

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**RESERVED ON : 06.01.2017**

**PRONOUNCED ON : 12.10.2020**

**CORAM :**

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

**C.S.No.546 of 2003**

Swastik Filaments Private Limited,  
rep. by its Manager Mr. G.Chandrasekhar  
No.2 Ashoka Street,  
Alwarpet, Chennai 600 018

.. plaintiff

**.Vs.**

Sri Narayana Industrial Yarns Private Limited,  
rep. by its Board of Directors,  
No.94/1 & 3 Narayanapuram,  
Nagamangalam, Trichy,  
Viralimalai Road,  
Trichy, Tamilnadu 620012

.. defendant

**PRAYER :** Civil suit is filed under Order VII Rule 1 of Civil Procedure Code and Order IV Rule 1 of the Original Side Rules

(a) to pay a sum of Rs.18,16,036/- (Rupees Eighteen Lakhs Sixteen Thousand and Thirty Six only) being the sum the defendant owes the plaintiff and interest of Rs.4,67,055/-(Four Lakh Sixty Seven Thousand and Fifty Five) being the interest at the contractual rate of 18% per annum on Rs.18,16,036/- from the date of plaint till the date of the realization;

(b) Costs of the suit.

For Plaintiff : M/s. Sivam Sivanandraj  
For defendant : Mrs.A.R.L.Ganthimathi

### **J U D G M E N T**

The plaintiff has filed a suit for recovery of money against the defendant.

2. **The case of the plaintiff, as per the plaint, in brief, reads as follows:-**

The plaintiff is a reputed manufacturer of Nylon Yarns and Nylon fishnets and commands a large market for its products and is very well known for the stringent quality standards maintained by it. The plaintiff has been conferred the International standards of "4401-1981 Nylon Yarn" specification from the Central Institute of Fisheries Technology India's premier quality monitoring organization and the plaintiff is also one of the first few Indian Companies to have achieved such certification. The Nylon Fishnets manufactured by the plaintiff out of Nylon Yarn as well as the Nylon Yarn manufactured by it also secured high prices in the market as they are known for their quality and durability. The making of nylon fishnets out of Nylon Yarn involves the process of first "twisting" nylon Yarn into twine and the weaving of this twine into fishnets. The twisting process is precise and requires specialized machinery and

trained personnel. In order to ensure that this twisting or conversion is done accurately, the plaintiff entrusts yarn manufactured by it to third parties, who are specialists in the twisting process and who possess the requisite equipment, trained personnel and resources. These third parties convert the nylon yarn into twine and return the same to the plaintiff for processing into the fishnets.

3. In the month of April 1998, the defendant represented by its Directors approached the plaintiff, with the two fold proposal, for purchase of yarn for the purpose of retailing and conversion of yarn into twine, on a job work basis for the plaintiff. The defendant proposed to purchase a minimum quantity of 15 tonnes of "210 D" yarn per month from the plaintiff and sought an appropriate arrangement with the plaintiff. After several discussions, by letter dated 08.04.1998, the plaintiff agreed to sell its "STAR" brand Yarn of specification "210 D" to the defendant at the rate of Rs.170/- per kilogram, and as per terms, payment should be made by way of Demand Draft within 21 days from the date of despatch. Based on the assurances of prompt and immediate payment, the very next day on 09.04.1998, the plaintiff also agreed to allow a discount of Rs.5/- per kg, if payments were received within 21 days of despatch and the said arrangement was confirmed by the plaintiff's letter dated 09.04.1998. Having

regarded at an arrangement for sale of Yarn, the parties also negotiated a conversion contract. At that time, as the plaintiff was in the process of increasing its production capacity, it was also searching for new parties, who could be entrusted with conversion of yarn into twine on a job work basis. In the course of these discussions, the plaintiff specifically represented that it was stringent in enforcing its quality norms and expected very high quality standards to be maintained by parties engaged in the conversion process for them. The plaintiff set out its criteria and specification to be maintained in the process of conversion. Further the plaintiff stipulated that out of the total yarn entrusted for conversion atleast 98% must be returned as finished twine and the waste generated ought not to exceed 2% of the entire bulk despatched and even the waste should also be returned to the plaintiff and hence, the defendant was under an obligation to ensure the safety of the yarn and return of the same after processing, whether in the form of finished twine or waste. Since the defendant, represented by its directors, agreed all the above conditions and specifications, on 10.04.1998, a "Conversion Contract" was entered into between the parties incorporating the above mentioned terms. The contract was restricted to only one year to enable the plaintiff to assess the performance of the defendant and retain the right to continue or discontinue the contract with the defendant.

Further, as the yarn supplied to the defendant was very high value and the plaintiff was contracting with the defendant for the first time, the plaintiff insisted the defendant to furnish a security of Rs.30 lakhs, for which, on 28.04.1998, Mrs. Meena Ramanathan, the Director of the defendant, has also executed a promissory note for a sum of Rs.30 lakhs in favour of the plaintiff, which would be encashed in the event of any default being committed by the defendant. In the month of April 1998 itself, both the arrangements were effected and the plaintiff started despatching yarn for conversion to the defendant and simultaneously started selling its STAR brand yarn to the defendant.

