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C.S.No.658 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2022

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THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

C.S.No.658 of 2016

ITC Limited
Education and Stationery Products Business,
ITC Centre, 5th Floor,
No.760, Anna Salai,
Chennai 600 002.
Rep.by its Head of Sales and Marketing and
Power of Attorney
Mr.Nripendranath Thakur. ... Plaintiff

vs.

Jeet Ram,
Proprietor,
M/s.Stationery Point,
569, Adarsh Nagar, Part – II,
Main Malerna Road, Ballabhgarh,
Faridabad, Haryana - 121004 ... Defendant

Prayer: Civil Suit filed under Order IV Rule 1 of O.S.Rules read with Order VII Rule 1 of Code of Civil Procedure, to pass a judgment and decree against the defendant a) for a sum of Rs.1,21,22,219/- (Rupees One Crore Twenty One Lakhs Twenty Two Thousand Two Hundred and Nineteen Only) along with interest at the rate of 24% on Rs.84,89,364/- (Rupees Eighty Four Lakhs Eighty Nine Thousand Three Hundred Sixty Four Only) from the date of plaint till the date of realization.



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For Plaintiff : Mr.S.Arun Prasad
for M/s.C.Manishankar
K.Krishnamoorthy
For Defendant : No appearance
Set ex-parte
vide order dated 21.04.2022

J U D G M E N T

This is a suit for recovery of a sum of Rs.1,21,22,219/- along with interest at the rate of 24% on Rs.84,89,364/- from the date of plaint till the date of realization and for costs of the suit.

2.The case of the plaintiff is that it is engaged in the business of FMCG, Tobacco, Hotels, Paper boards, Packaging and Agri business along with the business of Education and stationery products. The defendant approached the plaintiff for purchase of education and stationery products. The plaintiff supplied goods to the defendant under various invoices, which clearly stipulate that any dispute between the plaintiff and the defendant shall be subject to the Courts in Chennai. Payments for the goods purchased were made by the defendant by way of RTGS/NEFT. As a consequence of payments made at irregular intervals, the amount payable by the defendant kept on accumulating. The defendant authorized certain transporters through his letter, dated 08.11.2011, to call at the plaintiff's C & F godowns and collect the goods ordered on his behalf. On 18.11.2011, the defendant



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entered into a condition of sale with the plaintiff. The defendant was informed by the plaintiff about the change in the interest and interest free credit period by a letter dated 08.01.2013. The defendant confirmed the outstanding amount payable by him to the tune of Rs.54,13,867/-. As on May 2013, the outstanding amount due from the defendant is Rs.1,42,11,261/-. The defendant paid only Rs.26,00,000/- on various dates till 02.01.2014. He returned the unsold goods worth Rs.43,69,971/-. A sum of Rs.48,80,929/- was payable by the defendant towards miscellaneous expenses. After adjusting the part payments made by the defendant, it is found that the defendant has to pay a sum of Rs.84,89,364/-. A legal notice, dated 14.09.2015, was issued to the defendant demanding a sum of Rs.91,72,473/- with interest. Notice was not received, therefore the suit for the aforestated reliefs.

3.The learned counsel for the plaintiff submitted that the defendant was set ex-parte and ex-parte evidence was recorded. PW1 was examined and Exs.P1 to P10 were marked. Evidence of PW1 and Exs.P1 to P10 clearly proves the transaction between the plaintiff and the defendant and thus, he prayed for decree in the suit.



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4.Ex.P1 is the power of attorney deed given in favour of PW1. Ex.P2 is the confirmation from the defendant confirming that he is the sole proprietor of M/s.Stationery Point. Ex.P3 is the letter dated 08.11.2011 from the defendant to the plaintiff authorising transporters to collect the goods. Ex.P4 is the conditions of sale executed with the defendant containing the terms and conditions of supply dated 18.11.2011. Ex.P5 is the letter dated 08.01.2013 to the defendant indicating the credit period and rate of interest on overdue balance acknowledged by the defendant. Ex.P6 is the acknowledgement for the receipt of Ex.P5. Ex.P7 is the copy of invoice. Ex.P8 is the legal notice claiming a sum of Rs.1,19,45,690/- from the defendant. Ex.P9 is the bank statement showing part payments made by the defendant on various dates. Ex.P10 is the statement of accounts of the plaintiff showing the amount due from the defendant. As per the statement of accounts, the defendant is liable to pay Rs.1,21,22,219/- as on 31.03.2016.

5.From the consideration of the oral and documentary evidence produced in this case, it is established that the defendant had dealings with the plaintiff and because of the dealings, the plaintiff supplied goods to the defendant on various dates. There was amount due from the defendant to



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the plaintiff on account of the supply of goods. Therefore, this Court finds that the plaintiff has proved his claim and the suit is decreed for a sum of Rs.1,21,22,219/- along with interest at the rate of 6% per annum on Rs.84,89,364/- from the date of plaint till the date of realization with costs.

6.Accordingly, the suit is decreed.

28.10.2022

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List of witnesses examined on the side of the plaintiff:

1.Mr.Dileep Patnana - PW1

List of documents marked on the side of the plaintiff:

<i>S.No.</i>	<i>Exhibits</i>	<i>Description of documents</i>
1	P1	Photocopy of the power of attorney dated 05.02.2018.
2	P2	Original confirmation of the defendant that the defendant is a proprietorship concern, dated 08.11.2011.
3	P3	Original letter from the defendant authorizing transporters to collect goods dated 08.11.2011.
4	P4	Original conditions of sale dated 18.11.2011.
5	P5	Original conditions of sale indicating the credit period and rate of interest on overdue balance acknowledged by the defendant dated 08.01.2013.
6	P6	Original confirmation of balance statement dated 31.01.2013.
7	P7	Original invoice for supply from plaintiff to defendant dated 21.05.2013.
8	P8	Office copy of the legal notice from plaintiff's counsel



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<i>S.No.</i>	<i>Exhibits</i>	<i>Description of documents</i>
		dated 14.09.2015.
9	P9	certified copy of the bank statement from plaintiff's banker dated 28.01.2015.
10	P10	printout of the statement of accounts for the period 01.04.2011 to 31.03.2012.

List of witnesses examined on the side of the defendant:

NIL

List of documents marked on the side of the defendant:

NIL

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Index : Yes/No

Internet: Yes/No

Speaking Order/Non-Speaking Order



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G.CHANDRASEKHARAN,J.

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