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C.S.No.58 of 2020

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**RESERVED ON : 21.03.2023**

**PRONOUNCED ON : 29.03.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**C.S.No.58 of 2020**  
**(Comm.Suits)**

V.Dhananjeyan

Rep. by its Proprietor, M/s.D.Geetha Enterprises,  
No.C/1, Munusamy Street,  
Athipet, Chennai – 600 058.

... Plaintiff

VS

1.M/s. AMZEN Machines Pvt. Ltd.,  
Represented by Authorized Signatory,  
No.127, Kilacherry Panchayat,  
Govindamedu Village – 631 402.  
Thiruvallur District.

2.M/s.AMZEN Machines Pvt. Ltd.,  
Represented by Authorized Signatory,  
Corporate Office, No.8, L.S.C Pamposh Enclave,  
Greater Kailash-1,  
New Delhi – 110 048.

... Defendants

**Prayer:** Civil Suit is filed under Order IV Rule (1) of Original Side Rules read with Order VII Rule 1 of C.P.C., praying for,

(a) directing the Defendants to pay the Plaintiff a sum of Rs.86,50,306/- towards the pending dues on the purchase of above materials along with a sum of Rs.48,51,755/- towards interest of 24% per annum (from



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18.05.2017 to 17.09.2019 only) totalling Rs.1,35,02,061/- along with further interest of 24% per annum on Rs.86,50,306/- from the date of Plaint till the realization of amount;

- (b) directing Defendants to pay the costs of the Suit; and
- (c) for such other order as this Court may deem fit to pass.

For Plaintiff : Mr.T.K.S.Gandhi

### **J U D G E M E N T**

The present suit has been filed by the plaintiff seeking recovery of money to the tune of Rs.1,35,02,061/- together with interest at the rate of 24% per annum on the principal sum due viz., Rs.86,50,306/- from the date of the plaint to till date of realisation of the amount.

### **Plaint Averments:**

2. It was claimed by the plaintiff that he was engaged in manufacturing of aluminum alloy ingots. The defendants are carrying on business of Engine Parts Casting works. The defendants requested the plaintiff for supply of aluminum alloy ingots. Based on the purchase order placed by the defendant, plaintiff had supplied aluminum alloy ingots to them and raised invoices for the total value of Rs.1,23,50,305.94/-. The defendants



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made part payments towards the value of the goods supplied by the plaintiff.

Totally, the defendants paid only Rs.37,00,000/- as against the total value of the goods supplied by the plaintiff as mentioned above. Thus, balance amount of Rs.86,56,306/- is due from the defendants. It was claimed by the plaintiff that he made several requests, reminders and e-mail correspondence to the defendants, but they failed to respond for the same. Thereafter, plaintiff lodged a police complaint dated 21.02.2019 against the 1<sup>st</sup> defendant before the Inspector of Police, Crime Branch, Thiruvallur District. The Director (Operations) of the 2<sup>nd</sup> defendant-company by letter dated 07.03.2019 addressed to the Deputy Superintendent of Police, District Crime Branch, Thiruvallur District, admitted his liability to pay the amount to the plaintiff and undertook to pay the amount within four months. However, the defendants failed to pay the amount as undertook by them. Hence, the plaintiff issued a lawyer notice dated 16.07.2019 to the 1<sup>st</sup> defendant with a copy marked to the 2<sup>nd</sup> defendant by calling upon the defendants to pay the balance amount together with interest. The defendants neither replied to the said notice nor come forward to pay the amount. Hence, the plaintiff was constrained to file a suit for recovery of the amount as mentioned above.



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3. This Court by order dated 01.02.2022 set the defendants *exparte* as they failed to appear before the Court in response to the suit summons. Thereafter, *exparte* evidence was taken and the Manager of the plaintiff was examined as PW.1 and through him 19 documents were marked as Ex.A1 to A19.

4. The learned counsel for the plaintiff by taking this Court to the invoices raised by the plaintiff which were marked as Ex.P2 to P12, the ledger account-Ex.P13, email addressed to the defendants-Ex.P14 and pre-suit notice-Ex.A18, submitted that the supply of aluminum alloy ingots to defendants and the failure of the defendants to pay the entire value of the goods supplied were proved by those exhibits and requested this Court to pass a decree as prayed for.

5. Heard the arguments of learned counsel for the plaintiff and perused the materials available on record.

6. It is the case of the plaintiff that he supplied aluminum alloy ingots



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to the defendants for a value of Rs.1,23,50,305.94/- and the defendants paid only Rs.37,00,000/- towards portion of his liability. Thus, the plaintiff laid a suit for recovery of balance value of the goods supplied by him together with interest at the rate of 24% per annum. In order to prove the suit claim, plaintiff examined his Manager as PW.1. He deposed about the request made by the 1<sup>st</sup> defendant and the supply of aluminum alloy ingots to the defendants as claimed by the plaintiff. The invoices raised by the plaintiff were marked as Exs.P2 to P12. The purchase orders placed by the defendants dated 02.03.2017 and 04.04.2017 were marked as Ex.A2. The ledger account maintained by the plaintiff from 01.04.2018 to 20.02.2019 has been marked as Ex.A13.

7. A perusal of these documents would show that on purchase order placed by the defendants, the plaintiff supplied the requested goods to the defendants to the tune of Rs.1,22,46,917.94/-. As per the ledger account maintained by the plaintiff during the period from 01.04.2018 to 20.02.2019 defendants paid an amount of only Rs.37,00,000/- towards portion of the cost of goods supplied. Therefore, as per the ledger account maintained by the



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plaintiff which was marked as Ex.A13, a sum of Rs.1,22,46,917.94/- was due from defendants.

