

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15/02/2017

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.S.No.361 of 2014

M/s.CDS Soles Private Limited,
Rep. by its Director,
Mr.Mumtaz Ahmed,
Having registered office at
Trunk Road, Girisamudiram Village,
Vaniyambadi-635 751.
Vellore District.

... Plaintiff

Vs

- 1.M/s.G.K.K Exports Pvt. Ltd.,
Rep. by its Managing Director,
Having registered office at
No.40/7, Ramakrishna Street,
T.Nagar, Chennai-600 017.
- 2.Mr.M.S.Gunasekaran,
Chairman, M/s.G.K.K.Exports Pvt. Ltd.,
No.16, Yogambal Street,
T.Nagar, Chennai-600 017.
- 3.Mr.M.S.G.Bhuvan Kumar,
Managing Director, M/s.G.K.K.Exports Pvt. Ltd.,
No.16, Yogambal Street,
T.Nagar, Chennai-600 017.
- 4.Mr.M.S.G.Kishore Babu,
Joint Managing Director, M/s.G.K.K.Exports Pvt. Ltd.,
No.16, Yogambal Street,
T.Nagar, Chennai-600 017.

5.Mr.Santhosh Kumar,
Director,
M/s.G.K.K.Exports Pvt. Ltd.,
No.16, Yogambal Street,
T.Nagar, Chennai-600 017.

... Defendants

The Civil Suit is filed under Order VII Rule 1 of CPC read with Order IV Rule 1 of H.C.O.S. Rules, to pass a Judgment and Decree jointly and severally against the defendants, (a) directing the defendants to pay the plaintiffs a sum of Rs.61,03,881/- along with interest at 18% per annum on the said sum from the date of filing the plaint till the date of realization, (b) for costs of this suit, (c) or other reliefs.

For Plaintiff : Mr.S.D.S.Philip

For Defendants : Set ex-parte

J U D G M E N T

The case of the plaintiff is that the plaintiff is a manufacturer and seller of thermoplastic rubber soles for the manufacture of shoes and related products. During the course of their business, the first defendant company placed orders for supply of goods, on various dates, which were delivered and acknowledged by the defendants as per their purchase orders, email, invoices, packing lists and delivery orders between August 2008 and October 2009.

2. The plaintiff has alleged that even though the defendants have made some part payments, they did not settle the entire amount. Hence, the plaintiff sent letters dated 25.03.2010 and 21.05.2011, for which, the third defendant sent a reply, dated 07.06.2011, admitting the supply of goods, but made some false claims. The plaintiff has further stated that the suit ought to have been filed on or before 18.03.2013, however, in view of the pendency case before BIFR, they had time till 19.05.2014 and therefore, the suit was instituted in time.

3. The learned counsel for the plaintiff would submit that the plaintiff examined himself as P.W.1 and marked the following documents as Exs.P1 to P17 as documentary evidence in order to prove the suit claim:-

1) Ex.P1 is the authorization letter, dated 15.06.2016

2) Ex.P2 (Series) are the office copy of the invoices with packing lists and delivery orders - 26, dated 05.05.2009 to 03.10.2009.

3) Ex.P3 (Series) are the computer generated copy of the debit note No.4 with vouchers, dated 18.06.2009.

4) Ex.P4 is the computer generated copy of the Debit Note No.10, dated 07.09.2009.

5) Ex.P5 is the computer generated copy of the Bank receipt voucher, dated 11.03.2010.

6) Ex.P6 is the computer generated copy of the E-mail, dated 11.03.2010.

7) Ex.P7 is the original letter dated 25.03.2010.

8) Ex.P8 is the computer generated copy of the Outstanding statement of invoices, dated 25.03.2010.

9) Ex.P9 is the computer generated copy of the Proceedings of BIFR, dated 16.12.2010.

10) Ex.P10 is the computer generated copy of the Proceedings of BIFR, dated 25.04.2011.

11) Ex.P11 is the Original Notice dated 21.05.2011.

12) Ex.P12 is the original reply, dated 07.06.2011.

13) Ex.P13 is the office copy of the letter dated 08.08.2011.

14) Ex.P14 is the computer generated copy of the Proceedings of BIFR, dated 29.08.2011.

15) Ex.P15 is the office copy of the notice, dated 12.12.2011.

16) Ex.P16 is the certified copy of the Extract of Board Resolution, dated 22.05.2014.

17) Ex.P17 is the certified copy of the Statement of Account, dated

27.05.2014.

4. The learned counsel for the plaintiff further submitted that the plaintiff has proved his case and the Suit will have to be decreed.

5. The defendants were set-exparte on 06.04.2016. The said position continued as of now. Taking into consideration, the pleadings, the evidence of P.W.1 and Exs.P1 to P17, this Court is of the view that the plaintiff has proved his case and the Suit is liable to be decreed and accordingly, the Suit stands decreed with cost.

15/02/2017

r n s

K.KALYANASUNDARAM, J.

r n s

To

The Sub Assistant Registrar,
Original Side,
High Court, Madras.

C.S.No.361 of 2014

15/02/2017

<http://www.judis.nic.in>