IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.10.2024

PRONOUNCED ON : 12.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.S No.845 of 2010

Ashok Leyland Limited
Rep. by its Authorised Signatory
Mr.E.Babu
No.1, Sardar Patel Road
Guindy, Chennai-600 032. .. Plaintiff

..Vs..

1.Universal Logistics, Rep. by its Partner
Mr.Arjun Raj
A-14 (Old No.47), Anna Nagar East
Chennai-600 102.
2.Arjun Raj
3.K.Chandra Sekar
4.D.Indira
5.C.Chitra
6.The Commissioner of Customs
Custom House, No.60, Rajaji Salai
Chennai-600001.
(6th defendant was
impleaded as per order
dated 09.01.2019 in A.No.121 of 2019) .. Defendants

Prayer: Civil Suit has been filed under Order IV Rule 1 of O.S Rules read with Order VII Rule 2 CPC, praying to pass the following Judgment and decree against the defendants:

a) directing the defendants to jointly and/or severally pay the plaintiff a sum of Rs.2,82,33,988.79 together with interest at the rate of 18% per annum on the principal sum of Rs.2,12,28,563/- from the date of plaint till the date of payment or realisation in full.

b) for costs.

For Plaintiff : Mr.M.S.Murali
For M/s.R and P Partner

For Defendants :Mr.N.Hariharan Nair
For Mr.UM.Ravichandran for D1 to D3
D4 & D5 - Set exparte

JUDGMENT

This Civil Suit has been filed for recovery of money and for costs as prayed therein.

2. The case of the Plaintiff, as set out, in the plaint is as follows:-

The first defendant is a partnership firm registered under the Indian Partnership Act, 1932 in which the only partners known to the plaintiff are the other defendants. The first defendant being a partnership firm, is jointly and severally liable for the suit claim/s including its partners. The plaintiff is engaged in the business of manufacturing and marketing of commercial vehicles. For the purpose of its business, the plaintiff imported axle beams and Power steering gears (hereinafter called "Said Goods") and also paid customs duty in respect of the Said Goods as per the details in the table below:

S.No.	Bond No. & Date	Description	Quantity (Cartons)	Value (Rupees)	Custom Duty Paid (Rupees)
1	200395451 26.08.2008	Axle Beams	880	71,29,325	Nil
2	HBE No.813713 08.08.2008	Power Steering Gear Sets	13600	1,08,57,964	31,51,611
		TOTAL		1,79,87,289	31,51,611

b.AIKI Logistics Pvt. Ltd., as the clearing and forwarding agent, cleared Said Goods and stored the same at the customs bonded warehouse owned by the defendants under Code No.C047 and paid Rs.79,663/- on behalf of the plaintiff, to the defendants for storage of the Said Goods. The defendants assured the plaintiff that the said warehouse was approved by the customs department and was meant for storage of non-hazardous goods only, ideal for storage of the Said Goods and hence the Said Goods would be safe and that the Said Goods would be insured by the defendants against various risks including "fire". The defendants also confirmed through AIKI that the defendants had vast experience and skilled personnel in handing and storing of goods similar in nature to the Said Goods. The defendants also assured that the defendants would take extremely good care of the Said Goods as any other reputed bail or /custodian. Believing the assurances of the defendants, the plaintiff agreed for the Said Goods to be stored in the said warehouse. The bailment of the Said Goods was on the specific understanding that the Said Goods would be returned to the plaintiff in the same good condition and order in which the Said Goods were given for storing, as and when the plaintiff desired return of the Said Goods.

c.The defendants had taken out insurance policies bearing No.1. PSP46227-000-00 (2) PSP 00053704-000-00 and (3) PBG9758-000-00 with Cholamandalam MS General Insurance Company Limited and insured the Said Goods and other goods stored at the said warehouse against fire and burglary risks with the Insurance Company. The Insurance Company also stated that the coverage was for storage of goods in the said warehouse "Non-hazardous Godown" of the defendants. By letters dated 25.10.2008 and 05.01.2009, the defendants informed the plaintiff through