4. During the first year of the conversion of contract, i.e. 1998-99, the plaintiff provided 144.579 Metric Tons of Yarn to the defendant. But, contrary to the contract, the defendant returned only 137.094 Metric Tons of Twine including waste instead of returning the entire quantity of 144.579 Metric Tons of Yarn in the form of first quality finished twine or as waste. After repeated reminders, the defendant furnished stock statements, which shows that the valuable Yarn received by them was being retained in contravention to the contract. The plaintiff also received complaints from their clients regarding the

defects in the Twine converted by the defendant. The plaintiff issued various letters including letters dated 26.11.1998, 18.05.1998 and 07.10.1998 to the defendant intimating the complaints about the poor quality of twine etc. However, the defendant repeatedly represented that they were taking steps to improve their processes and also promised to improve the quality.

5. As per the arrangement, for sale of the "Star" brand yarn, dated 08.04.1998 and 09.04.1998, the plaintiff was also selling its Star brand yarn to the defendant and the plaintiff was to provide a discount of Rs.5 per kg if the payments were received within 21 days of despatch. However, the defendant always failed to make payments within due date and made part payment or delayed payment towards the bills raised. This was occurring from the very inception of the arrangement. Therefore, the plaintiff has not provided discount to the defendant and had been collecting the entire sum payable on each invoice. Even the defendant had never claimed any discounts as they were making payment beyond 21 days from the date of delivery. Even though the payments for yarn were delayed and the twine converted was found to be substandard quality, since the defendant repeatedly assured that payments would be made promptly and the conversion process would also be improved to the

satisfaction of the plaintiff. Based on the said assurance given by the defendant, the plaintiff renewed the conversion of contract in the month of April 1999 and making it valid upto April 2000. However, to make the conversion contract economically viable to the plaintiff, a provision was included for the payment of a lower conversion rate for substandard or 2nd grade twine generated by the defendant for giving another opportunity to the defendant. At the same time, the plaintiff stipulated that the generation of 2nd grade twine will not be exceeded 2% of the total yarn returnable by the defendant. However, the defendant neither improved their processes nor adhered to the contractual specifications. Even thereafter, the twine despatched by the defendant was defective and poor quality, and tremendously affected the plaintiff's reputation in the market. Further the defendant was not returning the entire yarn entrusted to him for conversion and was retaining yarn in its possession in total contravention to the contract.

6. Moreover, to help the defendant to correct their system and conversion process, to improve the quality of twine made by them, the plaintiff has sent a team of its engineers to the defendant's factory to suggest changes etc., to improve the quality of twine. But, the defendant continuously supplied twine below the stipulated quality and the defendant also failed to return all yarn in its

possession. The yarn entrusted to the defendant for conversion is very high in quality and commands high price in the market. As on date, as per the record of the plaintiff, the defendant was still in possession of 4683.60 Kgs of yarn entrusted to it for conversion, which is worth about Rs.7,78,132/-. As per the defendant's stock statement, dated 02.03.2000, the defendant has accepted that atleast 4351.796 Kg"s of yarn entrusted to them for conversion was still in their possession. The yarn entrusted to the defendant for conversion is of very high quality and high price in the market. As the defendant failed to take any step for return of this yarn, the plaintiff apprehends that the defendant might have sold the yarn or misappropriated the same in contravention to the terms of the contract.

7. The defendant had taken delivery of atleast 7500 Kilogram of o"Star" brand yarn from the plaintiff on various dates and failed to pay the outstanding sum of Rs.10,37,904.45. On 24.02.2000, a part payment was received against the invoice No.267 and thereafter failed to make any further payment. Therefore, in addition to retaining of 4863/30 kgs. of yarn worth Rs.7,78,132/-, a further sum of Rs.10,37,904.45 being the sum payable under the invoices was due and payable by the defendant to the plaintiff. The plaintiff sent several

reminders and held several discussions with the defendants. Though the defendant accepted its liability and promised to pay the same, failed to do so. Hence, in December 2000, the plaintiff caused a legal notice dated 19.12.2000 demanding return of the yarn or Rs.7,78,132/ along with Rs.10,37,904/- being the sum due on the aforesaid invoices. The defendant sent a reply notice dated 12.01.2001 stating that out of the sum payable against the invoices, a total sum of Rs.2,57,717.28 was being retained as a lie-in for monies that the defendant is claiming as compensation from the plaintiff. Simultaneously the defendant is attempting to avoid payment of the dues to the plaintiff by claiming a total sum of Rs.59,37,282.72/- as damages from the plaintiff. There is neither proper explanation nor reasoning for the claim of compensation to the defendant during the contractual period and hence, the plaintiff is not liable to make any such compensation to the defendant. The defendant is liable to pay a sum of Rs.18,16,036/- and also liable to pay a sum of Rs.4,67,055/- being interest at the contractual rate of 18% on the purchase dues of Rs.10,37,904/- calculated from April - May 2000 till the date of filing of the suit. Hence, the suit.

