

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No. 106 of 2018

Texcel International Private Ltd,
Represented by its Director R.Mukunthan
No. 2 and 3 Sengundram Industrial Area,
Near Ford India Limited,
Singaperumal Koil, Chengalpattu Taluk – 603 204.

..Plaintiff

Vs.

Enexio Power Cooling Solutions India Private Limited.,
(Formerly GEA Cooling Tower Technologies (India) Pvt. Ltd.,
Represented by Managing Director Ms.Swarnamugi Karthick
No.443, Anna Salai, Guna Building, Teynampet,
Chennai – 600 018.

..Defendant

Prayer: Plain filed under Order IV Rule 1 of Original Side rules r/w Order VII Rule 1 of C.P.C praying to pay the plaintiff a sum of Rs.2,43,60,987/- (Rupees two crores forty three lakhs sixty thousand nine hundred and eighty seven only) towards materials with further interest at 21% per annum on principal sum of Rs.1,28,15,749/- from the date of plaint till the date of realization and for cost.

For Plaintiff

: Mr.A.R.Nixon

For Defendant

: Defendant set exparte on 28.08.2018

ORDER

The suit is one for recovery of Rs.2,43,60,987/- as due towards the value of supply of the fabricated steel structures by the plaintiff to the defendant over a period of time.

2. According to the plaintiff, pursuant to orders placed by the defendant, the defendant had fabricated and supplied steel structures and had also raised necessary invoices cum delivery charges. Having received the materials, the defendant paid only part of the amounts and failed to pay the entire balance. The list of outstanding invoices would show that a sum of Rs.1,28,15,749/- is due and payable by the defendant towards value of the goods.

3. As per the agreement between the parties, the amount of each invoice is payable within 30 days after the despatch of the materials. For any delay in payment, the defendant is bound to pay 21% per annum towards interest. The plaintiff had come forward with the suit for recovery, since the defendant failed and neglected to pay the balance amount despite repeated demands.

4. Summons in the suit were served on the defendant on 23.02.2018. Since the defendant did not appear to contest the suit, the defendant was set exparte on 28.08.2018 and the suit was listed for evidence before the learned

Additional Master -IV. One S.Saravanan, who working as a Purchase Manager in the plaintiff's firm was examined as P.W.1. He has produced the following documents :-

Sl No.		Description of Documents	Date
1.	Ex.P1	Copy of plaintiff registration certificate	16/01/2002
2.	Ex.P2	Office copy of Purchase Order No.GCTX/1549/2013/W01/OA1 and original Invoice No.TIPL/1804, 09/09/2014 & Copy of Delivery challan	16/12/2013
3.	Ex.P3 Series	Office copy of Purchase Order No.GCTX/1378/2014/FAB-001, and original Invoice No.TXL/485, dt. 15/11/2014 & copy of Delivery Challan, original Invoice No.TIL/605, dt. 30/06/2015 & copy of Delivery challan	14/05/2014
4.	Ex.P4 Series	Office copy of Purchase Order No.GCTX/1621/2014/WO1, and original Invoice No.TXL/483, dt.15/11/2014 & copy of Delivery challan, original Invoice No.TIL/832, dt.27/12/2014 & copy of Delivery challan.	09/09/2014
5.	Ex.P5 Series	Office copy of Purchase Order No.GCTX/1378/2015/PROJ/011, and original Invoice No.TXL/1166, dt.14/02/2015 & copy of Delivery challan	21/01/2015
6.	Ex.P6 Series	Office copy of Purchase Order No.GCTX/1378/2015/017A, and original Invoice No.TIL/503, dt.06/06/2015 & copy of Delivery challan	31/03/2015
7.	Ex.P7 Series	Office copy of Purchase Order No.GCTX/1684/2014/STR001, and original Invoice No.TIL/1813, dt.14/03/2016 & copy of Delivery challan and original Invoice No.TIL/1814, dt.14/03/2016 & copy of Delivery Challan and original Invoice No.TIL/1815, dt.14/03/2016 & copy of Delivery challan and original Invoice No.TIL/1816, dt.14/03/2016 & copy of Delivery challan and original Invoice No.TIL/1817, dt. 14/03/2016 & copy of Delivery Challan and original Invoice	23/12/2015