AIKI, that the Said Goods were destroyed in a fire which took place at the said warehouse on 9.10.2008 at about 2 p.m. The fire was also widely reported in the news media. In this regard, the defendants stated that an insurance claim had been filed with the Insurance Company regarding compensation for loss of the goods. By these letters itself, AIKI was requested to forward a copy of the insurance policy and the letters to the plaintiff. AIKI by its letter dated 18.10.2008 requested the defendants to furnish a copy of the first information report (FIR) regarding fire and also send due intimation in this regard to the customs department.

d.The plaintiff and AIKI appointed one Mr.V.Anbalagan as licensed surveyor to carry out inspection of the said warehouse and goods stored therein which were destroyed in the fire. The licensed surveyor by inspection reports dated 28.04.2009 also categorically confirmed that the Said Goods were completely destroyed/damaged due to the fire and it cannot be used. The plaintiff had urgently required the Said Goods for its business. The defendants failed to undertake for safe storage and return of the Said Goods. It was due to the utter negligence and careless attitude of the defendants that the fire occurred and due to which the Said Goods were completely destroyed and were no longer fit to be used for the purpose to which they were purchased and imported by the plaintiff. The defendants had filed an insurance claim with the Insurance Company. The defendants claim was rejected by the insurance company by letter dated 31.03.2009 on the ground that the defendants had stored "hazardous goods also in the said warehouse in breach of the warranty and conditions of the insurance policy. Aggrieved by the rejection, the defendants have filed complaint case No.35 of 2010 with the National Consumer Disputes Redressal Commission, against the Insurance Company and others seeking claiming Rs.39,91,84,267/- as damages from the insurance company. The said complaint is still pending. In the said complaint, the plaintiff has been arrayed as opposite party/respondent No.19, but only as a proforma party. No relief has been claimed as against/from the plaintiff. The contract of insurance was only between the insurance company and the defendant and not between the insurance company and the plaintiff.

e.The plaintiff sent several letters/reminders including one dated 1.1.2009 requesting the defendants to pay the sum towards the compensation due to the destruction of the Said Goods as below:

Particulars	**Rupees**
Value of Said Goods	1,79,87,289
Customs Duty Paid	31,61,611

Particulars	Rupees
Warehouse charges paid	79,663
Interest @ 18% per annum from 01.10.2008 till 30.07.2010	70,05,425.79
Total	2,82,33,988.79

f.However, the defendants have failed and neither made any payment to the plaintiff nor replied. Hence the claim of the plaintiff is an undisputed one. The defendants having accepted the Said Goods and agreed to store the same for consideration, paid and received, were bound to return the Said Goods to the plaintiff in the same good condition and order in which they were accepted for storage to the plaintiff as and when demanded by the plaintiff. The Said Goods having been destroyed in the fire due to the utter negligence of the defendants, the defendants are legally bound to pay the plaintiff jointly and severally since they have failed to pay the compensation amount. Hence this suit.

3. The case of the Defendants 1 to 3, in a nutshell, as set out in his written statement, is as follows:-

a.All the allegations contained in the plaint are denied except those that are specifically admitted herein. The plaintiff is also called upon to strictly prove the value of the goods as claimed by it and its ownership over the goods and substantiate their claim with material documents and the claim as to the value and ownership is unsustainable and as such is hereby denied. Bonded goods alone are permitted to be stored in the defendants customs public bonded ware house and all the goods stored in the ware house were under the custody and supervision of customs authorities. The entry and exist of the goods were also controlled by the customs authorities and hence the customs authorities are proper and necessary parties to the suit and the suit is defective for non-joinder of necessary and proper parties. The averment as to storage of goods straight away to the defendant's warehouse as soon as it is cleared off is denied as false.