**8. The counter claim of the defendant, in brief, is as follows :-**

The kind of transactions between the parties will have to be finalised and

on such finalisation, it would be apparent that it is the plaintiff, who owes money to the defendant rather than the defendant owing money to the plaintiff. This defendant has the entire infrastructure machines and personnel for conversion of nylon yarn multifilament into multifilament twine. The defendant was carrying on conversion contracts for M/s.SRF Ltd. While so, on 28.03.1998, the plaintiff's Manager along with one of their clients at Trichy, had approached the defendant in person and requested the defendant to accept a contract for conversion of multifilament Nylon Yarn, which will be supplied by the plaintiff and also requested the defendant to set apart capacity of the defendant's establishment to handle 15 metric tons of raw-materials per month exclusively for the plaintiff and promised several reciprocal benefits for the defendant regarding supply of yarn for conversion and sale by the defendant. Further , they also promised to give cash discounts for payment within 21 days from the date of purchase. Relying upon the assurances given by the plaintiff, the defendant had terminated the contract with SRF Ltd and the defendant agreed to take up the conversion work for the plaintiff and set apart 15 metric tons capacity of the defendant's unit exclusive for the plaintiff. However, the plaintiff sent the agreement dated 19.04.1998 setting out some of the terms alone. When the defendant questioned the plaintiff as to the difference between

the terms, which were agreed upon and the terms, which were reduced into writing, the plaintiff assured that further concessions will be extended as business progresses and commitment letters to that effect will be given in due course. The defendant accepted the agreement dated 19.04.1998 and commenced its operation with the plaintiff. Since the plaintiff was newly entered into the field, the raw-materials, which were supplied by the plaintiff to the defendant were also defective in quality, which in turn affected the output and percentage realization of finished products in the defendant unit. The plaintiff by a letter dated 05.01.1999 had appreciated the patronage and cooperation extended by the defendant to the plaintiff. There is no complaint by the plaintiff to the defendant either with regard to quality or with regard to the quantity till the notice was issued by the counsel on 19.12.2000 and the defendant also sent a reply dated 12.01.2001. The plaintiff is not entitled to receive the sum as claimed in the plaint. The plaintiff only have to pay money as set out detail in the reply notice, which was sent by the defendant. Though the rate was fixed at Rs.170 per kg of yarn, apart from prompt payment discount in the event of payment within 21 days, the plaintiff also agreed to give quantity discount at the rate of Rs.5 per kg taking into account the huge quantities, which were purchased and dealt with by this defendant. As a matter of fact, the

plaintiff has given quantity discount in certain bills alone, but did not give the discount as agreed to for all the purchases.

9. The plaintiff itself was not very sure of the quality of its output and secondly, there was no reason for any complaint as regard the output from this defendant unit since to the knowledge of the plaintiff, the defendant has given best quality output which would be possible and which could be expected keeping in mind the quality of the raw-material which was supplied by the plaintiff. Further, a perusal of the stock statement periodically sent by the defendant would show that the large quantities of yarn supplied by the plaintiff for conversion were returned by this defendant as they were not found fit for being fed into the machines. The plaintiff has purposely suppressed the material fact that the supply of yarn and the return of finished products cannot be independently considered month by month and they should be considered with other factors in the cycle of process. Apart from the quantity, which has been returned as finished products, several tons of raw-materials are in the process of manufacture, which also will have to be taken into account and which is known as WIP (work in progress). Stocks at a given circumstance could be arrived at with quantity only if a reconciliation is made as to receipt of

raw-materials, despatch of finished products, work in progress and balance which is carried over to the next month, and is brought forward from the previous month. The defendant has not retained any yarn in contravention of the contract. There were no complaints of defect in the twines converted by the defendant. The communications, dated 26.11.1988, 18.05.1998 and 07.10.1998 mentioned in the plaint were not received by the defendant. The defendant never represented that they were taking steps to improve the process and promised to improve the quality as there was no occasion for the same. This defendant has not claimed discount for prompt payment, wherever payments have been made beyond 21 days from the date of purchase. However, they only claimed discount at the rate of Rs.5.00 per kg towards the quantity purchased by the defendant since the same was assured by the plaintiff and also granted for certain invoices alone. But, refused to give such discount in respect of other invoices without any reasons.

10. Since the plaintiff was satisfied with the performance of the defendant during the year 1998-99, voluntarily extended the term of contract for further period and the renewal was on own volition of the plaintiff and not a concession given to the defendant as alleged in the plaint. The defendant has

been awarded as "Best Converter" and "Best 5S" as early as in the year 1995. The product, which was converted and supplied by the defendant to the plaintiff was the best, which was possible out of the raw-materials supplied by the plaintiff and hence, the complaint if any with regard to quality are not attributable to the process in the defendant unit and is only to the quality of the raw-materials, which was supplied by the plaintiff to the defendant. The team of Engineers visited the defendant's factory for the purpose of examining the viability of production of products comprising of 500 grams cheese with one knot instead of 400 gram cheese, which was in vogue at that point of time. At the request of the plaintiff and in the presence of the team of engineers sent by the plaintiff to the defendant, the defendant brought the output as required by the plaintiff and demonstrated the viability of the same to the plaintiff. The visit of the engineers for such purpose is misused by the plaintiff to this suit. The defendant has not retained 4683.60 kgs of yarn, but after conversion and return of finished products and return of waste materials, certain quantities of materials, which were on the machine and which had to be retrieved and waste materials, which were available to be handed over to the plaintiff after final reconciliation of the stock books were available in the defendant unit and inspected by the plaintiff's representative; but they abandoned the same in the defendant's

