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C.S.(Comm Div.) No.52 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.08.2023

PRONOUNCED ON: 14.09.2023

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.S.(Comm.Div.) No.52 of 2022

M/s.Premier Transport Ltd.,
Rep. by its Authorised Representative
Mr.Sumit Chaturvedi,
having Registered Office at
No.405, Prestige Chambers,
Kalyan Street, Mumbai - 400009

also carrying on business at
No.104, Real Tower,
No.51-52, Royapettah High Road, Mylapore,
Chennai - 600004

...Plaintiff

Vs.

M/s.BGR Energy Systems Ltd.,
No.443, Anna Salai, Teynampet,
Chennai - 600018

...Defendant



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PRAYER: **Plaint** is filed under order IV Rule 1 O.S. Rules and Order VII Rule 1 of C.P.C. read with Sections 2 of the Commercial Courts Act, 2015, praying for the following judgment and decree:-

a. Directing the Defendant to pay a sum of Rs.56,82,430/- (Rupees Fifty-Six Lakhs Eighty-Two Thousand Four Hundred and Thirty Only) being the principal amount of 35,11,000/- (Rupees Thirty-Five Lakhs Eleven Thousand Only) and interest amount of Rs.21,71,430/- (Rupees Twenty-One Lakhs Seventy-One Thousand Four Hundred and Thirty Only) up to the date of the Plaint calculated at the rate of 24% per annum on the principal amount of Rs.35,11,000/- from the date of the borrowing together with future interest at 24% per annum on the suit claim of Rs.56,82,430/- (Rupees Fifty-Six Lakhs Eighty- Two Thousand Four Hundred and Thirty Only) from the date of Plaint till date of payment.



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b. Directing the Defendant to pay a sum of Rs.50,00,000/-
(Rupees Fifty Lakhs Only) as compensation for the damages suffered
by the Plaintiff as loss of reputation and goodwill amongst its vendors
and service providers.

c. Directing the Defendant to pay to the Plaintiff the cost of the
suit.

d. Grant such further or other orders as this Hon'ble Court may
deem fit and proper under the circumstances of the case.

For Plaintiff : Mr.Prasanna Venkat
for M/s. APR Associates

For Defendant : Mr.C.P.Prasanth Gopal



JUDGMENT

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The above suit has been filed by the plaintiff seeking the following reliefs:-

a. Directing the Defendant to pay a sum of Rs.56,82,430/- (Rupees Fifty-Six Lakhs Eighty-Two Thousand Four Hundred and Thirty Only) being the principal amount of 35,11,000/- (Rupees Thirty-Five Lakhs Eleven Thousand Only) and interest amount of Rs.21,71,430/- (Rupees Twenty-One Lakhs Seventy-One Thousand Four Hundred and Thirty Only) up to the date of the Plaint calculated at the rate of 24% per annum on the principal amount of Rs.35,11,000/- from the date of the borrowing together with future interest at 24% per annum on the suit claim of Rs.56,82,430/- (Rupees Fifty-Six Lakhs Eighty- Two Thousand Four Hundred and Thirty Only) from the date of Plaint till date of payment.



b. Directing the Defendant to pay a sum of Rs.50,00,000/- (Rupees Fifty Lakhs Only) as compensation for the damages suffered by the Plaintiff as loss of reputation and goodwill amongst its vendors and service providers.

c. Directing the Defendant to pay to the Plaintiff the cost of the suit.

Plaintiff's Case:-

2. It is the case of the plaintiff that they are carrying on business in the field of logistics, particularly domestic transportation of goods. The services that they render is transporting goods from one place to another. In the course of their business, the plaintiff had entered into a contract with the defendant who had availed their services. The defendant had approached the plaintiff to transport equipment used for setting up the plant and machinery of the defendant from Chennai to Ankleshwar (Gujarat), Banaharpalli (Jharsuguda) to Vijayawada (Andhra Pradesh), Kumardhubi (Jharkhand) to Ghatampur (Uttar Pradesh), Asansol (West Bengal) to Ghatampur (Uttar Pradesh).