b.The goods which are imported and the customs duty is not paid or deferred payment are permitted to be stored in the bonded warehouse after execution of necessary bond with the bond officer in the customs department and no other goods are permitted to be stored in the defendant warehouse and as such the averment of storage of goods which were cleared off after paying customs duty were never stored in the defendants warehouse. The defendant was given license to store imported dutiable goods in the warehouse and as such all bonded imported dutiable goods could be stored in the ware house irrespective of their nature and hence the allegation that the defendant assured to the plaintiff that the ware house was meant for storage of non hazardous goods only is denied as false. The defendants never ever gave any assurance for taking insurance for the goods of plaintiff at any point of time. The defendant had taken insurance coverage for the entire ware house to protect its interest in compliance of the oral instructions issued by the customs authorities and there were no individual policies for individual consignment as claimed by the plaintiff. The policies were also never taken on the basis of any assurances given to any parties who store their goods in ware house but on the contrary the policies were taken in advance generally considering the storage capacity of the warehouse and the charges are collected considering the expenditure for maintenance of warehouse including the expenses already incurred towards insurance for ware house.

c.In fact, the goods are permitted to be stored in the ware house only on requisition of parties depending upon the availability of space in the warehouse provided the goods are bonded with the custom authorities and declaration as to the particulars of goods and on giving space availability certificate by the defendant the customs authorities permits the parties to store their goods in the warehouse till the payment of customs duty by importers. Therefore, there was no offer from these defendants to the plaintiff on any matters specified by it or otherwise for the storage of goods in the warehouse and such of those allegations are false and frivolous. The 1st defendant has sought for insurance coverage for imported dutiable goods from Cholamandalam MS General Insurance Company whereas the insurer had imposed hidden warranty in the policy as if it covers only for storage of non-hazardous materials. The condition imposed was against the proposal of the defendant and hence such undisclosed hidden was contrary to the proposal and against the IRDA rules and regulations and as such those conditions are liable to be brushed aside cannot be countenanced. At any event, the insurance company is in competent to classify the warehouse as hazardous or non-hazardous contrary to the license issued by the customs authorities.

d.It is true that a fire accident took place on 9.10.2008 in the defendant ware house and the origin of fire was not from the portion of the defendants warehouse but only from the adjacent of ware house of Bennet Colmen & Co. Ltd. The defendant raised a claim before the Insurance

Company on the basis of a specific contract entered into between the defendant and the insurance company and that itself does not give any right to the plaintiff to sue the defendant making it liable to pay any damages that might have been sustained due to fire specifically when there is no fault of negligence on the part of the defendant. The plaintiff is not competent to state anything about the correspondence between AIKI and the defendant and it does not have any privity to those transaction. The claim of conducting of survey by the plaintiff is hereby denied. There is absolutely no negligence on the part of this defendant in storing the goods in the ware house and allegation of negligence against the defendants are hereby denied as false. In fact, the defendant had been scrupulously following the conditions of licence issued by the custom authorities. The reason that the first accident was neither due to its wilful nor wanton reason but only due to the reasons beyond its control. The plaintiff is making illegal demands even for the goods which were not at all stored in the ware house at the time of accident and for those goods which were cleared off by them for the Bill of entry for consumption after paying the duty. The defendant is neither liable to pay any amount to the plaintiff. Hence the suit is liable to be dismissed with costs.

4. The brief facts of the written statement filed by the 6th defendants, is as follows:-

The warehouse owned by the defendants 1 to 5 which was approved by this defendant for storage of non-hazardous goods only. As per the condition of licence issued by this defendant, it is mentioned that "licence holder shall be held strictly responsible for safety custody of the bonded goods and for the due observation of the law". There is no cause of action to file the present suit as against this 6th defendant. Hence the suit is liable to be dismissed as against this defendant.

5.On the pleadings of the parties and hearing the learned counsel on either side, the following issues were framed for determination:-

(1) *Whether the suit is bad for non-joinder of necessary parties in so far as the customs authorities are not made parties?*

(2) *Whether the defendants 4 and 5 are not partners of the first defendant firm?*

(3) *Whether the imported goods referred to in the plaint were entrusted to the first defendant's ware house on the assurance made on behalf of the first defendant firm that the ware house was meant for storage of non-hazardous goods only?*

(4) *Whether the bailment was made on the assurance of the first defendant firm that the goods would be covered by the defendants against various risks including fire?*

(5) *Whether the first defendant firm, by storing hazardous materials also acted against the assurance given to the plaintiff and also against the policy of the general insurance in respect of the warehouse?*