premises. While the matter stood thus, the plaintiff lodged a false complaint before the learned II Metropolitan Magistrate, Chennai under Section 156(3) Cr.P.C. in M.P.No.609 of 2001 alleging cheat and misappropriation, and the said complaint appears to have been referred to Central Crime Branch, Egmore for investigation and the same was registered as Crime No.173/2001 for alleged offence under Sections 405, 415, 420, 424, 425 r/w/ 120(b) IPC and pursuant to the same, police has come to the defendant factory and inspected the materials, which were available and the plaintiff has also accompanied the police and inspected the materials and the police finds that there was no prima facie case for proceeding further and stopped investigation in the said complaint. Even thereafter, the plaintiff did not evince any interest to take back the materials though this defendant did not object to take back the materials.

11. So far as the claim towards outstanding invoices are concerned, the defendant is entitled to quantity discount at the rate of Rs.5.00 per kg for the entire quantity, which has been supplied from the inception till the last purchase. If the same is allowed, the defendant would be entitled to a sum of R.7,86,187.70 and to set off the said amount against the sum of Rs.19,37,904.45, claimed by the plaintiff. The defendant is not required to pay even the balance

to the plaintiff since the plaintiff have caused damage to the defendant, who has sustained damages on account of non-utilisation of the capacity, which was set apart exclusively for the plaintiff in accordance with the terms and conditions of the agreement between the parties. As per the terms of the agreement, the plaintiff is required to set apart the capacity for production, storage, processing, etc., in the defendant unit exclusively to the tune of 15 metric tons per month. However, a perusal of the quantities of materials, which were supplied by the plaintiff to the defendant for conversion would show that the plaintiff has supplied raw-materials for the purpose of conversion for below 15.00 MT per month and hence, the defendant has to keep its men and machine, which were earmarked for the said purpose idle and the defendant has sustained huge loss on account of the same. During the period of the contract, the plaintiff ought to have supplied 375 M.T. of yarn for conversion to the defendant while it actually supplied only 202.00 M.T. (2,02,822.384kg) yarn for conversion and there was a shortage of 173 tons. The defendant was entitled to conversion charges at the rate of Rs.22.00 per k.g. or Rs.22,000/- per ton. This defendant had set apart its capacity to the tune of 15 M.T. per month for the plaintiff exclusively and could not accept any other contract for conversion for the said capacity on account of its commitment with the plaintiff and the plaintiff had also promised to increase

the supplies. As such the defendant has sustained loss, which has to be compensated by the plaintiff and the defendant is entitled to recover a sum of Rs.37,87,907.55 from the plaintiff.

12. On account of the defective yarn supplied by the plaintiff, the machine of this defendant got spoiled, on numerous occasions, which leading to expenses incurred by this defendant for the machine to be put back in order. The defendant is not making a claim with regard to the same and also with regard to the damage suffered on account of termination of contract with SRF Ltd., and restricting its claim to the non-utilisation of the capacity alone. The Conversion Contract dated 10.04.1998 contemplates utilisation of the defendant's capacity to the tune of 15 MT exclusively for the plaintiff and also posts embargo on the defendant from accepting any other conversion contract which would reduce the capacity available for conversion for the plaintiff to less than 15 MT and hence at any point of time, the defendant was compelled in terms of the agreement too retain the production capacity to the tune of 15 MT irrespective of the quantity of yarn which was supplied by the plaintiff. Hence, the defendant could not accept any contract from any other person, which would in effect reduce the capacity available and which was assured by this defendant to the plaintiff. The

claim by this defendant is bonafide and arises out of the terms of the contract and reflected only the actual damage, which was sustained by the defendant and is not made for evading payment of money due to the plaintiff as alleged. On the contrary, it is the plaintiff who has rushed to this Court for filing a frivolous suit to forestall its claim for damages at the expense of this defendant.

13. The defendant is not liable to pay the sum of Rs.7,78,132/- towards the value of yarn supplied to this defendant since the defendant has not utilized any such quantity and the quantity referred to only remains as waste and is lying in the defendant's unit, which was inspected by the plaintiff, but not removed by the plaintiff for reasons best known to it and abandoned by the plaintiff. This defendant cannot be mulcted with price for the same and the defendant is also not liable to pay the sum of Rs.10,37,904/- There was no term for payment of interest that too interest at the rate of 18% which is excessive, and usurious assuming without admitting that the plaintiff is entitled for any money from this defendant and is entitled to claim interest from this defendant. There is no cause of action for the suit against the defendant and the suit is liable to be dismissed. The plaintiff is liable to pay a sum of Rs.35,30,190.27/- together with interest at the rate of 18% per annum till full realization and for costs.

