

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

|                          |                            |
|--------------------------|----------------------------|
| Reserved on : 06.09.2021 | Pronounced on : 09.09.2021 |
|--------------------------|----------------------------|

Coram:

**THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN**

**C.S.No.60 of 2017**  
**& A.No.638 of 2017**

M/s.J.R.Metal Chennai Limited,  
Rep. by its Sales Manager,  
L.Beeru Singh,  
having its Office at No.3, T.K.P.Nagar,  
Manali Express Road,  
Thiruvottiyur, Chennai – 600 019.

... Plaintiff

**/versus/**

Ramky Infrastructure Limited,  
Ramky Grandiose,  
Ramky Tower Complex,  
Gachibowli,  
Hyderabad – 32.

... Defendant

**Prayer:-** This Suit is filed under Order VII Rule 1 of C.P.C read with Order IV Rule 1 of Original Side Rules, praying for:-

(a). Directing the defendant to pay a sum Rs.2,17,23,832/- (Two Crore Seventy One Lakhs Twenty Three Thousand Eight Hundred and Thirty Two Rupees) being the suit amount.

(b). Directing the defendant to pay interest @ 18% to the plaintiff for a sum of Rs.1,45,28,350.18p (Rupees One Crore Forty Five Lakhs Twenty Eight Thousand and Three Hundred and Fifty Rupees and Eighteen Paise) from the date of plaint till the date of realization.

(c). Directing the defendant to pay the plaintiff the cost of the suit.

For Plaintiff : Mr.P.Soloman Francis

For Defendant : No appearance

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**JUDGMENT**

This Suit is filed for recovery of money arising of the goods delivered.

2. The case of the plaintiff is that, they are engaged in manufacturing of steel and steel products and marketed through agents throughout the Country. The defendant's company was incorporated under the Companies Act, 1956, having its registered Office at Hyderabad. During the year 2011, the defendant contacted the plaintiff and requested to supply steel for the purpose of construction. The defendant themselves as a Company involved in infrastructure

and construction projects. They placed orders for the project called “**WIND MERE**” which was developed by a reality developer at Velacherry, Chennai. The plaintiff supplied TMT Steel Bars of various thickness to the defendant's Company on various dates from the factory at Chennai to the defendant's construction site at Chennai and thereafter, one of the construction site at Bangalore. The supply of steel was done under invoices at Chennai. The parties agreed to confer jurisdiction on the Courts at Chennai. In the event of dispute, the plaintiff supplied steel to the defendant on credit between 25.06.2012 and 07.09.2012. The defendant had remitted money through RTGS/NEFT from his bank account to the account of the plaintiff between 23.10.2012 and 11.01.2014. The total value of the goods supplied between 25.06.2012 and 07.09.2012 is Rs.2,95,11,495/-. The funds transferred by the defendant to the account of the plaintiff between 23.10.2012 and 11.01.2014 is Rs.1,27,53,645.82p. There are two sales returns for a sum of Rs.22,29,499/- which has been duly credited in the account. After giving credit for the payments made by the defendant and the sales return for a sum of Rs.1,45,28,350.18p is due and payable. The last supply of the goods by the defendant had been made on 07.09.2012. The last payments made by RTGS for a sum of Rs.10,00,000/- was on 11.01.2014. After failed in his attempt to recover

the money from the defendant, the defendant failed to clear their dues.

3. Earlier, the plaintiff approached the High Court of Andhra Pradesh for winding up but later withdraw the wind up petition and had filed the present suit for recovery of principal amount of Rs.1.45.28.350.18p with 18% interest from 07.09.2012 till the date of plaint and further interest at the rate 18% p.a., from the date of plaint, till the date of realisation.