8. Ex.A14 is an e-mail sent by the plaintiff to the defendants dated 08.07.2017. Ex.A15 is a notice appeared to have been issued by the Inspector of Police, Crime Branch, Tiruvallur District to the plaintiff for enquiry on his complaint. Ex.A16 is an undertaking letter dated 07.03.2019 given by the Director of the defendants' company to Deputy Superintendent of Police, District Crime Branch, Thiruvallur District, undertaking to pay the pending dues to the plaintiff within four months. Ex.A18 is a pre-suit notice issued by the plaintiff to the defendants asking him to pay the balance amount due to the plaintiff. Ex.A19 is the tracking sheet of the postal department which mentions that the pre-suit notice of the plaintiff was served on the 1<sup>st</sup> defendant on 20.07.2019 and on the 2<sup>nd</sup> defendant on 18.07.2019.

9. A perusal of Ex.A13-ledger account maintained by the plaintiff would make it clear that a sum of Rs.85,46,917.94/- was due to the plaintiff from the defendants. Even in the pre-suit notice issued by the plaintiff under



Ex.A18, he called upon the defendants to pay only Rs.85,46,918/-. Therefore, there is no explanation how the plaintiff claimed Rs.86,50,306/- as the balance amount due from the defendants in his plaint. Ex.A13 and A18 would make it clear as per the accounts of the plaintiff, balance amount due to the defendants is only Rs.85,46,917.94/-. The defendants having received the pre-suit notice from the plaintiff, failed to send any reply. Therefore, an adverse inference shall be drawn against the defendants for their failure to send any reply regarding the claim of the plaintiff.

10. The oral evidence of PW.1 coupled with the purchase order placed by the defendants Ex.A2, invoices raised by the plaintiff Ex.P2 to P12, the ledger account maintained by the plaintiff Ex.A13, the pre-suit notice issued by the plaintiff Ex.P18 and P19, clearly prove that the suit claim in the absence of any contra pleadings and evidence by the defendants. Therefore, the plaintiff is entitled to recover a sum of Rs.85,46,917.94/- as per the ledger account maintained by him.

11. The plaintiff claimed interest at the rate of 24% per annum based



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on the averment that suit transaction is a business transaction. The plaintiff also relied on the condition mentioned in his invoices that interest will be charged at the rate of 24% per annum if the invoiced amount is not cleared within the due date of payment. However, this Court can take judicial note of low interest rates charged by the banks now a days. Therefore, this Court comes to the conclusion that an award of 12% interest on the principal sum would be appropriate in the facts and circumstances of the case.

12. Therefore, the Suit is partly decreed by directing the defendants to pay a sum of Rs.85,46,917.94/- together with interest at the rate of 12% per annum from 18.05.2017 to the date of actual realisation.

13. In the facts and circumstances of the case, there shall be no order as to costs.

29.03.2023

Index : Yes / No  
NCC : Yes / No  
dm

**List of witnesses examined on the side of the plaintiff:-**

8/10



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P.W.1. Thiru.V.Jagadeesh – Manager of the Plaintiff-Company

**List of documents marked on the side of the plaintiff:-**

| Sl. No. | EXHIBITS | DATE                            | DESCRIPTION                                                |
|---------|----------|---------------------------------|------------------------------------------------------------|
| 1.      | A1       | 27.06.2022                      | Authorization Letter                                       |
| 2.      | A2       | 02.03.2017<br>and<br>04.04.2017 | Purchase Orders                                            |
| 3.      | A3       | 16.03.2017                      | Invoice No.201 for sum of Rs.7,65,096/-                    |
| 4.      | A4       | 18.03.2017                      | Invoice No.203 for sum of Rs.7,65,096/-                    |
| 5.      | A5       | 28.03.2017                      | Invoice No.212 for sum of Rs.7,87,598/-                    |
| 6.      | A6       | 30.03.2017                      | Invoice No.214 for sum of Rs.7,57,595/-                    |
| 7.      | A7       | 05.04.2017                      | Invoice No.4 for sum of Rs.16,37,213/-                     |
| 8.      | A8       | 10.04.2017                      | Invoice No.10 for sum of Rs.7,81,184/-                     |
| 9.      | A9       | 12.04.2017                      | Invoice No.11 for sum of Rs.7,87,421/-                     |
| 10.     | A10      | 03.05.2017                      | Invoice No.28 for sum of Rs.7,82,744/-                     |
| 11.     | A11      | 18.05.2017                      | Invoice No.37 for sum of Rs.7,98,938/-                     |
| 12.     | A12      | 13.04.2017                      | Invoice No.14 for sum of Rs.7,87,421/-                     |
| 13.     | A13      |                                 | Ledger Account from the period of 01.04.2016 to 20.02.2019 |
| 14.     | A14      |                                 | Mail Correspondence on various dates                       |
| 15.     | A15      | 21.02.2019                      | Police Complaint CSR Dated 21.02.2019                      |
| 16.     | A16      | 07.03.2019                      | Undertaking given by the 2 <sup>nd</sup> Defendant         |
| 17.     | A17      |                                 | Proof of the loan and EMI payment by the Plaintiff         |
| 18.     | A18      | 16.07.2019                      | Plaintiff Lawyer Notice with postal receipt                |
| 19.     | A19      |                                 | Proof of Delivery for Lawyers notice                       |

List of witness examined on the side of the Defendants:-

**-NIL-**

List of documents marked on the side of the Defendants:-

**-NIL-**



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**S.SOUNTHAR, J.**

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**Pre-delivery judgment**  
**made in C.S.No.58 of 2020**

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