Sl No.		Description of Documents	Date
		No.TIL/1818, dt. 15/03/2016 & copy of Delivery challan and original Invoice No.TIL/1819, dt. 15/03/2016 & copy of Delivery challan and original Invoice No.TIL/1820, dt.14/03/2016 & copy of No.TIL/1821, dt.15/03/2016 & copy of Delivery challan and original Invoice No.TIL/1822, dt.15/03/2016 & copy of Delivery challan and original Invoice No.TIL/1823, dt.15/03/2016 & copy of Delivery challan	
8	Ex.P8	Office copy of Letter for Diff. Tax @ 12.5% C Form 2014/15 for Rs.47,461/-	20/12/2016
9	Ex.P9	E-mail from defendant requesting Ledger Accounts	---
10	Ex.P10	E-mail attached Ledger Accounts from 01.04.2015 to 31.03.2017 by plaintiff	30/06/2017
11	Ex.P11	E-mail of Ledger Accounts by defendant	30/06/2017
12	Ex.P12	True copy of Legal notice by plaintiff with acknowledgement	23/09/2017
13	Ex.P13	Original notice by defendant	03/10/2017
14	Ex.P14	True copy of reply notice on 03/10/2017 by defendant to the plaintiff with acknowledgement.	05/10/2017
15	Ex.P15	Statement of accounts with working sheet.	05/10/2017
16	Ex.P16	Statement of Accounts	05/10/2017
17	Ex.P17	Authorisation Letter	---
18	Ex.P18	Certificate under 65-B of Indian Evidence Act, 1872 for Exs.P15 and Ex.P16.	---

5. A perusal of Exs.P10, P11 & P12 would show that the plaintiff had been demanding payment of the outstanding amounts. Ex.P16, the statement of accounts produced would show that the said amount is due and payable by the defendant. Ex. P18 is the certificate required under Section. 65-B of the

Evidence Act relating to Exs.P15 & P16. A perusal of the oral and documentary evidence would show that the defendant having received the goods supplied by the plaintiff have not made the payments for the value of the goods received by it. Hence, the suit is decreed as prayed for with costs.

18.07.2019

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List of Witness examined on the side of the plaintiff:-

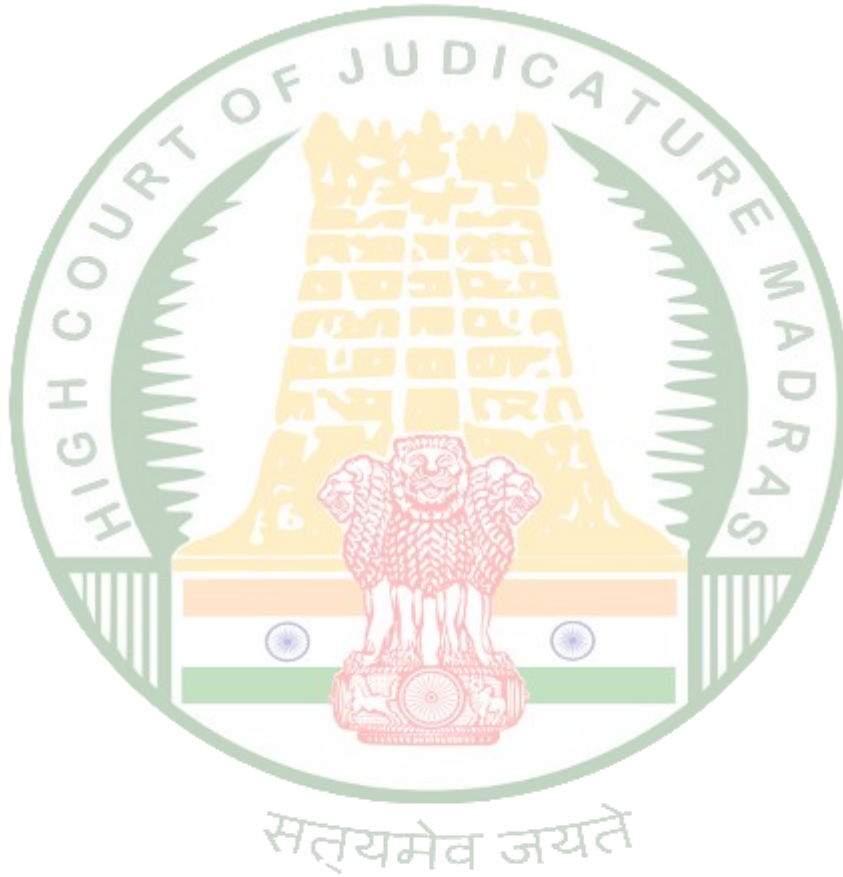
1.S.Saravanan – P.W.1

List of Documents produced on the side of the plaintiff:-

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R.SUBRAMANIAN, J.

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