as their appeal too was dismissed vide judgment and decree dated 22.08.2017.

Learned counsel for the appellants contends that the trial Court has wrongly and illegally relied upon the invoices/account statement Ex.PW1/6 to Ex.PW1/13 inasmuch as the said documents were not legally proved by the respondent-plaintiff. The finding of the First Appellate Court that since no objection was raised at the time of exhibition of the aforesaid documents is completely erroneous inasmuch as they were very much objected to by the appellants at that time. Both the Courts below failed to appreciate that the aforesaid documents Ex.PW1/6 to Ex.PW1/13 could not have been taken into consideration without their formal proof. In case, these documents would not have been considered, the respondent-plaintiff had no case. More-so, the aforesaid documents were not in original, rather were the true copies and, therefore, these documents could not have been relied upon for this angle too.

Having given considerable thought to the submissions made by learned counsel for the appellants, I find the instant appeal completely devoid of any merit for the reasons to follow.

The aforesaid documents Ex.PW1/6 to Ex.PW1/13 were the duplicate copies of the original invoices. Originals of said documents could not have been produced, because they must have been handed over to the appellants-defendant at the time of delivery of goods. There is no iota of evidence on record that the aforesaid documents were not prepared during the process of making of original documents. The aforesaid documents were exhibited with objection regarding mode of proof which the trial Court has already considered at the time of hearing and pronouncing the final judgment.

The specific stand of the appellants is that nothing was due against them as they had made the complete payments to the respondent-plaintiff against goods supplied to them, but the appellants did not produce any such proof in support of their above contention.

It is needless to mention here that it cannot be expected from a trader or a businessman that he would make payment to his supplier without obtaining any receipt. Since the appellants could not or did not produce any receipt in support of their assertion that they had made complete payments, both the Courts below have rightly relied upon the unrebutted invoices and account statement produced on record by the respondent-plaintiff. Moreover the disputed amount is quite meagre.

There are concurrent findings against the appellants of both the Courts below. I have gone through the impugned judgments of both the Courts below and find no illegality or perversity in the same. Rather they are well-reasoned.

No question of law muchless substantial has been raised or arises for consideration in this appeal.

In view of discussion made above, the appeal is dismissed.

(Ramendra Jain)
Judge

February 09, 2018
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.