(6) *Whether the defendants are liable to make good the loss occasioned to the plaintiff due to the damage caused to the goods of the plaintiff stored in the first defendant's warehouse?*

(7) *Whether the amount claimed by the plaintiff as damages is reasonable?*

(8) *Whether the plaintiff is entitled to a decree for the recovery of a sum of Rs.2,82,33,988.79 together with interest at the rate of 18% per annum on the principal sum of Rs.2,12,28,563/- from the date of plaint till the date of realisation?*

(9) *Whether the Custom Department is liable to the suit claim as claimed by the Defendants 1 to 5?*

(10) *To what other reliefs, the parties are entitled?*

6. On the side of the Plaintiff, one witness was examined as PW1 and Ex.P1 to Ex.P20 were marked. On the side of the Defendants, one witness was examined as DW1 and Ex.D1 to D4 were marked.

Issue No.1 and 2:

7. The learned counsel for the plaintiff would submit that AIKI being the importing and clearing agent, cleared the Said Goods and stored the same at the customs bonded warehouse owned by 1st the Defendant under Code No. C047 and paid a sum of Rs. 79,663/-, on behalf of the Plaintiff, to the 1st Defendant for storage. The bailment of the Said Goods was on the specific understanding that the Said Goods would be returned

to the Plaintiff in the same good condition and order in which the Said Goods were given for storing, as and when the Plaintiff desired return of the Said Goods.

8. It has been further submitted that the Said Goods were thereafter destroyed in a fire accident which engulfed the Said Warehouse on 9.10.2008. The fire was only due to the negligence of the Defendants and as custodian of the Said Goods, the Defendants are responsible for the safety of the same. The Plaintiff and AIKI appointed one Mr. V. Anbalagan as Licensed Surveyor to carry out inspection of the Said Warehouse and goods stored therein which were destroyed in the fire. The Licensed Surveyor by inspection reports dated 28.04.2009 also categorically confirmed that the Said Goods were completely destroyed due to the fire.

9. The learned counsel for the plaintiff would further submits that the Defendants had taken out insurance policies bearing No.(1) PSP46227-000-00 (2) PSP 00053704-000-00 and (3) PBG9758-000-00 with Cholamandalam MS General Insurance Company Limited against fire and

burglary risks. The Defendants stated that an insurance claim had been filed with the Insurance Company regarding compensation for loss of the Said Goods. However, the claim was rejected by the Insurance Company on the ground that the defendants had stored "hazardous goods also in the Said Warehouse in breach of the warranty and conditions of the insurance policy.

10. It has been further submitted that the fire had only occurred due to the utter negligence of the Defendants and had the Defendants taken reasonable care and measures to prevent the same, no loss or hardship would have been caused to the Plaintiff herein. The Defendants 1-5 have not denied the custody of the Said Goods in their Written Statement. The Plaintiff has taken the specific plea of negligence on the part of the Defendants 1-5 as the Said Goods were destroyed in a fire. For the reasons stated in the Pleadings and the Written Arguments, and based on the Evidence presented in the Suit, the Plaintiff is entitled to a decree for the recovery of a sum of Rs. 2,82,33,988.79 together with interest at the rate of 18% per annum till date of realisation. In support of his argument, he relied upon the Judgment in the case of *"(i) Sanjay Gupta and Ors Vs*

State of Uttar Pradesh and Ors and (ii) Shyam Sunder & Ors. v. State of Rajasthan.

12.The learned counsel for the defendants 1 to 3 submits that 1st defendant is a custom public bonded warehouse licensed under Sec.57 of Customs Act in Licence No.C-047 dt.10.3.2008 by the Customs Authorities. On 9.10.2008, there was a major fire accident in the 1st defendant warehouse spread over from the adjacent godown and the goods stored in the warehouse got damaged. There were no warehousing operations on 8 and 9.10.2008 in the 1st defendant's warehouse due to Puja Holidays whereas the adjacent warehouse employees were working. The proximate cause of fire or the instigation of fire was not by or from the part of the 1st defendants warehouse.

