

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.10.2019

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THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.823 of 2015 &

A.No.6894 of 2015

M/s.Metal & Scrap Traders Pvt. Ltd.,
Rep. by its Director Kalpesh Agarwal,
No.A-4 & A-5, SIDCO Industrial Estate,
Kodungaiyur, Chennai – 600 118. .. Plaintiff

Vs.

M/s.Mehala Castings & Components Pvt. Ltd.,
Rep. by its Director,
S.F.No.426/2, Thekkalur,
Avinashi Taluk, Coimbatore – 641 654. .. Defendant

Civil Suit filed under Order IV Rule 1 of Original Side Rules and Order VII Rule 1 of Code of Civil Procedure to direct the defendant to pay to the plaintiff a sum of Rs.52,63,261.73 together with interest at 12% per annum on the principal sum of Rs.42,92,095,65 from the date of filing of this plaint till date of payment and for costs.

For Plaintiff : Mr.T.Raja Mohan

For defendants : Set exparte

J U D G M E N T

This suit has been filed for recovery of a sum of Rs.52,63,261.73 together with interest at 12% per annum on the principal sum of Rs.42,92,095.65 from the date of filing of this plaint till date of payment and for costs.

2. The plaintiff is a wholesale trader in metal and scrap. The plaintiff sold and delivered to the defendant waste and scrap of Steel from 27.02.2013 to 19.12.2013 under various bills to the tune of Rs.65,63,732/-. As per the agreed terms of sale, the payment shall be made within 10 days with interest at the rate of 24% per annum. The plaintiff has paid only a sum of Rs.22,71,636.35 as against the value of the goods supplied and the defendant is entitled to recover a sum of Rs.42,92,095.65 together with interest at the rate of 12% per annum. Hence, the suit.

The learned counsel appearing for the defendant submitted that he has already withdrawn the vakalat as 'no instruction' for the defendant. Hence, the defendant was set exparte.

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4. The Marketing Manager of the plaintiff company was examined as

P.W.1 and Ex.P1 to Ex.P.31 were marked.

P.W.1 – Mr.M.Nandakumar

S.No.	Date	Description of documents	Exhibit
1.	14.08.2019	Letter of authority	P-1
2.	27.02.2013	Copy of Invoice	P-2
3.	07.03.2013	Copy of Invoice	P-3
4.	09.03.2013	Copy of Invoice	P-4
5.	13.03.2013	Copy of Invoice	P-5
6.	16.03.2013	Copy of Delivery Challan	P-6
7.	16.03.2013	Copy of Invoice	P-7
8.	26.03.2013	Copy of Delivery Challan	P-8
9.	26.03.2013	Copy of Invoice	P-9
10.	11.04.2013	Copy of Delivery Challan	P-10
11.	11.04.2013	Copy of Invoice	P-11
12.	26.04.2013	Copy of Delivery Challan	P-12
13.	26.04.2013	Copy of Invoice	P-13
14.	03.05.2013	Copy of Delivery Challan	P-14
15.	03.05.2013	Copy of Invoice	P-15
16.	09.11.2013	Copy of Delivery Challan	P-16
17.	09.11.2013	Copy of Invoice	P-17
18.	13.12.2013	Copy of Delivery Challan	P-18
19.	13.12.2013	Copy of Invoice	P-19
20.	19.12.2013	Copy of Delivery Challan	P-20
21.	19.12.2013	Copy of Invoice	P-21

S.No.	Date	Description of documents	Exhibit
22.	--	Accounts Statement from 01.04.213 to 10.01.2014 signed by the defendant	P-22
23.	04.05.2013	Dishonoured cheque with memo	P-23
24.	01.09.2013	Dishonoured cheque with memo	P-24
25.	24.02.2014	Copy of the letter sent by the plaintiff to the defendant with postal registration slip	P-25
26.	26.02.2014	Postal Acknowledgment	P-26
27.	10.10.2014	Copy of the letter sent by the plaintiff to the defendant with postal registration slip	P-27
28.	03.01.2015	Copy of the legal notice sent by the plaintiff to the defendant	P-28
29.	10.01.2015	Acknowledgment dated 10.01.2015	P-29
30.	26.03.2015	Rejoinder sent by the plaintiff to the defendant	P-30
31.	06.04.2015	Acknowledgment dated 06.04.2015	P-31

5. P.W.1 in his evidence has spoken about the supply of scrap materials under the invoices on various dates. Ex.P.2 to Ex.P.5 are invoices starting from 27.02.2013 to 13.03.2013. Ex.P.6 and Ex.P.8 are the delivery challans to prove delivery of materials by the plaintiff. Ex.P.9 is also an invoice dated 26.3.2013. Ex.P.11, Ex.P.13, Ex.P.15, P.17, Ex.P.19, Ex.P.21 are the invoices raised by the plaintiff for the supplies made. The delivery of materials have been evidenced by the delivery challans Ex.P.14, Ex.P.16, Ex.P.18, Ex.P.20. Ex.P.22 is statement of accounts from 01.04.2013 to 10.01.2014 wherein the defendant has acknowledged the liability and signed in the document. Ex.P.23 and Ex.P.24

are the cheques issued by the defendants towards the liability. However, the same were dishonoured. Ex.P.25, Ex.P.7 and Ex.P.28 are letters and legal notice sent by the plaintiff which are acknowledged by the defendant. The evidence of the P.W.1 remain unchallenged. The evidence of the P.W.1 and documents marked on the side of the plaintiff clearly prove the case of the plaintiff.

7. Accordingly, the suit is decreed as prayed for with cost with subsequent interest at the rate of 7.5% from the date of suit till the date of realization. Consequently, the connected application is closed.

01.10.2019

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Index : Yes/No
Internet : Yes/No

Speaking/Non-Speaking Order

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