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3. Pursuant to the request, the plaintiff had sent their quotations through e-mail communication, setting out the freight charges payable to the defendant as follows:-

Date of Email from the Plaintiff sending the quotation	Details of Transportation	Tentative Amount (in Rs.)	Date of Email from the Defendant agreeing to the quotation
22.02.2019	Chennai (Tamil Nadu) to Ankleshwar (Gujarat)	10,95,000.00	22.02.2019
20.04.2019	Banaharpalli (Jharsuguda) to Vijayawada (Andhra Pradesh)	27,62,000.00	24.04.2019
02.07.2019	Kumardhubi (Jharkhand) to Ghatampur (Uttar Pradesh)	4,500.00	03.07.2019
12.06.2019	Asansol (West Bengal) to Ghatampur (Uttar Pradesh)	2,60,000.00	19.06.2019

The quotes had been arrived at after negotiation between the parties. In addition to the above sums, it was also agreed that a sum of Rs.1,500/- per day would be paid towards detention charges, if the vehicle was detained for more than 2 days at the time of loading and unloading of goods.



upon them to make the payment. However, the defendant had deliberately avoided payment and gave vague responses. The plaintiff would submit that the last of the e-mail communication was dated 16.06.2021. The defendant had deliberately failed to honour their commitment and the plaintiff is therefore entitled to the sum of Rs.35,11,000/- together with interest at 24% per annum from the date of receipt of the invoice till actual realization of the sum. The plaintiff had issued a legal notice dated 25.06.2021, which though received by the defendant, evoked no response from them.

6. The plaintiff would submit that they had availed the services of various third parties for the transportation of the goods for which he had incurred huge costs. On account of non-payment of charges by the defendant to the plaintiff, the plaintiff was not in a position to make payments to their vendors and had not only suffered loss of reputation but also loss of business opportunities. Therefore, the plaintiff has also claimed a sum of Rs.50,00,000/- under the head of damages suffered by the plaintiff as a loss of reputation and goodwill.



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7. The plaintiff would submit that the suit is clearly one which falls within the definition of Commercial dispute as contemplated under Section 2(1)(c)(v)(5)(xviii) of the Commercial Court Act, 2015 (hereinafter referred to as the "Act"). That apart, the specified value of the suit is more than a sum of Rs.3,00,000/- as contemplated under Section 2(1)(i) of the Act. Therefore, the above suit has been instituted in the Commercial Division of this Court for the reliefs set out therein. With reference to the cause of action, the plaintiff had contended that the cause of action arose at Chennai within the jurisdiction of this Hon'ble Court, where the plaintiff and the defendant are carrying on their business.

Written Statement:-

8. The defendant, on entering appearance has filed their written statement inter alia raising out the following preliminary objections:-

- a) That the suit filed by the plaintiff is not a Commercial suit;



b) That the loss of reputation and goodwill does not come within the definition of a Commercial dispute and the amount has been claimed only to inflate the value of the suit to bring it within the jurisdiction of this Court;

c) No part of cause of action had arisen within the jurisdiction of this Court since the materials have been loaded from places outside the jurisdiction of this Court for transportation to places that are also outside the jurisdiction of this Court. Further, the invoices, which have been raised by the plaintiff, clearly stipulate that the jurisdiction would only be in Mumbai.

d) Each contract for transport of goods was an independent contract governed by separate service orders and the clubbing of all these contracts clearly amounted to a mis-joinder of cause of action.



9. The defendant would submit that they have settled all the invoices and that no money was outstanding from them and further there was no agreement between the parties to pay interest. The defendant would also deny the receipt of the invoices. The defendant would further submit that the claim for damages is totally misconceived since the plaintiff by themselves owns a huge fleet of transport and there is no necessity for them to have engaged the services of third parties for transportation of goods. The defendant had also raised a plea that the plaintiff has not followed the mandatory mediation as contemplated under Section 12A of the Act.