13.It has been further submitted that the plaintiff failed to produce any primary evidence to establish their case and totally relied on secondary evidence of photostate copies of documents. In the absence of any explanation for non-production of the best piece of evidence, the secondary evidence produced by the plaintiff is liable to be rejected. Once the importers intend to pay the customs duty and take the goods for home consumption they will be raising a bill of entry for home consumption and such goods are not permitted to be stored in the custom bonded warehouse. If the goods are intended to be stored in the warehouse then the importers will be raising a bill of entry for warehousing.

14.The learned counsel for the defendants 1 to 3 further submits that the 1st defendant was acting only as an agent of the 6th defendant customs authority and the custody and control over the exit and entry of goods are controlled by a proper officer appointed by the customs authorities. The only duty of the 1st defendant is to keep the goods in the warehouse as per the directions of the customs authorities till the importers pay the customs duty and the custom authorities permit them for expanding operations. Therefore the 6th defendant, the customs authorities remains to be the custodian of the goods and the 1st defendant being a licensee under the customs authorities, its liability comes only if they have violated any of the conditions of licence issued by the customs authorities.

15. It has been further submitted that the 1st defendant had been scrupulously following all norms of licence and they have been storing only imported dutiable goods approved by the customs authorities. The defendants 1 to 3 are not responsible for the fire accident no negligence is attributable against them and hence they cannot be held responsible for the damages. It is also not the case of the plaintiff that due to the instigation of the defendants the fire accident occurred. In fact there is no pleading at all for fixing the proximate cause of fire.

16. The learned counsel for the defendants 1 to 3 further submits that the insurance company which unilaterally introduced a hidden clause without the consent of defendants 1 to 3 and the same was against the proposal of 1st defendant which the defendant marked as Exhibit D1. In fact none of the importers had ever declared in the space availability certificate that the goods stored are of hazardous nature. In support of his arguments, he relied upon the Judgments reported in (i) 2010 SCC online Mad 6539 , (ii) (2005) 5 SCC Page 30, (iii) CRP (MD)No.2331 of 2022 order dated 07.03.2023, (iv)(2011) (11) SCC Page 524. Therefore, the suit filed by the plaintiff is unsustainable and liable to be dismissed.

17. On perusal of the records, it is seen from Ex.P2 and Ex.P3 that the plaintiff has imported Axle Beams for the value of Rs.71,29,325.00 and Power Steering for the value of Rs.1,08,57,964.00 from China. Aiki being the importing and clearing agent for the Plaintiff has imported the goods after paying the custom duty, by adhering the procedure of Customs and stored in the bonded warehouse of the 1st defendant authroized by the Customs House. vide Ex.D1 and it is alleged that a sum of Rs.79,663/- has been paid to the 1st defendant for the storage of the two goods in the said warehouse. It is seen from Ex.P4 -declaration stock from the 1st defendant to plaintiff that the said goods have been declared by the 1st defendant. Ex.D2 and Ex.D3 reveal that the 1st defendant had taken out insurance policies with Cholamandalam MS General Insurance Company Limited and insured the Said Goods and other goods stored at the said warehouse against fire and burglary risks with the Insurance Company. During the storage period in the bonded warehouse, it is admitted that the said goods were entirely destroyed in the fire accident occurred on 09.10.2008 for which the 1st defendant has lodged complaint in the Police station. vide Ex.P5. FIR No.760/2008 dated 09.10.2008 along with newspaper report.

18. On perusal of the order dated 09.01.2019 in A. No.121 of 2019, it is seen that the Customs Authority has been impleaded as 6th defendant in the suit. Hence, the suit is not bad for non-joinder of necessary party. Accordingly, Issue No.1 is answered. The plaintiff has initiated this suit against the partners of the 1st defendant firm being arrayed as D4 and D5, as mentioned on the records. As per the proof affidavit of the 1st defendant, they are not the partners of the 1st defendant's partnership's firm as alleged in the suit and implicating them as partners are incorrect. However, the plaintiff has failed to produce any document whether D4 and D5 are partners of the 1st defendant firm. Even though it is contended by both parties that either the D4 and D5 are the partners or not, they have not produced any documents to prove the same. Further, the D4 and D5 were set ex-parte by order dated 20.07.2011. Accordingly, issue No.2 is answered.

