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1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 29TH DAY OF SEPTEMBER 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

C.S.No.158 of 2019

ITC Limited,
Education and Stationery Products Business,
ITC Centre, 5th Floor,
No.760, Anna Salai,
Chennai – 600002.
Rep.by its Head of Sales and Marketing
Power of Attorney Holder
Mr.R.Ravinarayanan

... Plaintiff

-Vs-

1. M/s. Raj Agencies,
Partnership Firm,
D.No.8-6-120, Padmavathi Colony,
Mahabubnagar,
Telangana – 509002.
2. Mr.Rajesh Kumar,
S/o. Chandraiah,
Partner,
M/s Raj Agencies,
D.No.8-6-120, Padmavathi Colony,
Mahabubnagar,
Telangana – 509002.
3. Mrs.Swapna,
W/o. Rajesh Kumar,
Partner,
M/s. Raj Agencies,
D.No.8-6-120, Padmavathi Colony,
Mahabubnagar,
Telangana – 509002.

... Defendants



Civil suit praying that this Hon'ble Court be pleased to a judgement and decree jointly and severally against the Defendants

(a) for a sum of Rs.1,00,83,345/- (Rupees One Crore Eighty Three Thousand Three Hundred and Forty Five only) together with interest at the rate of 24% on Rs.55,29,231/- (Rupees Fifty Five Lakh Twenty Nine Thousand Two Hundred and Thirty One only) from the date of plaint till the date of realization;

(b) for the costs of this suit.

This Civil Suit coming on this day before this court for hearing in the presence of Mr.K.Krishnamoorthy, advocate for the plaintiff herein and the defendants herein not appearing in person or by advocate and the said defendants herein having been set ex-parte and upon reading the plaint filed herein and the other exhibits therein referred to and upon perusing the evidence adduced therein and **it is ordered and decreed as follows:-**

That the defendants herein do pay to the plaintiff herein a sum of Rs.1,35,62,367.44 (Rupees One Crore Thirty Five Lakhs Sixty Two Thousand Three Hundred and Sixty Seven and Forty Four Paise) with



further interest at the rate of 24% p.a. on the sum of Rs.55,29,231/- (Rupees Fifty Five Lakhs Twenty Nine Thousand Two Hundred and Thirty One only) from this date till the date of realization.

2) That there shall be no costs of this suit.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
29TH DAY OF SEPTEMBER 2021.

Sd/-

ASSISTANT REGISTRAR (O.S.I)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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ED

22.10.2021

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4

C.S.No.158 of 2019

ORDER:

DATED : 29/09/2021

THE HON'BLE MR. JUSTICE
V. PARTHIBAN

FOR APPROVAL: 08/11/2021

APPROVED ON : 09/11/2021



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5

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2021

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

C.S.No.158 of 2018

ITC Limited,
Education and Stationery Products Business,
Rep. by its Head of Sales and Marketing,
Power of Attorney Holder
Mr.R.Ravinarayanan
ITC Centre, 5th Floor,
No.760, Anna Salai,
Chennai – 600002.

... Plaintiff

-Vs.-

1.M/s. Raj Agencies,
Partnership Firm,
D.No.8-16-20, Padmavathi Colony,
Mahabubnagar,
Telangana – 509002.

2.Mr.Rajesh Kumar,
Partner in M/s. Raj Agencies,
D.No.8-16-20, Padmavathi Colony,
Mahabubnagar,
Telangana – 509002.

3.Mrs.Swapna
Partner in M/s. Raj Agencies,
D.No.8-16-20, Padmavathi Colony,
Mahabubnagar,
Telangana – 509002.

... Defendants

Prayer: Civil Suit filed under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 of the Code of Civil Procedure, praying to pass a judgment and decree in favour of the plaintiff and as against the defendant:



(a) for a sum of Rs.1,00,83,345/- (Rupees One Crore Eighty Three Thousand Three Hundred and Forty Five only) together with interest at the rate of 24% on Rs.55,29,231/- (Rupees Fifty Five Lakh Twenty Nine Thousand Two Hundred and Thirty One only) from the date of plaint till the date of realization;

(b) for the costs of this suit.

For Plaintiff : Mr.K.Krishnamoorthy

For Defendants : Ex-parte

JUDGMENT

The present Civil Suit has been filed by the plaintiff for the above mentioned prayers.