Issues Framed:-

10. This Court by order dated 15.02.2023 was pleased to frame the following issues:-

(i) Whether the plaintiff is entitled for the suit claim for a sum of Rs.58,82,440/- (Rupees Fifty Eight Lakhs Eighty Two Thousand Four Hundred and Forty only) being the principal amount of Rs.35,11,000/-



(Rupees Thirty Five Lakhs Eleven Thousand only) and interest of Rs.21,71,430/- (Rupees Twenty One Lakhs Seventy One Thousand Four Hundred and Thirty only).

(ii) Whether the plaintiff is also entitled to compensation of Rs.50,00,000/- (Rupees Fifty Lakhs only) based on the pleadings?

(iii) Whether the defendant is entitled to state that the suit has been wrongly instituted before this Court and any cause of action has arisen within the Jurisdiction of this Court?

(iv) To what other reliefs, the parties are entitled to?

**Evidence:-**

11. The plaintiff had examined their Authorised Representative as P.W.1 and marked Ex.P.1 to Ex.P.26. The defendant had objected to the marking of Ex.P.5, Ex.P.9 and Ex.P.13 on the ground that the documents are incomplete and annexures have not been attached. Ex.P.19, Ex.P.22 and Ex.P.23 were also objected to and were permitted to be marked subject to the production of the original documents. During the cross examination of P.W.1, the defendant had marked Ex.D.1. The chief examination of the plaintiff is more or less the repetition of the plaint. On the side of the defendant, their Deputy General Manager-Logistics had been examined as D.W.1 and he had marked Ex.D.2.

Submissions:-

12. The learned counsel for the plaintiff after taking the Court through the facts of the case would make his submissions on the basis of the issues as follows:-



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12.i) With reference to the issue of territorial and pecuniary jurisdiction which is the third issue, it is the contention of the learned counsel for the plaintiff that this Court has both pecuniary as well as territorial jurisdiction since the defendant has its place of business at Chennai and D.W.1 in his cross examination has admitted that the negotiation between the parties had commenced only at Chennai, where the plaintiff's representative had met the defendant, which is elicited in question No.16 during the cross examination of D.W.1. The suit is valued at a sum of Rs.1,06,82,430/- which falls within the pecuniary jurisdiction of this Court.

12.ii) With reference to the jurisdiction conferred on the Courts in Mumbai (as per the invoices), it is the contention of the learned counsel that no part of cause of action had arisen in Mumbai and that a major portion of the cause of action had arisen in Chennai as the defendant has its place of business in Chennai, in the quotations, e-mail /letter of offer and acceptance, the address of both the plaintiff and the



defendant is mentioned as Chennai and the witness who had deposed as DW.1 also has his place of business at Chennai.

12.iii) With regard to the submission of the defendant that there is a mis-joinder of causes of action, it is the argument of the learned counsel for the plaintiff that the plaintiff and the defendant maintained a running account and therefore, the question of mis-joinder of cause of action would not arise. The objection raised by the defendant that the provisions of Section 12A of the Act had not been followed and therefore, the suit has to be returned cannot be countenanced for the simple reason that this suit has been filed much before the provisions of Section 12A of the Act being mandatory by the Judgement of the Hon'ble Supreme Court reported in **2022 (10) SCC 1- Patil Automation Pvt. Ltd. Vs. Rakheja Engineering Pvt. Ltd.** That apart, even assuming that the case on hand would come within the regime post the judgement in **Patil Automation Pvt. Ltd** cited supra, the plaintiff has filed an interim Application in A.No.1190 of 2022 which was disposed of with specific findings.