4. Since the part cause of action arose within the jurisdiction of this Court and the defendant carrying on business outside the jurisdiction of this Court, this Court granted leave to sue vide order dated 10.04.2019. The defendant herein, who received suit summons filed an application to revoke the leave and that application was heard by this Court and same was dismissed on 09.07.2018. Thereafter, at the request of defendant, time was granted to file written statement. The sole defendant, who received suit summons on 09.01.2018 and filed application to revoke leave. Thereafter, probably the defendant lost their interest in pursuing the case on dismissal of the application to revoke the leave. Hence, on 06.08.2021, this Court recording their absence and failure to file written statement

in view of proviso to Order VIII Rule 1 of C.P.C., as amended by the Commercial Courts Act. The forfeiture right of the defendant to file written statement and posted the matter before Additional Master – I for recording *exparte* evidence. Accordingly, Mr.Beeru Singh, the authorised representative of the plaintiff's company appeared before the Additional Master, filed his proof affidavit in lieu of chief examination and marked 37 exhibits.

6. Heard the Learned Counsel for the plaintiff. Proof Affidavit of P.W.1 is perused and Ex.P.1 to Ex.P.37 were examined.

7. The Proof of sale of goods from 25.06.2012 to 07.09.2012 are proved through invoices marked as Ex.P.1 to Ex.P.19. In the said invoice, the Terms of Sale indicates, *Dispute if any, will be subject to seller's Court of jurisdiction*” i.e., plaintiff's jurisdiction. The plaintiff place of business is shown as Thiruvottriyur which is outside the territorial jurisdiction of this Court. However, since part of the goods were delivered at Velacherry, which is within the territorial jurisdiction of this Court. The suit is maintainable before this Court.

8. Ex.P.19 to Ex.P.29 are the letters addressed to the defendant by the plaintiff demanding the defendant's to repay the dues. The statement of accounts also find place in the said letters. Thereafter, the plaintiff has caused notice for winding up through Ex.P.31. The order copy of the High Court of Judicature at Hyderabad in Company Petition No.122 of 2015, filed by the plaintiff against the defendant, granting leave to withdraw the Company Petition to pursue other available remedies is marked as Ex.P.32. This order is dated 24.10.2016. Thereafter, the present suit has been filed before this Court on 11.01.2017. The Online VAT return of the defendant which is marked as Ex.P.34 corroborate the fact that the sale of goods by the plaintiff under the invoices drawn by the plaintiff. The sales returns as pleaded by the plaintiff is proved through Ex.P.35. The letter of the defendant informing that material worth Rs.10,00,000/- returned to the plaintiff. The statement of accounts which is marked as Ex.P.36 indicates the fact that, a sum of Rs.10,00,000/- was paid by the defendant into the account of the plaintiff on 11.01.2014 and that was the last transaction between the parties in the open mutual running account.

9. From the examination of these documents, in the light of the averments made in the plaint and the proof affidavit of P.W.1, the factum of supply of goods and its value are proved, since the last entry in the running account was on 11.01.2014 and leave to sue the defendant was ordered on 10.01.2017, which is the last date of expiry of three years period, this Court holds that the suit is within the period of limitation. The suit claim is proved through Ex.P.21 to Ex.P.37. Hence, the defendant is liable to pay the suit claim. Accordingly, the Suit is Allowed with costs. Consequently, connected Application is closed.

09.09.2021

Index : Yes/No.

Internet :Yes/No.

**List of Witness examined on the side of the Plaintiff:-**

Mr.A.Narayanan (PW.1)

