

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.08.2019

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The Honourable Mr.Justice KRISHNAN RAMASAMY

C.S.(Comm.Div.)No.758 of 2018

M/s.Maharashtra Seamless Ltd.,
3A, Royal Court, 44,
Venkatanarayana Road,
T Nagar, Chennai-17
Represented by its Authorised Signatory,
Mr.Sunil Pushpangadan ...Plaintiff

Versus

Mr.Ramaswamy Annadurai
Proprietor of M/s.Naveen Traders,
193/3//D1, Sankari Road,
Tiruchengode-637211. ...Defendant

This Civil Suit is filed under Order XXXVII Rule 2 of Civil Procedure Code, 1908 for a judgment and decree, as against the defendant; a) for directing the defendant to pay a sum of Rs.1,13,21,855/- (Rupees One Crore Thirteen Lakhs Twenty One Thousand Eight Hundred and Fifty Five only) towards the outstanding amount of Rs.1,05,49,656/- (Rupees One Crore Five Lakhs Forty Nine Thousand Six Hundred and Fifty Six only) which is inclusive of simple interest at 12% and GST at 18%; b) awarding the plaintiff the cost of the present suit proceedings.

For Plaintiff : Mr.M.V.Swaroop

For Defendant : Mr.S.Govindarajulu

J U D G M E N T

The Plaintiff is a Company incorporated as per the provisions of the Indian Companies Act, 1956. The present suit has been filed for the recovery of non-payment of outstanding dues to the plaintiff towards a contract of supply of goods. The goods in question are certain hot finished carbon steel seamless drill rods/pipes supplied to the defendant. Further the plaintiff has been supplying the aforementioned goods to the defendant since 2016-17 and in so far as the supplies made to the defendant from 20th March, 2018, the defendant has not paid any single payment to the plaintiff. The details of the invoices are as follows:-

Invoice No.	Date	Amount (Rs.)	Due Date	Interest (Rs.)
117180111233	20.03.2018	18,15,121/-	27.03.2018	1,12,786/-
117180111236	20.03.2018	22,47,413/-	27.03.2018	1,39,647/-
117180111246	20.03.2018	22,93,297/-	27.03.2018	1,42,499/-
117180111250	20.03.2018	19,27,141/-	27.03.2018	1,19,747/-
117180111311	21.03.2018	22,66,684/-	28.03.2018	1,39,727/-
Total		1,05,49,656/-		6,54,406/-
	GST @ 18%	1,17,793/-		
Grand Total		Rs.1,13,21,855/-		

2. As per the above said invoices, the defendant ought to pay a sum of Rs.1,05,49,656/-, excluding taxes. After the receipt of the above goods, the defendant drew two undated cheques in favour of the plaintiff bearing numbers 001071 and 001072 as securities. Since there was a delay in making payment, the plaintiff has proceeded in depositing the said cheques for Rs.25,00,000/- each. The details of the two cheques are as follows:-

Cheque No.	Amount (Rs.)	Drawee Bank	Status of the Cheque
001071 dated 18.07.2018	25,00,000/-	ICICI Bank, Thiruchengode Branch	Returned
001072 dated 20.07.2018	25,00,000/-	ICICI Bank, Thiruchengode Branch	Returned

3. When the plaintiff has deposited the above cheques to the Banker (HDFC Bank, R.K.Salai Branch with whom the plaintiff had Account), the said cheques were returned by the bank with endorsements "insufficient funds" and where, as such, dishonoured by the bank when presented for payment by the plaintiff.

4. The learned counsel for the plaintiff has submitted that the plaintiff has sent an E-Mail dated 03.07.2018, wherein they have demanded the outstanding amount of a sum of Rs.1,05,49,656/- and the same was also acknowledged by the defendant. He would further submit

that subsequent to the E-Mail dated 03.07.2018, the plaintiff has sent one legal notice dated 03.08.2018 along with the dishonored cheque to the defendant demanding a sum of Rs.1,13,21,855/- with the interest at 18% per annum and to pay a sum of Rs.50,000/- as costs towards the legal notice. After the said notice was duly served to the defendant on 10.08.2018 and after the receipt of the said notice, the defendant has neither replied to such legal notice nor has given any indication of repaying the outstanding amount. Therefore, the plaintiff has filed the said suit for recovery of money under Order XXXVII of the Code of Civil Procedure, 1908.