**14. The averments in the reply statement for the counter-claim**

The contractual relationship between the defendant and M/s.SRF Limited at Chennai is a tainted one. Further , the said contract with SRF limited was prior to the discussion with the plaintiff's representatives. Due to malpractice committed by the defendant, SRF Limited initiated a criminal complaint against the defendant and charge sheet was filed before the learned Judicial Magistrate-I, Ponneri in C.C.No.423 of 1999. It was only due to the strained relationship with SRF Ltd, which finally lead to the termination of the contract. At that time, Mr. Ramanathan, phoned to Chandrasekar, who was at Trichy, to discuss regarding conversion of yarn from the defendant. During the discussion, it was discussed primarily on the Sale of 210 D High tenacity STAR BRAND yarn to the defendant on sale basis. It was discussed that the defendant should purchase Min. Qty of 15 MT of yarn every month and payment to be made within 21 days from the date of dispatch and the defendant has also agreed for this. Subsequently, the defendant has visited the plaintiff's factory at Pondicherry and met their technical persons and after seeing infrastucture, testing facility, quality manufacturing process and also ascertained himself about the quality of the plaintiffs 210D yarn, he met the plaintiff's company directors and entered into agreement as per the terms and conditions enumerated in contract dated

10.04.1998. Hence, it is clear that the contention of the defendant that the defendant terminated the contract with SRF based on the representation of the plaintiff is totally false.

15. The agreement itself has been signed on 10.04.1998 and hence, the contention of the defendant that the plaintiff had sent an agreement dated 19.04.1998, wherein certain terms have been agreed between the parties, but other terms were not reduced into writing, is false. Assuming for a moment that the contentions of the defendant are correct, the defendant was always at liberty by not signing the agreement when they were not satisfied with the terms of the agreement. However, after signing the agreement on 10.04.1998, now contending that the agreement was signed without agreed terms, which is clearly an after thought and the same is contrary to law.

16. The plaintiff supplied the STAR Brand 201D Nylon Yarn, which had been accredited by CIFT (Central Institute of Fisheries Development (Cochin) as having 7 GPD, which is the highest in the industry. The yarn manufactured by the plaintiff is supplied to various industries like MATSYAFED/ KERALA (Govt. of Kerala undertaking), Khetan Udyog, Baliga fishnets, 100% Export

oriented units and besides the same, other exports are also done to the satisfaction of the clients. Due to the poor/sub-standard machineries/parts used by the defendant, the output of twine manufactured and supplied by the defendant was of inferior quality, which in turn had affected the reputation of the plaintiff in the market. In fact, letter dated 05.01.1999 was a reminder for payment, which was long due from the defendant. As a matter of decency & diplomacy, the letter started with such courtesy words to maintain cordial relationship and the same cannot be taken as compliment or acknowledgment for Quality of Service. With regard to the same, various communications were sent to the defendant vide letters dt: 26.11.1998, 18.05.1998 and 07.10.1998. Hence, the allegations of defective quality of yarns had been supplied to the defendant, is false and the same has been with ulterior motive. Mere filing of stock statement regularly and retaining the stocks of 4351.796 Kg's yarn is a clear acceptance of liability. As per the records, the yarn lying with the defendant for conversion is 4863.325 Kg.

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17. There is no complaint till the legal notice was issued by the counsel on 19.12.2000 is denied, false and baseless. Several letters have been issued to the plaintiff regarding quality of complaint and delay in payment of yarns.

Regarding the minimum discount of Rs.5 per kg is false and baseless. The discount of Rs.5/KG was agreed minimum off take 15 MT/Month and payment to be given by demand draft within 21 days from the date of despatch. The defendant never met the above contractual obligation till the end. In fact in some invoices, some discounts were given as adjustment of price. Since the price of Chips/Caprolactum and Twine had gone up, the defendant requested with the plaintiff company Directors to give him some concession in price for the sale of yarn in order to maintain his market. In view of his requests, the plaintiff had given some discount by way of reduction in the price in the invoice itself and in some cases, the discount was given separately by way of credit note. A copy of the relative statement of account is enclosed with this correction in price of yarn supplied to him though it is not payment linked quantity discount as per contract.

18. The nylon yarns supplied by the plaintiff are accredited by CIFT. The yarns have been thoroughly tested by reputed laboratories under rigorous procedures, and certificates have been issued by the respective agencies for the quality. Hence, the allegation of substandard quality of yarn against the plaintiff, is untenable. The defendant also averred that the stock statement was

periodically sent by the defendant would also show that the large number of quantities of yarn supplied by the plaintiff for conversion were returned by this defendant as there were not found to be fit for being fed into machines. But, in the stock statement, there is no mention about return of yarn. The defendant has no facility to check the quality of high tenacity yarn and on the other hand, as said above, the yarn produced by the plaintiff has been tested by reputed laboratories to ensure that plaintiff's product are best quality and meet the standard of its customers. The yarn supplied by the plaintiff is certified and in conformity with the international standards by the Central Institute of Fisheries Technology. Despite several warning, the defendant did not take any steps to improve the quality of the twine, but continued its production in poor and sub-standard process quality. A team of Engineers was sent to the defendant company to correct their systems and the conversion process and to improve the quality of twine made by them.