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13. After addressing the general defences, the learned counsel has addressed his argument with reference to the specific issues. As regards issue No.1, the plaintiff in their written arguments have submitted arguments on each consignment as follows:-

13.i).With reference to the 1st consignment, namely, transportation of goods from Chennai (Tamil Nadu) to Ankleshwar (Gujarat), it is the contention of the learned counsel for the plaintiff that on 21.02.2019, the defendant had made a request for transportation of goods under Ex.P.4. The plaintiff had responded to the said request vide Ex.P.5 dated 22.02.2019, which not only provided the details of the type of trailer size, weight, offer price etc but also provided the transit time as 30 days and the vehicle type as LBT. It is the case of the plaintiff that the said offer was accepted by the defendant on the very same date under Ex.P.6. The vehicle of the plaintiff had reached the premises on 26.02.2019 and the loading was completed by the defendant on 01.03.2019 as evidenced by Ex.P.7. Thereafter, the



plaintiff had raised an invoice on 29.03.2019, for a sum of Rs.10,95,000/- (Ex.P.12). Out of this, the defendant had paid only a sum of Rs.5,00,000/- on 27.07.2019 which is set out in their written statement. Therefore, after the payment of Rs.5,00,000/- a sum of Rs.5,95,000/- was still due and owing by the defendant.

13.ii). With reference to the 2nd consignment, namely, transportation of goods from Banaharpalli (Jharsuguda) to Vijayawada (Andhra Pradesh), it is the contention of the learned counsel for the plaintiff that the quotation was sent by the plaintiff to the defendant through e-mail on 20.04.2019 (Ex.P.13) with respect to the transportation of 250 MT Crawler Crane of the defendant from Banaharpalli (Jharsuguda) to Vijayawada (Andhra Pradesh). This offer was accepted by the defendant vide their communication dated 24.04.2019 (Ex.P.14). The plaintiff would submit that subsequently between 30.04.2019 and 17.05.2019, 18 vehicles were deployed and the entire goods of the defendant was transported from Banaharpalli (Jharsuguda) to Vijayawada (Andhra Pradesh). It is the contention of



the plaintiff that though they had quoted for 19 vehicles, however, they were able to transport the entire goods in 18 vehicles. An invoice was raised for the same under Ex.P.17 for a sum of Rs.26,51,500/- which is less than the quoted amount of Rs.27,62,000/-. The defendant has not made any payment despite several requests. The defendant has not seriously raised a dispute with regard to the number of vehicles being short of the numbers in the initial quotation by the plaintiff that have been used for transportation of the consignment. However, it is an admitted case that the entire goods have been delivered to the defendant and it is not the case of the defendant that the goods have not been received by them. D.W.1 in his cross examination had admitted to the same.

13.iii). With reference to the 3rd consignment, namely, transportation of goods from Asansol (West Bengal) to Ghatampur (Uttar Pradesh), it is the contention of the learned counsel for the plaintiff that the plaintiff had sent a revised quote as requested vide e-mail dated 12.06.2019 (Ex.P.16). The said quotation was accepted by



the defendants vide e-mail dated 19.06.2019 (Ex.P.18). The plaintiff under Ex.P.24 has raised an invoice for the above consignment. It is the contention of the plaintiff that there has been no serious objection raised to this consignment by the defendant.

13.iv). With reference to the 4th transactions, namely, transportation of goods from Kumardhubi (Jharkhand) to Ghatampur (Uttar Pradesh), it is the contention of the learned counsel for the plaintiff that the invoices have been raised under Ex.P.20 and Ex.P.21 in respect of this consignment. He would submit that three vehicles of the plaintiff's made to wait for 1 extra day and hence the plaintiff has raised an invoice for a sum of Rs.4,500/- which is the agreed sum for the total detention period @ Rs.1,500/- per day per vehicle. It is also his contention that the contract provided for payment of interest. He would further argue that the time was never the essence of the contract.