Issue Nos.3 and 4:

19.The plaintiff and the defendants 1 to 3 have not produced any oral and documentary evidence to prove with regard to the assurance made on behalf of the 1st defendant firm that the warehouse was meant for storage of non-hazardous goods only and that the goods would be covered by the 1st defendant against various risks including fire. On perusal of Ex.D4- the Policy Copy valid from 10.03.2008 to 09.03.2009 issued by the Cholamandalam Insurance Company shows that the warehouse of the 1st defendant was only meant for storage of stocks of Non-hazardous goods kept in bonded warehouse and further, by letter dated 06.10.2008, Insurance Company has sent letter to the 1st defendant with regard to increase in sum insured for Rs.7 Crore in fire policy. (Policy No.PSP46227-000-00/ wherein they have confirmed that they are covering stocks (Non-hazardous godown) in the premises under the Fire and Burglary insurance for the enhanced total sum of Rs.One hundred eight crores only from 06.10.2008 onwards. Hence, the 1st defendant firm warehouse is meant for storage of non-hazardous goods only and the goods would be covered against the various risks including Fire accident which took place on 9.10.2008. Accordingly, Issue Nos.3 and 4 are answered.

Issue No.5:

20.The plaintiff and the defendants 1 to 3 have not produced any oral and documentary evidence to prove that the 1st defendant stored the hazard material in the said warehouse which is against the assurance given to the plaintiff and against the policy of General Insurance. On perusal of Ex.D4, It is seen that the warehouse of the 1st defendant was only meant for storage of stocks of Non-hazardous goods. In Ex.P18, the letter sent by the Insurance company to the 1st defendant has stated the reasons for rejection of the claim amount on the following grounds:

1. The policy we offered to the Insured, and which the Insured accepted and said it required, was expressed to be for the storage of non-hazardous goods.

2. It was made clear that the policy would be subject to the application of a warranty concerning the storage of hazardous goods.

3. When the policy was issued it too made express and replicit reference to the fact that the cover was only for the storage of non-hazardous goods.

4. The policy contained a clear warranty against the storage of hazardous goods.

5. There were 11 increases to the sum insured during the policy period. Each of the 11 endorsements issued made express and explicit reference to the fact that the cover was only for the storage of non-hazardous goods,

6. No objection in any form was raised by the Insured about either the scope of cover granted or the warranty *applied either prior to inception, or when the policy was issued, or when the 11 endorsements were issued.*

7. During the policy period the Insured sought a wider cover for Block C, thereby confirming that the Insured was fully aware that cover under the Block A policy was restricted by agreement.

8. The Insured repeatedly breached the warranty by frequently storing significant quantities and values of hazardous goods in Block A.

Further, on perusing Ex.D20, the suit filed by the 1st defendant against the insurance company in C.C.No.35 of 2010 before the National consumer dispute redressal commission, where the plaintiff herein also one of the respondent therein. Since the above case is pending before the competent Forum the issue of whether the first defendant firm, by storing hazardous materials also acted against the assurance given to the plaintiff and also against the policy of the general insurance in respect of the warehouse can only be decided in the aforesaid case only. Accordingly, Issue No.5 is answered.

Issue Nos.6 and 9:

21. In the written statement filed by the Defendants 1 to 3, they have admitted themselves that the fire accident took place 09.10.2008 and due to Pooja Holiday, the warehouse was not in function on that day. On perusal of Ex.D1 licence for the warehousing issued by the 6th defendant and the Written statement of the 6th defendant, it is seen that " the Licence holder shall be held strictly responsible for safety custody of the goods and for the due observation of the Law. Hence, the Custom Department is not liable to the suit claim and it is seen that the negligence is on the part of the 1st defendant, while fire accident resulting in damage of goods took place on 09.10.2008, the 1st defendant is liable to pay the loss occurred to the plaintiff due to destroy of goods imported by the plaintiff which stored in the said warehouse. Accordingly, Issue No.6 and 9 are answered.