19. The plaintiff committed to provide the defendant with a discount of Rs.5/- for every kilogram of yarn on the yarn purchased vide demand draft within 21 days of the despatch of the same. If the amount payable were not paid within 21 days, the defendant could not avail such discount. The defendant

always failed to pay within 21 days and that being so, the claim of the defendant with regard to the same is illegal. The defendant himself has categorically admitted that they have to pay money to the plaintiff. The plaintiff has complained about the inferior quality of the twine converted and supplied to the plaintiff vide letters 26.11.1998, 18.05.1998 and 07.09.1998. In fact, the plaintiff's technical team visited their factory and suggested them with some changes to improve the quality of twine produced. The renewal of the contract was made after verbal assurances to the plaintiff's director that he will take all steps to improve the quality of twin and many request by Ramanathan from the defendant's company. Hence, the contention of the defendant that the plaintiff voluntarily renewed the contract is absurd. The allegation of the defendant that any complaint with regard to the quality of the product, not attributes to the defendant's process unit but only to the quality of the raw-materials supplied by the plaintiff is vague, there is no force in the contention. By no stretch of imagination can the defendant pass on the blame to the plaintiff because of defendant's substandard processing of raw material. The defendant has not only caused huge revenue loss to the plaintiff, but also has illegally retained the plaintiff's yarn. The defendant mischievously had retained the yarn, which was entrusted to the defendant for the conversion commands are high value in the

open market. The defendant, illegally retaining the yarn, which is the property of the plaintiff, only with an intention to cause wrongful loss to the plaintiff's company and the same is contrary to the law as well as contrary to the agreement dated 10.04.1998. The plaintiff preferred a criminal complaint under Section 405, 415, 420, 425 r/w. Section 120B of IPC before the Central Crime Branch, Egmore, Chennai and after investigation the same was closed as "Civil nature".

20. The averment of the defendant that the plaintiff ought to have supplied 375 metric tons of yarns for conversion, however, the plaintiff had supplied only 202 MT for conversion and that there was shortage of 173 tons, is false. As per established procedure, the plaintiff can supply further yarn only if the defendant return 98% of twine and not more than 2% of waste. The defendant company never returned the twine equivalent to yarn supplied for conversion. The defendant was buying yarn from other sources and catering to their clients and thereby depriving the plaintiff. The machine is also used for conversion for other clients and also his twine after conversion. Thus, the demand made by the defendant claiming for a loss is totally imaginary. The defendant is vaguely demanding damages from the plaintiff when the defendant have not only

defaulted payment of various invoices, but also illegally retained valuable 4863.325 kgs of yarns and hence, the defendant is not liable for any damages as claimed by the defendant in the counter claim and the same is liable to be dismissed.

21. Only because of the malpractice committed by the defendant, the contract with SRF Ltd has been terminated and SRF Ltd filed a criminal complaint in CC.No.432 of 1990 before the Judicial Magistrate-I, Ponneri and charges sheet has been filed in the criminal case. The defendant only retained the yarn supplied by the plaintiff and evading payment of dues and breached the contract of conversion. There is neither proper explanation nor reasoning for the claim for compensation and hence, the plaintiff is not liable to make any such compensation to the defendant. Even the conversion dated 10.04.1998 does not contemplate payment of compensation. After giving several opportunities for a period of two years, the plaintiff decided not to renew the contract with the defendant is bonafide. The explanation for non-return of yarn entrusted to the defendant for the conversion is merely a false excuse given by the defendant to evade the charge of misappropriation. In the circumstance, the defendant is not entitled to claim any compensation or damages and the claim

made by the defendant is nothing but a clear attempt to misappropriate the monies payable to the plaintiff. The counter claim is clear case of the afterthought and imaginary and there is no actual damages caused to the defendant and the same has be dismissed.

22 . Based on the pleadings and documents filed by both parties and submission made by the Counsel for the plaintiff, the following issues have been framed by this Court on 03.08.2016 :-

1. Whether the defendant is liable to pay the plaintiff as per the terms of invoice a sum of Rs.7,78,132/- being the value of the yarn supplied?
2. Whether the defendant owes the plaintiff a sum of Rs.10,37,904/- being the cost of the yarn purchased?
3. Whether the defendant is liable to pay the plaintiff the interest at contractual rate of 18% ?
4. Whether the Courts in Chennai has got jurisdiction to adjudicate the dispute between the parties?
5. Whether the defendant has made payments for the yarn of STAR grade within 21 days of invoice which would entitled them for rebate"?
6. Whether the plaintiff has supplied good quality yarn?
7. Whether the defendant retained 4863.30 kgs of

yarn as claimed by the plaintiff?