14. As regards the first transactions, namely, the transportation of goods from Chennai (Tamil Nadu) to Ankleshwar (Gujarat) the time



agreed between the parties for the delivery of goods was 30 days and the delivery was also made within the said period. The other transactions were also effected within the stipulated time. The defendant who has come forward with a contention that the agreement was to effect delivery within 12 days has not even pleaded that the plaintiff has not delivered the goods as undertaken and has also not proved the same. Therefore, the defendant's plea regarding a delay in the delivery of goods has not proved the same.

15. The learned counsel for the plaintiff has relied upon the following judgements:-

i) 2019 SCC Online Mad 35452 - Tom Edwin Louis Vs. M.Chockalingam and Another.

ii) ILR (1995) 1 Del 567 - SP. Bhatnagar Vs. Indian Oil Corporation.

He would therefore, submit that the plaintiff has proved their case and they are entitled to a decree as prayed for.



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16. Per contra, Mr.C.P.Prasanth Gopal, learned counsel appearing on behalf of the defendant would submit that the Court has no territorial jurisdiction as no part of cause of action had arisen within the jurisdiction of the Hon'ble High Court. The suit is on the basis of the invoices raised by the plaintiff on the defendant. A perusal of the addresses set out in the invoices would clearly show the place from which the goods have been taken and the place to which the consignments are to be delivered. They would further contend that each of the invoices contain a clause that the jurisdiction would only be with the Courts at Mumbai since the registered office of the plaintiff is situate at Mumbai.

17. With reference to the pecuniary jurisdiction, he would submit that the plaintiff's suit would not come within the jurisdiction of this Court since the sum of Rs.50,00,000/- which has been claimed under the head of damages suffered by the plaintiff as loss of reputation and goodwill has to be proved and the same has not been proved. He would



further submit that once the amount claimed under the head of damages is removed then the suit will not lie within the jurisdiction of this Court as the amount involved would only be a sum of Rs.56,82,430/- which is far below the pecuniary jurisdiction of this Court and the suit will only lie before the City Civil Court.

18. The learned counsel for the defendant would submit that despite a serious dispute being raised with reference to the invoices and the amounts claimed thereunder, the plaintiff has not let in any other independent document to prove their right to claim the amounts under the respective invoices. He would submit that the plaintiff had not adhered to the time schedule agreed upon between the parties and have taken a longer time to deliver the goods.

19. He would rely upon the following judgments with reference to the jurisdiction.

i. *CDJ 2013 SC 573 – M/s.Swastik Gases P.Ltd Vs. Indian Oil Corporation.*



ii.CJD 2000 SC 832 – M/s. Shriram City Union Finance

Corporation Limited Vs. Rama Mishra

iii. CDJ 2019 SC 1150 – Ambalal Sarabhai Enterprises Ltd. Vs.

K.S.Infrastructure LLP & Another.

iv. CDJ 2000 SC 1326 – Ghaziabad Development Authority Vs.

Union of India and Another.

20. In support of the argument with reference to the payment of damages, he would rely upon the judgment reported in ***CDJ 2006 SC 426 – Life Insurance Corporation of India & another Vs. Smt. S.Sindhu*** and the Judgement of the Karnataka High Court reported in ***2000 SCC Online Kar 832 – Jyothi Limited Vs.Boving Fouress Limited.***

Discussion:-

Issue No.(iii):-

21. Before returning a finding with reference to issue Nos. i and ii, it is necessary to answer **issue No.iii** regarding the jurisdiction of



this Court to try the suit. The contention of the defendant is that this Court does not have the jurisdiction to try the suit since the relief claimed does not come within the definition of a Commercial dispute and the amount claimed as damages is only with the intention of bringing the suit within the jurisdiction of this Court. No part of cause of action has arisen within the jurisdiction of this Court as the transportation of the goods had taken place from various places of the defendant and transported to different places both of which does not come within the jurisdiction of this Court.

