IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : **09.02.2021**

CORAM

**THE HON`BLE MR.JUSTICE R.PONGIAPPAN**

**C.S.No.825 of 2017**

M/s.EMU Lines Pvt. Ltd.,
Represented by its Manager Accounts,
Mr.S.Sathyanarayanan,
No.120 (Old No.272),
Thambu Chetty Street,
Akbar Tower, 4th Floor,
Chennai – 600 001.

And its registered office
at No.201, 35-A,
Siddharth Chambers,
II, Kalu Sarai, Hauz Khas,
New Delhi – 110 016. ... Plaintiff



Vs



Mr.Madhu Kumar Venkataramu,
Proprietor,
VIN Shipping @ VIN Shipping Services,
#118, 7th Main Road, Dooravani Nagar Post,
B.Narayanapuram,
Bangalore,
Karnataka – 560 048.

Also at
134, Ground Floor, 1st Main Road,
MES Colony, Konena Agrahara,
Old Airport Road, HaL Post,
Bangalore – 560 017. ... Defendant

Civil Suit filed under Order VII Rule 6 of Original Side Rules r/1 Order XXXVII Rule 1 and 2 of CPC, for the following judgment and decree :

[i] for Recovery of a sum of Rs.1,56,31,124/- with interest at 24% per annum on the principal sum of Rs.1,11,53,077/- from the date of suit till the date of realization; and

[ii] To pay cost of this suit.

For Plaintiffs : Mr.H.Manojin

For Defendant : Set exparte on 16.12.2020.



**JUDGMENT**

This suit has been filed for recovery of a sum of Rs.1,56,31,124/- with interest at 24% per annum on the principal sum of Rs.1,11,53,077/- from the date of suit till the date of realization and for costs.

2. The plaintiff is engaged in the business of Multimodal Transport Operator (MTO) and he is having business of handling of the Shipment by Sea and Air as well as handling of Import Consignment (Sea/Air) from various parts of India as well as from various countries to India. The said company is incorporated under the Companies Act, 1956. In due course of the business, the defendant approached the plaintiff and represented himself as Proprietor of VIN Shipping @ VIN Shipping Services.

3. After entering into the business agreements, the defendant agreed to pay the charges in respect to the invoices raised by the plaintiff, at the earliest. The said business transaction is only by way of credit facilities and the payment shall be made by the defendant once in 60 days from the date of Invoice. The defendant has also agreed to the terms and conditions, stipulated in the invoices raised. During the course of business, some payments would be due for the invoices raised and the defendant used to request for time for payment and the same has also been granted by the plaintiff, without any objection.

4. In this regard on 28.04.2015, the defendant had given a request letter along with outstanding bills, requesting the plaintiff that the outstanding amount of Rs.1,13,53,077/- will be cleared as early as possible. The plaintiff has also agreed to the request made by the plaintiff. Subsequent to that, though the plaintiff made several requests for settling the disputes, the defendant has not made any payment and instead, on 30.07.2015 admitting the suit claim amount, the defendant has executed a security bond vide certificate No.IN-KA02256745234889N, for a sum of Rs.1,13,53,077/-. Even after executing the bond and after admitting the liability the defendant has never chosen to clear his liabilities.



5. Despite of repeated request made by the plaintiff, the defendant has made a part payment of Rs.2,00,000/- on 15.05.2016 out of Rs.1,13,53,077/-. In due course, the defendant had given a cheque bearing No.592428 dated 06.06.2016, drawn on Andhra Bank, Indra Nagar Branch, Bangalore and the same was returned on 07.06.2016, with

the remark as 'Account Blocked'. For the legal notice sent by the plaintiff, the defendant failed to give any reply. Therefore, the plaintiff is before this Court, with the present suit.

6. Despite service of notice to the defendant and his name printed in the cause list, as he has not appeared either in person or through his counsel, the defendant has been set exparte on 16.12.2020.

7. The Manager Accounts of the plaintiff's company viz., Mr.S.Sathyanarayanan, was examined as P.W.1 and the following eleven documents Ex.P1 to Ex.P.11 were marked.

| *S.No.* | *Date* | *Description of documents* | *Exhibit* |
|---|---|---|---|
| 1. | 08.09.2014 to 15.04.2015 | Original Invoices from SE-005637 dated 08.09.2014 to SE-00384 dated 15.04.2015 (94 series) | P-1 |
| 2. | 28.04.2015 | Original letter given by defendant by way of hand delivery, acknowledging the outstanding dues to plaintiff along with the outstanding bills | P-2 |
| 3. | 30.07.2015 | Original security bond executed by the defendant vide certificate No.IN-KA02256745234889N | P-3 |
| 4. | 14.08.2015 | Original letter sent by defendant to plaintiff acknowledging the outstanding dues. | P-4 |
| 5. | 31.03.2017 | Computer generated copy of Statement of Accounts for the period from 01.04.2014 to | P-5 |

| S.No. | Date | Description of documents | Exhibit |
|---|---|---|---|
| | | 31.03.2017 | |
| 6. | 06.06.2016 | Certified copy of cheque given by the defendant to the plaintiff for a sum of Rs.1,11,53,077/- | P-6 |
| 7. | 07.06.2016 | Certified copy of information from the plaintiff bank intimating the Account blocked. | P-7 |
| 8. | 14.06.2016 | Original Legal Notice dated 14.06.2016 issued by plaintiff. | P-8 |
| 9. | 28.06.2016 | Computer generated copy of Postal tracking of notice by defendant. | P-9 |
| 10. | 04.07.2016 | Original Board resolution dated 04.07.2016 | P-10 |
| 11. | | Affidavit (Certificate) under Sec.65-B of the Evidence Act for computer generated copies of Ex.P5 and Ex.P9 | P-11 |

8. P.W.1 in his evidence has clearly spoken about the business transaction having by the defendant with his company. Ex.P1, is the original Invoices, which reveals the fact that the defendant had business transaction with the plaintiff for the suit amount. Ex.P2, is the Original letter given by defendant wherein, he has admitted his liability that he is liable to pay the suit amount. Ex.P3, is the security bond executed by the defendant, which also is in support of Ex.P2. Ex.P4, is a letter sent by the defendant wherein also he has acknowledged the outstanding dues dated 14.08.2015. Ex.P5, is the computer generated copy of Statement of

Accounts. Ex.P6, is the certified copy of cheque given by the defendant to the plaintiff for a sum of Rs.1,11,53,077/- dated 06.06.2016. Ex.P7, is the certified copy of the information from the plaintiff bank intimating the Account Blocked. Ex.P8, is the original Legal Notice dated 14.06.2016 issued by the plaintiff. Ex.P9, is the computer generated copy of Postal tracking of notice by defendant dated 28.06.2016. Ex.P10, is the original Board Resolution dated 04.07.2016 and Ex.P11, is the Affidavit (Certificate) under Sec.65-B of the Evidence Act for computer generated copies of Exs.P5 & Ex.P9.

9. From the above documents and the evidence of P.W.1, it is clear that the defendant had engaged the services of the plaintiff and after availing the services, he failed to pay the dues, which were agreed during the course of business activities. Issuance of cheque and the letter sent by the defendant also confirms his liability. All these facts clearly establish the fact that the plaintiff has proved his claim and is entitled to a decree as prayed for.

10. Accordingly, the suit is decreed as prayed for, with costs with subsequent interest at the rate of 7.5% from the date of suit till the date of realization.

**09.02.2021**

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Index : Yes/No
Internet: Yes/No
Speaking/Non-Speaking Order

**R.PONGIAPPAN, J.**

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