8. Whether the defendant is entitled to recover a sum of Rs.35,30,190.27 from the plaintiff by way of counter claim?

9. Whether the defendant is entitled to discount @ Rs.5 per kg for the yarn supplied ?

10. Whether any loss has been caused to the defendant?

11. To what other reliefs, the plaintiff is entitled to?

12. To what other reliefs, the defendant is entitled to ?

23. After completion of pleadings, during trial, on the side of the plaintiff, one Mr.Annamalai, the Manager of the plaintiff was examined as PW1 and Exs.P.1 to P.37 have been marked. On the side of the defendant, neither any witness has been produced nor any documents have been marked. The defendant was set exparte on 06.01.2017.

24. Heard the learned counsel for the plaintiff and perused the materials available on record.

25. The Manager of the plaintiff company has been examined as P.W.1 and he has filed the proof affidavit for chief examination in which he has reiterated the averment made in the plaint and also has marked documents Ex.P.1 to Ex.P.37.

26. A perusal of the agreement entered into between the plaintiff and defendant Ex.P.5 dated 10.04.1998, shows that conversion contract was executed by the parties incorporating the terms. As per the contract, the plaintiff stipulated that out of the total yarn entrusted for conversion atleast 98% must be returned as finished twine and the waste generated ought not to exceed 2% of the entire bulk despatched. Further the plaintiff stipulated that even the waste generated by finishing process should also be returned to the plaintiff. Further, the defendant was to maintain stock register and submit a detailed stock statement every month declaring the valuable yarn received by them, being retained etc. The Plaintiff stipulated yarn supplied to be for the benefit of the plaintiff and no part of the yarn has to be utilised for any other party. Further the defendant was under the obligation to ensure the safety of the yarn and return of the same after processing including waste formed in the generation of twine. Admittedly the defendant has been in possession of certain materials. Ex.P.28

the statement of transactions illustrating the quantity of yarn retained by defendant itself proved the same.

27. Even though the defendant filed written statement and counter claim, denied the averment made in the plaint, but they have not challenged or denied the deposition made in the (chief examination) proof affidavit by cross examining the plaintiff witness and they have not produced any evidence to prove their claim in the counter claim.

28. Therefore, on a perusal of the pleadings and evidence of P.W.1 and Ex.P.5 agreement dated 10.04.1998 and also Exhibits P.17 to 37, clearly show that the plaintiff company has proved its claim. The suit is decreed with costs. However, the rate of interest is concerned, the plaintiff is entitled to 12% per annum from the date of filing the suit till the date of the realisation.

29. In the result, the suit is decreed with costs and the counter claim filed by the defendant is dismissed.

**12.10.2020.**

Index : Yes/No  
mrp/nvsri

**List of Witness examined on the side of the plaintiff**

R.Annamalai - PW1

**List of documents marked on the side of the plaintiff**

| SL. No | Exhibits | DESCRIPTION OF DOCUMENTS                                                   | DATED      |
|--------|----------|----------------------------------------------------------------------------|------------|
| 1      | P1       | Original Authorisation Letter                                              | 15.02.2016 |
| 2      | P2       | Original Board Resolution of plaintiff                                     | 15.02.2016 |
| 3      | P3       | Copy of the letter sent by plaintiff to defendant                          | 08.04.1998 |
| 4      | P4       | Copy of the letter sent by plaintiff to defendant                          | 09.04.1998 |
| 5      | P5       | Original Agreement entered into between plaintiff and defendant            | 10.04.1998 |
| 6      | P6       | Original Demand Promisoy note executed by defendant in favour of plaintiff | 28.04.1998 |
| 7      | P7       | Original letter sent by defendant to plaintiff                             | 06.05.1998 |
| 8      | P8       | Original letter sent by defendant to plaintiff                             | 12.05.1998 |
| 9      | P9       | Carbon copy of the letter sent by plaintiff to defendant                   | 26.11.1998 |
| 10     | P10      | Office copy of the letter sent by plaintiff to defendant                   | 18.05.1998 |
| 11     | P11      | Office copy of the letter sent by plaintiff to defendant                   | 22.05.1998 |
| 12     | P12      | Original Voucher by defendant to plaintiff                                 | 13.11.1998 |
| 13     | P13      | Original Voucher by defendant to plaintiff                                 | 23.11.1998 |