22. The transaction between the parties admittedly is a commercial transaction. The defendant has entered into an agreement with the plaintiff to transport goods from Chennai to Ankaleshwar and various other places. The agreement between the parties is evidenced by a written document, namely, the offer, acceptance and the invoices. Therefore, in the light of the aforesaid mercantile documents, the suit is definitely a commercial suit.



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23. The jurisdiction has also been questioned on the ground that no part of the cause of action has arisen within the jurisdiction of this Court. The oral and documentary evidence would clearly show that the defendant had placed orders only from their office at Chennai and the acceptance has also been done by the defendant from their office at Chennai. The first e-mail by the defendant calling for quotation was from their Chennai office. Both the defendant and the plaintiff have a place of business at Chennai. Therefore, the cause of action has arisen within the jurisdiction of this Court and hence this Court has the jurisdiction to try the suit. Therefore issue no.iii is answered in favour of the plaintiff.

Issue Nos.(i) and (ii):-

24. In order to appreciate these issues, it is necessary to look into the contract that has been entered into between the plaintiff and the defendant together with the attendant documents. The 1st consignment was for transportation of goods from Chennai (Tamil Nadu) to Ankleshwar (Gujarat). Under Ex.P.4, e-mail dated 21.02.2019, the



defendant had requested the plaintiff to submit their quotation for transportation of goods. Under Ex.P.5 dated 22.02.2019, this request is answered by the plaintiff wherein, the plaintiff had not only provided details of the type of trailer, its size, weight, offer price etc but had also provided the time that would be taken to transport the goods i.e; 30 days. The plaintiff's offer had been accepted by the defendant on the very same day which is evidenced by Ex.P.6. Therefore, the defendant had agreed to a transit time of 30 days for this consignment. The fact that the plaintiff's vehicles had reached the loading site on 26.02.2019 and the loading had been completed by the defendant on 01.03.2019 is evidenced by Ex.P.7. Under the Ex.P.12 dated 29.03.2019, the plaintiff had raised an invoice for a sum of Rs.10,95,000/-. Out of the above sum, only a sum of Rs.5,00,000/- was paid by the defendant on 27.07.2019 and the remaining sum of Rs.5,95,000/- is yet to be paid. D.W.1 in his cross examination in answer to question no.23 had clearly admitted that the plaintiff has sought 30 days time for completing the transportation. Though the witness would add that they had requested the plaintiff to complete the transportation within a period of 12 days,



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however, there is no document to prove the same. He has also in answer to question no.26 clearly admitted that such a pleading has not been taken in the written statement. D.W.1 also admits in answer to question no.36 that the vehicle of the plaintiff had been detained by them at their loading site from 26.02.2019 to 01.03.2019. Therefore, the plaintiff has clearly proved their entitlement in respect of the 1st consignment.

25. The 2nd consignment was for transportation of goods from Banaharpalli (Jharsuguda) to Vijayawada (Andhra Pradesh). The plaintiff by their e-mail dated 20.04.2019 (Ex.P.13) had submitted their quotation to the defendant. In this consignment, the transportation of 250 MT Crawler Crane and its accessories was to be effected. For this consignment, under Ex.P.13 dated, the plaintiff had quoted a sum of Rs.27,62,000/-. The said offer was accepted by the defendant which is evidenced by their e-mail communication dated 24.04.2019 (Ex.P.14). The goods were transported through 18 vehicles and 18 consignment notes has been filed and marked as Ex.P.15 series. The original quote



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of Rs.27,62,200/- was for 19 vehicles, however, since the goods had been delivered in 18 vehicles, the invoice Ex.P.17 for a sum of Rs.26,51,500/- was raised which is less than the quoted amount of Rs.27,62,200/- and which clearly shows that the price quoted for the 19th vehicle has been deducted. The defendant had taken out a plea that the entire goods had not been delivered but D.W.1 would admit that the entire goods had been transported in 18 vehicles in answer to question No.68. In answer to a question as to whether Ex.P.15 consignment notes were with reference to goods transported in respect of the invoice Ex.P.17, the witness has answered in the affirmative and in answer to question no.70 has admitted that all the goods mentioned in the 18 consignment notes had been transported by the plaintiff and received by the defendant.

