

**Sr. No.113**

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

**RSA No.2666 of 2018 (O&M)**

**Date of Decision: 25.02.2020**

M/s WorldFA Exports Pvt. Ltd and others

... Appellants

Versus

M/s Emrald International

... Respondent

**CORAM:- HON'BLE MR. JUSTICE ARUN MONGA**

Present:- Mr. Naveen Singh Panwar, Advocate  
for the appellants.

**ARUN MONGA, J.**

1. The defendants/appellants herein are in second appeal having suffered a money decree for a sum of Rs.2,99,303/- along with interest @ 9% per annum from the date of filing of the suit till the actual realization pursuant to judgment dated 17.12.2015 passed by the trial Court as upheld by the First Appellate Court vide judgment dated 06.11.2017 wherein both the Courts returned adverse findings against the defendants and in favour of the plaintiff.

2. Briefly stated the factual matrix as noted by the First Appellate Court is that plaintiff claims to be a manufacturer/supplier of export quality goods and works under the name and style of "M/s Emrald International" at Panipat. The defendants contacted the plaintiff requesting them for job work as they had to export goods. Plaintiff acceded to their request and defendants placed order for doing job work on different dates:

| Date           | Particulars | @ per piece | Total amount |
|----------------|-------------|-------------|--------------|
| 28.08.2013     | 228 Pieces  | Rs.25.50    | Rs.5,814/    |
| 30.08.2013     | 600 Pieces  | Rs.15       | Rs.9,000/-   |
| Total Amount – |             |             | Rs.14,814/-  |

3. Subsequently the defendants asked the plaintiff to supply other goods like cotton bath mats and placed orders on the following dates:

| Date       | Particulars  | @ per piece | Total amount   |
|------------|--------------|-------------|----------------|
| 31.08.2013 | 5600 Pieces  | Rs.23.60    | Rs.1,32,160/   |
| 05.09.2013 | 4200 Pieces  | Rs.23.60    | Rs.99,120/-    |
| 11.09.2013 | 5500 Pieces  | Rs.23.60    | Rs.1,29,800/-  |
| 19.02.2014 | 34002 Pieces | Rs.23.60    | Rs.8,02,447/-  |
| Total      |              |             | Rs.11,57,713/- |

4. Goods as ordered by defendants were supplied by the plaintiff.

5. The defendants made payment of Rs.1,00,000 through Cheque No. 73300 dated 25.10.2013 and of Rs.1,21,547/- through Cheque No. 62553 dated 13.01.2014. Further sums of Rs.3,66,343/- and Rs.2,85,334/-for the cost of yarn supplied were paid to M/s Dheeraj Enterprises, Panipat on plaintiff's account to M/s New Gupta Corporation, Panipat. Thus defendants made total payment of Rs.8,73,224/-. After deducting the total payments made by the defendants, an amount of Rs.2,99,303/- remained outstanding against them. Due to non-payment of outstanding amount plaintiff served notice dated 27.05.2014 requesting the defendants to pay the said amount.

6. The defendants filed written statement, denying that any orders were placed by them. The plaintiff never supplied cotton bath mats to the defendants. The transaction as materialized

was only for a total sum of Rs. 3,75,894/- out of which a sum of Rs. 3,45,046/- stood paid/adjusted, including the amount of the debit notes of Rs. 1,800/-, Rs. 74,705/-, Rs. 342/- and Rs. 46,356/- and after that last payment made on 09.01.2012 for Rs. 1,21,547/-. Thus only a sum of Rs. 30,448/- was due to the plaintiff from defendants. It was contended by the defendants that the payments made by them to M/s Dheeraj Enterprises and M/s. New Gupta Corporation had nothing to do with the money that the defendants owed to the Plaintiff.

7. Based on the rival pleadings, following issues were framed.

- 1. Whether the plaintiff is entitled to recovery of Rs.2,99,303/- along with interest as prayed for?OPP*
- 2. Whether the suit of the plaintiff is not maintainable in present form?OPD*
- 3. Whether the plaintiff has no cause of action to file the present suit? OPD*

8. Parties adduced evidence to discharge their respective onus as per the issues *ibid*.

9. On appraisal of evidence, trial Court decided issue No.1 in favour of plaintiff, issues No.2 and 3 against defendants and decreed the suit.

10. First Appellate Court affirmed the findings of the trial Court, upheld its judgment, dismissed the defendants' appeal.

11. I have heard learned counsel for the appellants and perused the record, judgments passed by the Courts below and the grounds of appeal raised in the present second appeal before this Court.

12. Trial Court while passing its judgment observed that the plaintiff had substantiated its claims and produced corroborating bills on record whilst the defendants have failed to produce any cogent evidence to show that they do not own the sum claimed by the plaintiff. Furthermore, the defendants admitted that the invoice bills for the job work Ex P-1 to P-10 for the material provided by the plaintiff. Though a stand was taken that bills P-11 to P-19 were fabricated but defendants failed to provide any evidence to show that these were fabricated. DW1, admitted in his testimony that the security officer used to check any material that was supplied to the defendant firm. The plaintiffs produced on record their income tax returns for assessment years 2014-15 and 2015-16 Ex.P-24 and P-25 which show sum of Rs.2,97,200/-as sundry debt outstanding against the defendant firm. DW1 was oblivious of whether any receipt was obtained at the time of the delivery.

13. The defendants claim that they have deducted a sum of Rs.1,23,203/- for payments made on plaintiff's account also remained unsubstantiated as no document was produced to that effect. The plaintiff's documents show that a total sum of Rs.11,57,713 was due out of which Rs.8,73,224/- has been already paid for. Therefore said issue was decided in favour of the plaintiff.

14. In the aforesaid premise, money decree for a sum of Rs.2,99,303/- along with interest @ 9% per annum with effect from the date of filing of the suit till the actual realization was passed by

the trial Court.

15. The First Appellate Court reaffirmed the findings returned by the trial Court and dismissed the appeal.

16. In my opinion, the concurrent findings of facts returned by the two Courts below are correct and have been reached after due appreciation of evidence. In the facts and circumstances of the case, no interference is thus called for to disturb the concurrent findings of facts recorded by the Courts below. There seems no perversity or illegality in them.

17. Having perused the grounds of appeal filed herein, I am of the view that no fresh grounds have been raised warranting interference of this Court in present second appeal.

18. Further more, neither any question of law much less substantial question of law, which is *sine qua non* for entertaining second appeal before this Court is involved in present appeal, so as to exercise appellate jurisdiction under Section 41 of the Punjab Courts Act read with Section 100 of Civil Procedure Code.

19. In view of my discussion above and the reasons recorded therein, this appeal is dismissed.

20. Pending application, if any, shall also stand disposed of.

**25.02.2020**

vandana

**(ARUN MONGA)  
JUDGE**

Whether speaking/reasoned  
Whether Reportable

Yes/No  
Yes/No