|    |     |                                                                                                               |                                |
|----|-----|---------------------------------------------------------------------------------------------------------------|--------------------------------|
| 14 | P14 | Original Voucher by defendant to plaintiff                                                                    | 27.11.1998                     |
| 15 | P15 | Original Voucher by defendant to plaintiff                                                                    | 27.11.1998                     |
| 16 | P16 | Original Voucher by defendant to plaintiff                                                                    | 30.11.1998                     |
| 17 | P17 | Copy of the stock statement of the defendant                                                                  | 02.03.2000                     |
| 18 | P18 | Original letter sent by defendant to plaintiff regarding delay payment of Yarn and non supply of sale of yarn | 09.06.1998                     |
| 19 | P19 | Copy of the invoice of plaintiff                                                                              | 29.03.2000                     |
| 20 | P20 | Copy of the invoice of plaintiff                                                                              | 08.04.2000                     |
| 21 | P21 | Copy of the invoice of plaintiff                                                                              | 18.04.2000                     |
| 22 | P22 | Copy of the invoice of plaintiff                                                                              | 24.02.2000                     |
| 23 | P23 | Copy of the invoice of plaintiff                                                                              | 02.05.2000                     |
| 24 | P24 | Copy of the legal notice issued by plaintiff's counsel to defendant                                           | 19.12.2000                     |
| 25 | P25 | Copy of the reply notice sent by defendant's counsel to plaintiff's counsel                                   | 12.01.201                      |
| 26 | P26 | Copy of the rejoinder sent by plaintiff's counsel to defendant's counsel                                      | -                              |
| 27 | P27 | Copy of the reply to the rejoinder by defendant's counsel to plaintiff's counsel                              | 08.04.2001                     |
| 28 | P28 | Copy of the statement of stock retained by defendant                                                          |                                |
| 29 | P29 | Original stock statement for conversion of yarn during the period 1998-2000                                   |                                |
| 30 | P30 | Electronic printed copy of sales ledger of the plaintiff and defendant regarding supply of yarn               | 01.04.2000<br>to<br>31.03.2001 |

|    |     |                                                                                                        |                                |
|----|-----|--------------------------------------------------------------------------------------------------------|--------------------------------|
| 31 | P31 | Electronic printed copy of sale ledger of plaintiff and defendant regarding payment for supply of yarn | 01.04.2000<br>to<br>31.03.2001 |
| 32 | P32 | Electronic printed copy of details of discount ledger of the plaintiff and defendant                   | 01.03.2000<br>to<br>31.03.2000 |
| 33 | P33 | Electronic printed copy of sale ledger of the plaintiff and defendant                                  | 01.04.1999<br>to<br>31.03.2000 |
| 34 | P34 | Electronic printed copy of ledger account along with payment details of plaintiff and defendant        | 01.04.1999<br>to<br>31.03.2000 |
| 35 | P35 | Electronic printed copy of details of discount ledger of plaintiff and defendant                       | 01.04.1998<br>to<br>31.03.1999 |
| 36 | P36 | Electronic printed copy of sales ledger of plaintiff and defendant                                     | 01.04.1998<br>to<br>31.03.1999 |
| 37 | P37 | Electronic printed copy of ledger account for payment details of the plaintiff and defendant           | 01.04.1998<br>to<br>31.03.1999 |

**List of Witness examined on the side of the defendants**

NIL

**List of documents marked on the side of the defendants**

NIL

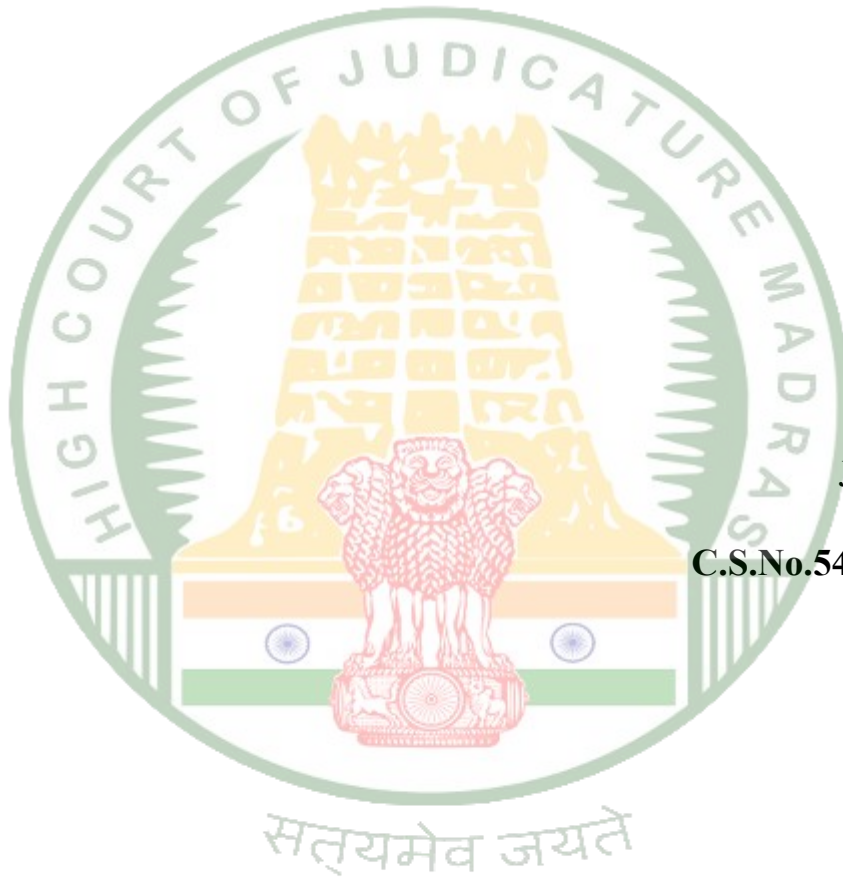
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12.10.2020

C.S.No.546 of 2003

**P. VELMURUGAN, J.**

mrp/nvsri



Judgment in

**C.S.No.546 of 2003**

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**12.10.2020.**