2. The case of the plaintiff is as follows:

(a) The plaintiff is a company engaged in a business of marketing and sale of educational and stationery products. The defendants approached them for purchase of the same, accordingly, the plaintiff sold and delivered the goods to the defendants on various dates under various invoices which clearly stipulated that any dispute between the plaintiff and the customers will be subject to the Courts in Chennai; this document also contains certain terms and conditions of sale was signed by the defendants. The payments in terms of goods purchased by the defendants were made by way of RTGS/NEFT to the plaintiff's account at irregular intervals which has accumulated the payments.



(b) The plaintiff stated that the defendant has been maintaining the account with the State Bank of Hyderabad and has produced a certificate dated 09.09.2007 for the same. The plaintiff further stated that on the representation made by the defendants, the plaintiff supplied goods on various dates and the defendants duly acknowledged and confirmed that subsequent to reconciliation of the statement of accounts between the parties, an outstanding amount of Rs.65,65,578/- is due that shall be paid by 31.05.2016 to the plaintiff. The plaintiff stated that the last sale of goods to the defendants were made in January, 2016 and the outstanding dues were of Rs.61,78,956/-. Subsequently, after repeated requests, the defendants made part payments and last part payment was on 16.02.2016 of Rs.6,000/-; a sum of Rs.39,10,389/- payable by the defendants towards miscellaneous expenses in respect of trade were added towards the outstanding dues and interest amount payable by the defendants.

(c) The plaintiff further stated that the defendants started to avoid to make the part payments; after adjusting the part payments, a sum of Rs.55,29,231/- was due and payable by the defendants; the defendants also owes a sum of Rs.45,54,114/- towards interest at 24% p.a. Hence, a sum of Rs.1,00,83,345/- is totally due and shall be paid by the defendants to the

plaintiff. Since the defendants failed and neglected to pay the due amount,



the plaintiff issued a legal notice dated 19.08.2016, calling upon them to pay a sum of Rs.65,65,578/- with interest to the plaintiff. Hence, the plaintiff has filed the suit for the relief stated supra.

3. Despite notice served on the defendants and their names were printed in the cause list, they had neither appeared in person nor through a counsel. Therefore, the defendants were set *exparte* by this Court *vide* order dated 22.06.2021 and the suit was posted before the Additional Master – I for recording evidence.

4. In order to prove the case, a proof affidavit has been filed on behalf of the plaintiff and Mr.Hardik Patel has been examined as P.W.1 and Exs.P1 to P9 are marked. Ex.P1 is the Power of Attorney executed by the plaintiff company in favour of Hardik Patel dated 11.12.2018. Ex.P2 is the document dated 22.10.2007 from defendants confirming that they constitute a partnership firm. Ex.P3 is the letter dated 19.10.2007 from the defendants authorizing transporter to collect the goods. Ex.P4 is the conditions of sale dated 15.09.2011. Ex.P5 is the confirmation of balance statement as on 31.05.2016. Ex.P6 is the invoice for supply from plaintiff to defendant dated 29.01.2016. Ex.P7 is the legal notice from plaintiff's counsel dated 19.08.2016. Ex.P8 is the Bank statement from plaintiff's banker dated 05.10.2010 and 06.02.2019. Ex.P9 is the statement of accounts.



5. A perusal of the evidence of PW.1 coupled with the exhibits would reveal that the plaintiff has proved their case. Therefore, the plaintiff is entitled to the relief as prayed for.

6. Accordingly, the Civil Suit is decreed as prayed for. No costs.

Witness examined on

behalf of the Plaintiff:

P.W.1 – Mr.Hardik Patel

Witnesses examined on

behalf of the Defendant:

None

Exhibits marked on behalf
of the Plaintiff :

Ex.P1/dated 11.12.2018	Power of Attorney executed by the plaintiff company in favour Hardik Patel
Ex.P2/dated 22.10.2007	Document from defendants confirming that they constitute a partnership firm
Ex.P3/dated 19.10.2007	Letter from the defendant authorizing transporter to collect the goods dated 19.10.2007
Ex.P4/dated 15.09.2011	Conditions of sale dated 15.09.2011
Ex.P5/dated 31.05.2016	Confirmation of balance statement
Ex.P6 /dated 29.01.2016	Invoice for supply from plaintiff to defendant
Ex.P7/dated 19.08.2016	Legal Notice from plaintiff's counsel
Ex.P8/dated 05.10.2010	Bank Statement from plaintiff's banker



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Ex.P1/dated 11.12.2018	Power of Attorney executed by the plaintiff company in favour Hardik Patel
& 06.02.2019	
Ex.P9	Statements of Accounts

Exhibits marked on behalf
of the Defendant:

Nil

Sd./- V.P.N.J.
29.09.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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