26. The 3rd consignment was for transportation of goods from Asansol (West Bengal) to Ghatampur (Uttar Pradesh). The plaintiff had sent their quotation by e-mail dated 12.06.2019 (Ex.P.16). Under Ex.P.18, e-mail dated 19.06.2019, the defendant had approved the



transportation charges for SCR core parts quoted by the plaintiff. The said e-mail tabulates the details of the materials, its dimensions, weight in MT for each unit, the number of units, transit time, offer price, total offer and the nature of load in respect of 6 items and the total amount quoted is a sum of Rs.8,92,200/-. The plaintiff has raised an invoice evidenced by Ex.P.24 for a total sum of Rs.2,60,000/-. The goods had been loaded on 12.07.2019 and was delivered on 14.08.2019. The defendant who had not pleaded a delay in delivery of the goods in their written statement has in the course of their arguments taken such a plea. Under Ex.P.24, the plaintiff has raised an invoice for a sum of Rs.2,60,000/- alone which the plaintiff says has not been paid to date. The defendant refused to clear the money on the ground that the goods had been delivered with a delay. However, a perusal of the written statement would clearly show that time was never the essence of the contract and the defendant had not even raised this as a plea in the written statement. Therefore, the sum of Rs.2,60,000/- continues to remain unpaid by the defendant and the defendant is bound to pay the same.



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27. The 4th consignment was for transportation of goods from Kumardhubi (Jharkhand) to Ghatampur (Uttar Pradesh). For this consignment, the invoices have been marked as Ex.P.20 and P.21. It is brought to the notice of this Court that three vehicles of the plaintiff was made to wait for an extra day and hence the plaintiff has raised an invoice for a sum of Rs.4,500/-. The plaintiff would further contend that interest is payable as per clause 2 set out in the invoice (Ex.P.24) and the invoices Ex.P.12, 17, 20 and 24 also carry the same. Therefore, there is a contract for the payment of interest between the parties. This fact is also not been denied by the defendant during their oral evidence.

28. A perusal of the facts before this Court, it is seen that except for a sum of Rs.5,00,000/- no other sums have been paid. Therefore, a sum of Rs.35,11,000/- falls due and when interest with 24% per annum is levied, then the total outstanding would be a sum of Rs.56,82,430/-. The plaintiff is entitled to the same.



29. The plaintiff has claimed a sum of Rs.50,00,000/- towards damages and in respect of this claim, the plaintiff has made the following statement:-

“It is stated that the Plaintiff had availed the services of various third parties with respect to the transportation of the goods of the Defendant and had also incurred huge costs towards the same. In view of the non-payment of the Defendant, the Plaintiff could not make payments to its vendors and had suffered a loss of reputation and business opportunities with its vendors. In fact, the Plaintiff had also made the payments belatedly to its suppliers but however the Plaintiff was not in a position to improve its business relationship with its vendors as before. It is respectfully stated that the loss of reputation and goodwill suffered by the Plaintiff cannot be quantified in terms of money and for the purposes of court fee and valuation, the Plaintiff quantifies the amount as Rs. 50,00,000/-”



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However, the plaintiff has not let in any evidence whatsoever to prove that he has availed the services of third parties for transportation of goods. While quoting the rates, the plaintiff had not mentioned that the vehicles which would be transporting the goods would not be the vehicles of the plaintiff but would be the vehicle of the third party. The witness examined on the side of the plaintiff has not been able to substantiate the said claim and there is no documentary evidence to prove the same.

30. The terms of the contract between the plaintiff and the defendant is that the delayed payment would attract interest at 24 % per annum and the same has also been claimed by the plaintiff in the suit. Apart from the delay in repayment, the plaintiff has not been able to establish any loss that they have actually sustained. Therefore, the issue no.1 is answered in favor of the plaintiff and the issue no.2 is answered in favour of the defendant.



