

**IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE
COMMERCIAL DIVISION**

Present:

The Hon'ble Justice Sugato Majumdar

CS-COM/80/2024
[OLD NO. CS/53/2017]

RINKI PLASTICS PRIVATE LIMITED
VS
SOVA KHANDELWAL

For the Plaintiff : Ms. Aparajita Rao, Adv.
Ms. Swastika Roy, Adv.

Hearing concluded on : 27/08/2024

Judgment on : 29/08/2024

Sugato Majumdar, J.:

This instant suit is for recovery of price of goods sold.

The Plaintiff is a private limited company registered under the Companies' Act 1956 having its registered office at 5/1, Clive Road, Kolkata – 700001 within jurisdiction of this Court. The Defendant carries on proprietorship business of the name and style of M/S Khandelwal Steel Tubes. The Defendant is the sole proprietor and has office at 47, G.T. Road (East), Murgasol, Asansol, District: Burdwan.

The Defendant, in the course of its business, placed order for supply of various size and dimensions of UPVC, Pipe, Casing Pipe and certain other materials from her office at Sadar Ghat, P.O. & P.S. & Dist: Burdwan to the office of the Plaintiff within jurisdiction of this Court. The Plaintiff accepted and supplied the materials and goods, so ordered by the Defendant and the Defendant received the goods without raising any objection. Orders were placed from time to time and goods were supplied by the Plaintiff to the defendant from time to time.

In the course of transactions, the Defendant, between 19/04/2013 and 18/06/2013, placed orders for supply of diverse quantities of P.V.C. pipes and fittings. The Plaintiffs sold, supplied and the Defendant received such items. The Plaintiff raised 33 numbers of invoices against the supply aggregating a sum of Rs.38,47,107/-. Against these bills, the Defendant made part payment of Rs.16,57,301/- leaving a balance amount of Rs.21,89,806/- outstanding. The Defendant is liable to pay interest at a rate of 24 percent per annum, as it was agreed between the parties. In spite of repeated persuasions, the Defendant failed to make payment of the aforesaid amount. Last payment was made on 10/04/2015. Till 10/12/2016 a sum of Rs.31, 71, 940/- became due and payable by the Defendant to the Plaintiff. Since the outstanding amount was not paid, the Plaintiff was constrained to file the instant suit for recovery of the aforesaid amount with interest at a rate of 24% per annum with effect from 11/12/2016 till realization.

The Defendant did not appear to contest the suit. Therefore, the Co-Ordinate Bench, in terms of the order dated 19/03/2024 marked the suit as undefended.

The Plaintiff adduced oral as well as documentary evidences.

The Learned Counsel for the Plaintiff submitted that oral and documentary evidences, without any iota of doubt, establish the case of the Plaintiff.

Ext. B (Series) is original bill cum tax invoices bearing different dates. Ext. C (Series) is challans showing that supplied goods were received. Ext. D is the demand notice dated 25/11/2016 issued by the Learned Lawyer of the Plaintiff addressed to the Defendant, accompanied by original postal receipt and the acknowledgement due card. Ext. E is cash book containing details of transactions and statement of accounts.

Documentary as well as oral evidence of P.W. 1 is unchallenged. Tax invoices and delivery challans show that goods were delivered to the Defendant. Payments made as well as outstanding amount is established from Ext. E. Last payment was made on 10/04/2015 within the period of limitation. The suit was filed on 15/03/2017, within the period of limitation. From the evidence it is established that the Plaintiff supplied goods to the Defendant worth of Rs.38,47,107/-. The Plaintiff received an amount of Rs.16,57,301/- leaving a sum of Rs.21,89,806/- outstanding. The Plaintiff is entitled to this sum of Rs.21,89,806/- with interest. The Plaintiff did not produce any document to show that interest rate was agreed upon as 24% per annum on any outstanding amount. It would be proper to fix interest at a rate of 12% per annum on the outstanding amount.

In nutshell, the instant suit succeeds.

It is ordered that the Defendant is liable to pay the Plaintiff a sum of Rs.21,89,806/- with interest at a rate of 12% per annum from 11/12/2016 till

realization. The Defendant shall pay the amount, so calculated within sixty days from the date of drawing up of the decree, else the Plaintiff shall be at liberty to put the decree in execution for realization of the outstanding amount.

The instant suit is disposed of along with pending applications.

Let the decree be drawn up.

(Sugato Majumdar, J.)