**List of Witness examined on the side of the Defendant :-**

Nil

**List of the Exhibits marked on the side of the Plaintiff:-**

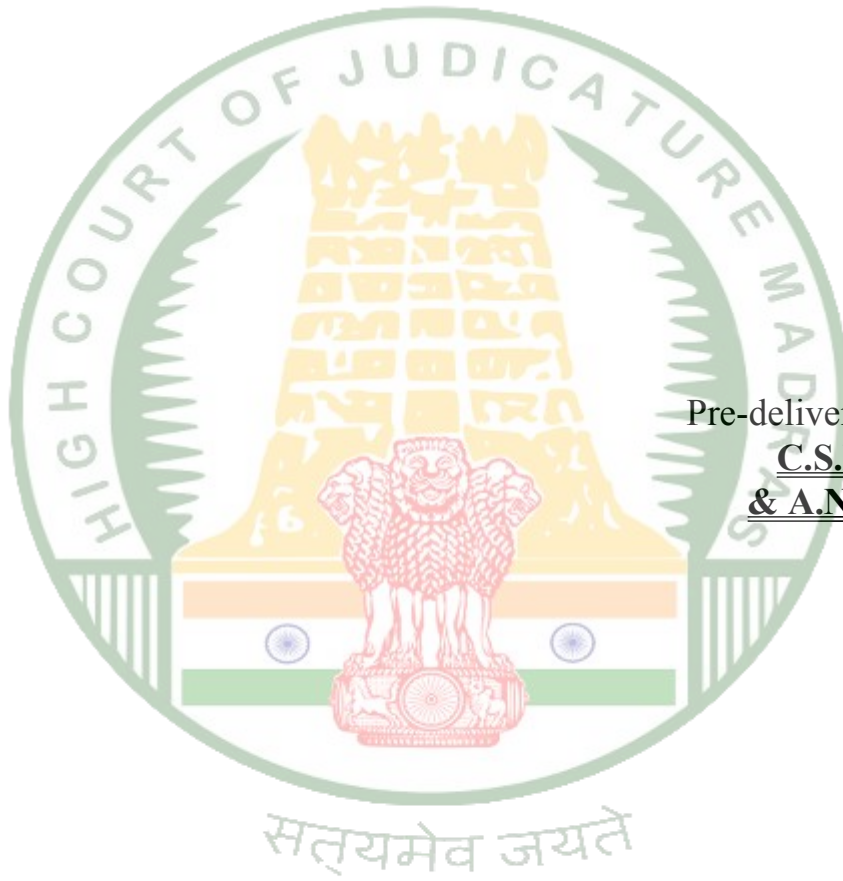
| Sl. Nos. | Exhibits | Dated      | Description of documents                                       |
|----------|----------|------------|----------------------------------------------------------------|
| 1.       | Ex.P.1   | 25.06.2012 | Office copy of the Copy Sales invoice No.681 of the plaintiff  |
| 2.       | Ex.P.2   | 25.06.2012 | Office copy of the Copy Sales invoice No.682 of the plaintiff  |
| 3.       | Ex.P.3   | 26.06.2012 | Office copy of the Copy Sales invoice No.691 of the plaintiff. |

| Sl. Nos. | Exhibits | Dated      | Description of documents                                                 |
|----------|----------|------------|--------------------------------------------------------------------------|
| 4.       | Ex.P.4   | 28.06.2012 | Office copy of the Copy Sales invoice No.710 of the plaintiff.           |
| 5.       | Ex.P.5   | 05.07.2012 | Office copy of the Copy Sales invoice No.800 of the plaintiff.           |
| 6.       | Ex.P.6   | 05.07.2012 | Office copy of the Copy Sales invoice No.801 of the plaintiff.           |
| 7.       | Ex.P.7   | 06.07.2012 | Office copy of the Copy Sales invoice No.816 of the plaintiff.           |
| 8.       | Ex.P.8   | 07.07.2012 | Office copy of the Copy Sales invoice No.819 of the plaintiff.           |
| 9.       | Ex.P.9   | 26.07.2012 | Office copy of the Copy Sales invoice No.1052 of the plaintiff.          |
| 10.      | Ex.P.10  | 26.07.2012 | Office copy of the Copy Sales invoice No.24 of the plaintiff.            |
| 11.      | Ex.P.11  | 26.07.2012 | Office copy of the Copy Sales invoice No.25 of the plaintiff.            |
| 12.      | Ex.P.12  | 30.07.2012 | Office copy of the Copy Sales invoice No.28 of the plaintiff.            |
| 13.      | Ex.P.13  | 31.10.2012 | Office copy of the Copy Sales invoice No.1110 of the plaintiff.          |
| 14.      | Ex.P.14  | 31.07.2012 | Office copy of the Copy Sales invoice No.1111 of the plaintiff.          |
| 15.      | Ex.P.15  | 06.08.2012 | Office copy of the Copy Sales invoice No.29 of the plaintiff.            |
| 16.      | Ex.P.16  | 07.08.2012 | Office copy of the Copy of letter addressed to defendant from plaintiff. |
| 17.      | Ex.P.17  | 07.08.2012 | Office copy of the Copy of letter addressed to defendant from plaintiff. |
| 18.      | Ex.P.18  | 07.09.2012 | Office copy of the Copy Sales invoice No.32 of the plaintiff.            |
| 19.      | Ex.P.19  | 07.09.2012 | Office copy of the Copy Sales invoice No.33 of the plaintiff.            |
| 20.      | Ex.P.20  | 22.09.2012 | Office copy of the Copy of letter addressed to defendant from plaintiff. |