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31. Therefore, the suit is partly allowed with costs. The suit is decreed in respect of the 1st prayer and dismissed with respect to the 2nd prayer.

14.09.2023

Neutral Citation: Yes/No
Index : Yes/No
Internet : Yes/No
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APPENDIX

List of Witness Examined on the side of the Plaintiff:

1. P.W.1 - Mr.Sumit Chaturvedi

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

<i>S.No.</i>	<i>Exhibits</i>	<i>Description of documents</i>
1.	P-1	Photocopy of the incorporation certificate of the plaintiff (Since the defendant counsel has given consent photocopy is marked)
2.	P-2	Printout of the branch registration certificate of the plaintiff dated 14.07.2017.
3.	P-3	Original board resolution dated 05.07.2021.



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S.No.	Exhibits	Description of documents
4.	P-4	Printout of the email communication from defendant to the plaintiff dated 21.02.2019
5.	P-5	Printout of the email communication from the plaintiff to the defendant dated 22.02.2019
6.	P-6	Printout of the email communication from defendant to the plaintiff dated 22.02.2019.
7.	P-7	Office copy of the consignment note issued by the plaintiff to the defendant dated 28.02.2019.
8.	P-8	Printout of the email communication from defendant to the plaintiff dated 07.03.2019
9.	P-9	Printout of the email communication from plaintiff to the defendant dated 14.03.2019.
10.	P-10	Printout of the email communication from defendant to the plaintiff dated 14.03.2019.
11.	P-11	Printout of the email communication from defendant to the plaintiff dated 16.03.2019.
12.	P-12	Office copy of the invoice no.CHN/1002/18-19.
13.	P-13	Printout of the email communication from plaintiff to the defendant dated 20.04.2019.
14.	P-14	Printout of the email communication from defendant to the plaintiff dated 20.04.2019.
15.	P-15	Series (18 Nos.) office copy of the consignment note dated from 30.04.2019 to 17.05.2019.
16.	P-16	Printout of the email communication from plaintiff to the defendant dated 12.06.2019.
17.	P-17	Office copy of the invoice no.CHN/0233/19-20 dated 17.06.2019.
18.	P-18	Printout of the email communication from defendant to the plaintiff dated 19.06.2019.
19.	P-19	Office copy of the submission of original invoice for CHN/0233/19-20 dated 20.06.2019.



S.No.	Exhibits	Description of documents
20.	P-20	Office copy of the invoice no.CHN/0445/19-20 dated 17.06.2019 dated 27.07.2019
21.	P-21	Office copy of the invoice no.CHN/0443/19-20 dated 17.06.2019 dated 27.07.2019
22.	P-22	Office copy of the submission of revised freight bills for CHN/0455/19-20 and CHN/0443/19-20 dated 01.08.2019.
23.	P-23	Office copy of the submission of original invoice for CHN/0542/19-20 dated 05.09.2019.
24.	P-24	Office copy of the invoice No.CHN/0542/19-20 dated 05.09.2019.
25.	P-25	Series (28 Nos) printout of the email communication from plaintiff to the defendant from 14.03.2019 to 16.03.2021.
26.	P-26	Office copy of the legal notice from plaintiff to the defendant along with tracking report dated 25.06.2021.
27	P-27	Printout of the email dated 08.07.2019.

List of Witnesses Examined on the side of the Defendants:

1. D.W.1 -Mr.A.Arasu

List of Exhibits marked on the side of the Defendant:-

S.No	Exhibit	Description of documents
1.	D-1	The original letter dated 08.09.2019
2.	D-2	Original authorization letter dated 24.06.2022.



WEB COPY



C.S.(Comm Div.) No.52 of 2022

P.T. ASHA, J,

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Pre-Delivery Judgment
in
C.S.(Comm.Div).No.52 of 2022

14.09.2023