



C.S.No.52 of 2020

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 06.07.2023

Judgment Pronounced on : 14.07.2023

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

C.S.No.52 of 2020

ITC Limited
Education and Stationer Products Business,
ITC Centre, Anna Salai,
Chennai 600 002.
Rep. by its Head of Sales and Marketing,
Power of Attorney Holder,
Mr.R.Ravinarayanan

....

Plaintiff

Vs.

Deo Prakash
Proprietor,
Sakshi Enterprises.

....

Defendant

Prayer : Civil Suit filed under Order IV Rule 1 of O.S.Rules read with Order VII Rule 1 of CPC praying for a judgment and decree against the defendant for a sum of Rs.2,56,83,873/- (Rupees Two Crore Fifty Six Lakh Eighty Three Thousand Eight Hundred and Seventy Three Only) together with interest at the rate of 24% on Rs.1,45,27,339/-(Rupees One Crore Forty five Lakh twenty seven Thousand Three Hundred and thirty nine only) from the date of plaint till the date of realization.



C.S.No.52 of 2020

WEB COPY

For Plaintiff : Mr.K.Krishnamoorthy
For Defendant : Set ex-parte

JUDGMENT

This Civil Suit has been filed by the petitioner seeking for a decree for recovery of a sum of Rs.2,56,83,873/- (Rupees Two Crore Fifty Six Lakh Eighty Three Thousand Eight Hundred and Seventy Three Only) from the defendants together with interest at the rate of 24% p.a. on Rs.1,45,27,339/- (Rupees One Crore Forty five Lakh twenty seven Thousand Three Hundred and thirty nine only) from the date of plaint till the date of realization.

2. The plaintiff is a company within the meaning of the Companies Act, 2013 having its Registered Office at 37, Jawahar Lal Nehru Road, Kolkata-700 071 and their Education and Stationery products Business at ITC Centre, 5th Floor, 760 Anna Salai, Chennai 600 002. The plaintiff's company is represented through its authorized Power Agent and the plaintiff is engaged in the business of marketing and sale of educational and Stationery products like notebooks, writing instruments etc.

2.1. As far as the business of education and stationery products are



C.S.No.52 of 2020

concerned, orders by the customers for the supply are to be placed at the plaintiff's principal office at Chennai either in person or through phone, web order/ e-mail. The delivery instructions would be issued to the Chennai office based on the orders placed. The defendant had purchased goods on various dates from the plaintiff. The payments for the goods purchased by the defendant were made at irregular intervals through RTGS/ NEFT to the plaintiff's Bank account. Often the defendant exceeded the credit period of making payments.

2.2. The defendant had acknowledged and confirmed that a sum of Rs.1,67,50,078/- is due and payable to the plaintiff as on 31.08.2016. The last purchase was made by the defendant in the month of July-2016 and the total outstanding payable by him was Rs.1,65,76,560/-. After repeated demands the defendant made a part payment of Rs.10,50,000/- on various dates and last such payment was made on 20.12.2016. A sum of Rs.1,01,57,313/- was incurred the course of trade, towards the miscellaneous expenses and that should also be paid by the defendant. Since the defendant has failed to make payments and he owes a sum of Rs.1,81,46,255/- payable to the plaintiff, the plaintiff has filed a suit for recovery of money along with interest, after issuing a pre-suit notice to



3. On the basis of the above pleadings and materials available on record, this Court has framed the following issue:

“(a) Whether the plaintiff is entitled to the decree for entitlement as prayed for?”

4. During the course of the trial, on the side of the plaintiff, the Assistant Manager of the plaintiff's company has been examined as PW.1 and Ex.P1 to P6 were marked.

5. Heard the submission made by the learned counsel for the plaintiff and perused the materials available on record.

6. The plaintiff is a company engaged in the business in the marketing and sale of educational and Stationery products. PW.1 has stated that the defendant had purchased goods from the plaintiff's company on various dates on credit basis. Some of the invoices to substantiate the above fact have also been marked as Ex.P3. Apart from the invoices comprised in Ex.P3, the defendant has purchased goods by authorizing his transporters to collect the goods from the plaintiff's company. The authorization letter is marked as Ex.P2 and the defendant had agreed to the terms and conditions of the sale transaction



C.S.No.52 of 2020

between the plaintiff and the defendant and it is marked as Ex.P1. The defendant maintains an Allahabad Bank account at Shekpura Branch, as indicated by a certificate dated 16.10.2012, marked as Ex.P4.

7. The defendant has also acknowledged the reconciliation made on 31.08.2016 and on which date there was an outstanding of Rs.1,65,76,560/- and the certificate issued by the Bank to that effect is marked as Ex.P5. But the defendant continued to purchase the goods and the last purchase was made by the defendant in the month of July-2016 and there was a total outstanding of Rs.1,47,27,339/- in the account of the defendant. The plaintiff has accepted the payment of Rs.10,50,000/- made on various dates and the last of such payment was made on 20.12.2016. The bank statement produced as Ex.P9 would show the same.

8. The defendant is said to be owing a sum of Rs.1,81,46,255/-along with interest making out to Rs.2,56,83,873/-. The statement of accounts is produced as Ex.P9 and that would substantiate the same. The plaintiff seems to have sent a legal notice on 07.01.2019 as Ex.P7 and for which the defendant did not send any reply. Thereafter the suit has been filed and the summons have been sent.



C.S.No.52 of 2020

WEB COPY

9. The defendant remained *exparte*. The oral and documentary evidence have been produced to substantiate the case of the plaintiff and it stands unchallenged. Since the plaintiff has proved the liability of the defendant as claimed by him in the plaint, he is entitled to get the relief of decree as prayed for. However the rate of interest claimed at 24% from the date of suit till the date of recovery is seen to be too high, even according to the standard rates of interest for business transactions.

In the result, this suit is **decreed**. The plaintiffs are entitled for a sum of Rs.2,56,83,873/-[Rupees Two Crores Fifty Six Lakhs Eighty Three thousand Eight Hundred and Seventy Three only] together with interest at the rate of 12% from the date of the plaint till the date of decree and thereafter, at the rate of 9% from the date of the decree till the date of realization. Time for payment 3 months.

14.07.2023

Index : Yes / No
Speaking order / Non-speaking order
Internet: Yes/No
Neutral :Yes/No
jrs



C.S.No.52 of 2020

WEB COPY

APPENDIX

I. Witnesses :

<i>Plaintiff :</i>	
PW.1	Mr.Dileep Patnana

II. Exhibits :

Sl. No	Exhibits	Description of documents
1	P1	certified copy of the power of attorney dated 12.03.2022
2	P2	original confirmation of balance as on 31.07.2016
3	P3	original invoice for supply from plaintiff to defendant dated 30.07.2016
4	P4	office copy of the legal notice dated 07.01.2019
5	P5	original bank statement of the plaintiff dated 04.12.2019
6	P6	original statement of accounts from 01.04.2012 to 30.11.2019

14.07.2023



WEB COPY



C.S.No.52 of 2020

R.N.MANJULA.J.,

jrs

C.S.No.52 of 2020

14.07.2023