| Sl. Nos. | Exhibits | Dated      | Description of documents                                                                                                           |
|----------|----------|------------|------------------------------------------------------------------------------------------------------------------------------------|
| 21.      | Ex.P.21  | 17.10.2012 | Office copy of the Copy of letter addressed to defendant from plaintiff.                                                           |
| 22.      | Ex.P.22  | 17.10.2012 | Office copy of the Copy of letter addressed to defendant from plaintiff.                                                           |
| 23.      | Ex.P.23  | 24.12.2012 | Office copy of the Copy of letter addressed to defendant from plaintiff.                                                           |
| 24.      | Ex.P.24  | 14.02.2013 | Office copy of the Copy of letter addressed to defendant from plaintiff.                                                           |
| 25.      | Ex.P.25  | 29.03.2013 | Office copy of the Copy of letter addressed to defendant from plaintiff.                                                           |
| 26.      | Ex.P.26  | 04.05.2013 | Office copy of the Copy of letter addressed to defendant from plaintiff.                                                           |
| 27.      | Ex.P.27  | 27.05.2013 | Office copy of the Copy of letter addressed to defendant from plaintiff.                                                           |
| 28.      | Ex.P.28  | 26.06.2013 | Office copy of the Copy of letter addressed to defendant from plaintiff.                                                           |
| 29.      | Ex.P.29  | 28.04.2014 | Office copy of the Copy of letter addressed to defendant from plaintiff.                                                           |
| 30.      | Ex.P.30  | 10.09.2014 | Office copy of Legal Notice issued by Plaintiff to defendant along with acknowledgment.                                            |
| 31.      | Ex.P.31  | 28.10.2014 | Office copy of letter addressed to Defendant from Plaintiff.                                                                       |
| 32.      | Ex.P.32  | 24.10.2016 | True Copy of Order of Hon'ble High Court of Andhra Pradesh in Company Petition No.122 of 2015.                                     |
| 33.      | Ex.P.33  | 23.12.2016 | Copy of Plaintiff Companies Resolution.                                                                                            |
| 34.      | Ex.P.34  | --         | Online Printout of Online VAT returns of the defendants.                                                                           |
| 35.      | Ex.P.35  | 30.07.2012 | Original Credit Note issued by the plaintiff.                                                                                      |
| 36.      | Ex.P.36  | --         | Copy of the Bank Statement of the plaintiff issued by the bank.                                                                    |
| 37.      | Ex.P.37  | --         | Office Copy of the Account Statement of the plaintiff Company from 15.11.2011 to 11.01.2014 and 26.07.2012 to 11.11.2013 2 sheets. |

**Dr.G.Jayachandran,J.**

bsm



Pre-delivery judgment in  
**C.S.No.60 of 2017**  
**& A.No.638 of 2017**

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