5. Further, the defendant has filed a memo dated 03.04.2019 before this Court, wherein he has admitted that the outstanding amount due was Rs.1,05,49,656/-. Subsequent to the filing of the said suit, it was admitted by the parties that the defendant has paid a sum of Rs.40 Lakhs and after deducting the said sum of Rs.40 Lakhs, the defendant, by virtue of the above memo, agreed to pay the outstanding balance amount Rs.65,49,656/- by way of six equal installments to the plaintiff, with a rider clause that if the defendant failed to settle the amount as stated above within six equal installments, he will pay the interest at the rate of 24% per annum from the date of the invoice issued by the plaintiff.

6. As per the memo filed by the defendant also, the defendant had failed in making payments as per the undertaking provided by the defendant. Even before this Court also, the defendant seeks time to make the payment often. This Court has also granted sufficient time to make the payment as agreed in the memo dated 03.04.2019. However, the defendant failed to make any payment as agreed by virtue of the memo dated 03.04.2019.

7. Even on one occasion, this Court has also called the defendant to be present, in person and after his presence also, he has not come forward to make any payment as agreed by him.

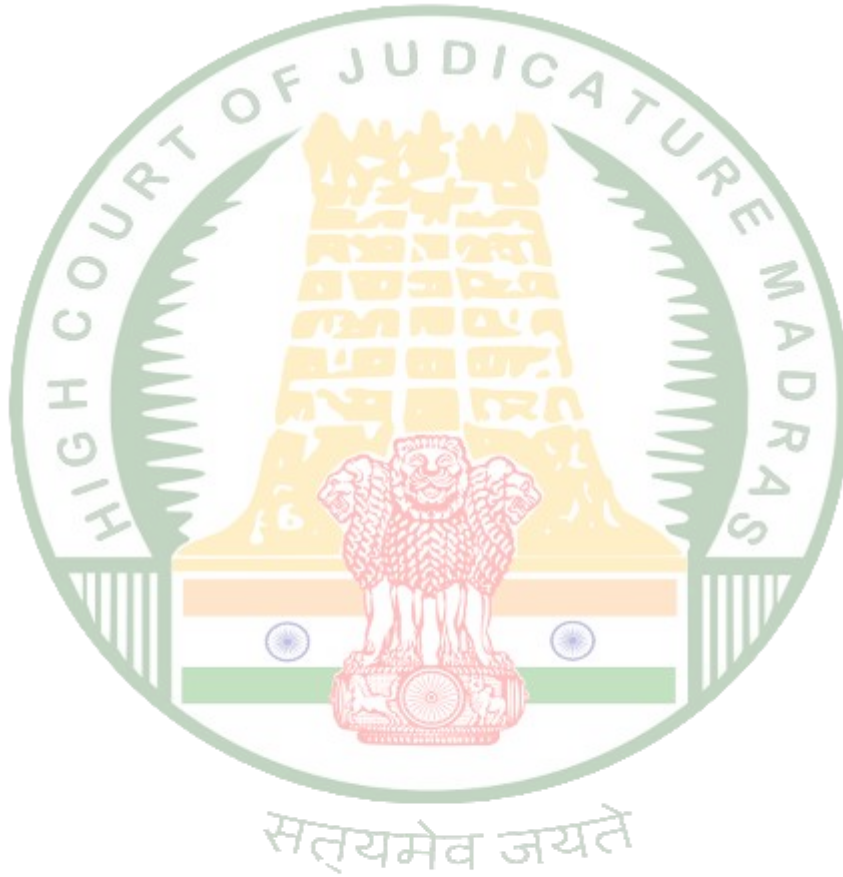
8. In view of the clear admission made on the part of the defendant and by virtue of the memo dated 03.04.2019, the suit has to be decreed. The defendant has also not adduced any evidence. Since there is an admission in the memo that the defendant is liable to pay a sum of Rs.65,49,656/- to the plaintiff, this Court is of the view that there is no defence available for the defendant to contest the present suit. Therefore, this suit is decreed to the extent a sum of Rs.65,49,656/- with interest at the rate of 18% per annum from the date of invoice till the date of the decree and 12% per annum from the date of decree till the date of deposit.

9. In the result, this suit is decreed as above with costs.

02.08.2019

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KRISHNAN RAMASAMY, J.,
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02.08.2019