



C.S. No.289 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2022

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

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ITC Limited
Education and Stationery Products Business,
ITC Centre, 5th Floor,
No.760, Anna Salai,
Chennai-600 002
Rep. By itS Management Accountant,
Power of Attorney Holder
Mr.Hardik Patel

.. Plaintiff

vs.

Mr.Subash Mittal
S/o.Shree Gulab Chand Agrawal,
Proprietor, M/s.Neer Trading Company,
Krishna Kunj,
Opposite Agra Vatika Saraswati Kund,
Mathura 281 001
Uttar Pradesh.

... Defendant

PRAYER: Complaint filed under Order IV Rule 1 of Original Side Rules Read with Order VII Rule 1 CPC prays for a judgment and decree against the Defendant (a) for a sum of Rs.2,74,20,659/- (Rupees Two Crore Seventy Four Lakh Twenty Thousand Six Hundred and Fifty Nine only) together with interest at the rate of 24% on Rs.1,49,65,442/- (Rupees One Crore



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Forty Nine Lakh Sixty Five Thousand Four Hundred and Forty Two only)
from the date of plaint till the date of realization and (b) for the costs of the
suit.

For Plaintiff : Ms. Vandana Parasuram for
M/s.K.Krishnamoorthy

J U D G M E N T

The plaintiff filed suit for recovery of Rs.2,74,20,659/- from the
defendant with interest on the principal sum of Rs.1,49,65,442/- at 24% p.a.
from the date of plaint till the date of realization.

2. The plaintiff states that it is in the business of supplying
educational and stationery products. Upon being approached by the
defendant in relation thereto, goods were supplied by the plaintiff to the
defendant under multiple invoices. A running account was maintained in
respect of the payment made by the plaintiff to the defendant. After
providing credit to payments made by the defendant, the plaintiff states that
the principal sum of Rs.1,49,65,442/- and interest thereon in an aggregate
sum of Rs.1,24,55,217/- was due and payable by the defendant to the
plaintiff as on the date of plaint.



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3. In spite of suit summons being served on the defendant, the defendant failed to appear. Consequently, by order dated 18.07.2022, the defendant was set *ex parte* and the matter was placed before the learned Additional Master II for recording the *ex parte* evidence of the plaintiff.

4. The plaintiff examined Mr.Dileep Patnana, Assistant Manager (Finance) and authorized signatory, as PW1. From the course of examination-in-chief of PW1, the 9 documents listed at the foot of this judgment were exhibited as Exs.P1 to P9.

5. Learned counsel for the plaintiff invited my attention to Ex.P3, which specifies the terms and conditions applicable to all the transactions. This document has been sanctioned by both parties. As per clause 5 thereof, learned counsel points out that the rate of interest was agreed to be duly communicated by the plaintiff to the defendant from time to time. Learned counsel also points out that the defendant confirmed the amount due and payable as on 30.04.2017 under Ex.P6 in an aggregate sum of



Rs.1,88,03,254/-. According to learned counsel, this includes interest at 24% p.a. Learned counsel also relies upon the statement of accounts (Ex.P9). She submits that the suit claim was made on the basis of the said statement of account which shows a closing balance of a sum of Rs.2,74,20,659/-.

6. The plaintiff has placed on record the sample invoices as Ex.P5. As discussed above, the confirmation of balance of a sum of Rs.1,87,05,153/- as on 30.04.2017 is on record as Ex.P6. The terms and conditions provided for the communication of rate of interest. Ex.P9, which is the statement of account, evidences that the amount outstanding as on 31.07.2020 is Rs.2,74,20,659/-.

7. Thus, the assertions in the plaint were duly proved by adducing evidence in support thereof. By taking into account the fact that no evidence to the contrary was adduced by the defendant, the plaintiff is entitled to succeed. Therefore, the plaintiff is entitled to a sum of Rs.2,74,20,659/- as prayed for. As regards interest in the post suit period, the plaintiff shall be entitled to interest at 12% p.a. As the successful party, the plaintiff is also entitled to costs.



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8. In the result, the suit is decreed as follows:

(i) the defendant is directed to pay to the plaintiff a sum of Rs.2,74,20,659/- with interest on the principal sum of Rs.1,49,65,442/- at 12% p.a. from the date of plaint until realization; and

(2) the defendant is directed to pay costs.

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Index : Yes / No

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Plaintiff's witness:

Mr.Dileep Patnana : P.W.1

Defendant's witness : Nil

Documents exhibited by the Plaintiff:

Sl.No	Exhibits	Date	Particulars of Documents
1.	Ex.P1	12.03.2022	The photocopy of the Authorization Letter (Original seen and returned)
2.	Ex.P2	14.09.2013	The original letter from the defendant authorizing transporters to collect the goods.
3.	Ex.P3	13.09.2013	The original condition of Sale signed by the defendant dated 13.09.2013.



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Sl.No	Exhibits	Date	Particulars of Documents
4.	Ex.P4	16.09.2013	The original certificate issued by defendant.
5.	Ex.P5	30.01.2017	The original invoice
6.	Ex.P6	14.08.2017	The original confirmation of balance
7.	Ex.P7	27.06.2018	The office copy of the legal notice
8.	Ex.P8	09.11.2018	The original bank statement of the plaintiff
9.	Ex.P9	-	Statement of account.

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SENTHILKUMAR RAMAMOORTHY,J

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