Issue No.7,8, and 10:

On perusing of the Ex.P2 to Ex.P4 custom duty paid by the plaintiff to the 6th defendant and communication letter between the plaintiff and the 1st defendant vide Ex.P7, Ex.P12, Ex.P13, and Ex.P15 shows that the Value of axle beams is Rs.71,29,325.00 and Power Steering is Rs.1,08,57,964.00 totalling to Rs.1,79,87,289.00. On perusal of Ex.P19, the Surveyor report along with photos shows that the entire goods of the plaintiff is destroyed and non-usable. Hence, the 1st defendant being the licence holder of the warehouse and as a custodian of the said goods stored therein, has not taken proper and reasonable care of the said Goods while the imported goods have been entrusted on them. Hence, the 1st defendant is liable to compensate the loss of goods occurred due to fire accident. Even though the plaintiff has paid the custom duty for both goods, but in the plaint, it has claimed only for one goods ie. Power Stearing for an amount of Rs.31,51,611/-. The reason for unclaim of custom duty for another goods is not explained by the plaintiff and also the plaintiff has not produced any oral and documentary evidence for the payment of warehouse charges for a sum of Rs.79,663/-. On perusal of the deposition of the D.W1, on question raised by the plaintiff side regarding the claim of suit amount, he made only evasive reply and not giving proper reply.

22.In view of the above, the plaintiff is entitled to only for the value of Goods which arrives at Rs. Rs.1,79,87,289.00 along with interest of 6% p.a. from the plaint till the date of realization. The time for payment is Two months. Accordingly, Issue Nos.7, 8 and 10 are answered.

23.In fine, this Civil Suit is partly decreed to the aforesaid extent. No costs.

12.12.2024

wIndex:Yes/No
Web:Yes/No
Speaking/Non Speaking

uma/lbm

List of Witnesses examined on the side of the Plaintiff:-

PW1 Vijay

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

Ex.P1 21.03.2017 Authorisation Letter
Ex.P2 11.08.2008 Photocopy of Bill of entry
Ex.P3 28.08.2008 Photocopy of Bill of entry
Ex.P4 01.10.2008 Photocopy of declaration stock from the 1st defendant to the plaintiff.
Ex.P5 ... Photocopies of FIR No.760/2008 dated 09.10.2008 along with newspaper report.

Ex.P6 10.10.2008 Photocopy of the letter from the 1st defendant to the Insurance Company
Ex.P7 18.10.2008 Photocopy of letter from AIKI Logistics Private Limited to the 1st defendant.
Ex.P8 14.10.2008 Photocopy of letter from the Insurance Company to the 1st defendant.
Ex.P9 18.10.2008 Photocopy of letter from AIKI Logistics Private Ltd to the Commissioner of Customs

Ex.P10 25.10.2008 Photocopy of letter from the 1st defendant to AIKI Logistics Private Ltd

Ex.P11 10.11.2008 Photocopy of the first insurance claim lodged by the 1st defendant with the insurance company.

Ex.P12 05.11.2008 Office copy of letter from the plaintiff to the 1st defendant.

Ex.P13 01.01.2009 Office copy of letter from the plaintiff to the 1st defendant and the copy marked to AIKI Logistics

Ex.P14 05.01.2009 Photocopy of letter from the 1st defendant to the

AIKI Logistics Pvt. Ltd., along with typed copy of the said letter.

Ex.P15 13.01.2009 Photocopies of letter from the plaintiff to AIKI Logistics Pvt. Ltd and the copy marked to the 1st defendant and insurance company along with copy of postal acknowledgement card.

Ex.P16 29.01.2009 Photocopy of letter from AIKI Logistics Pvt. Ltd., to the plaintiff.

Ex.P17 30.03.2009 Photocopy of letter AIKI Logistics Pvt. Ltd., to the plaintiff along with typed copy of the said letter.

Ex.P18 31.03.2009 Photocopy of letter from the insurance company to SPT-Insurance Park Services Pvt.Ltd., and the copy marked to the 1st defendant.

Ex.P19 28.04.2009 Original inspection-survey-valuation report furnished by the surveyor.

Ex.P20 20.04.2010 Photocopy of complaint filed by the 1st defendant before the National Consumer Disputes Redressal Commission.

3. List of Witnesses examined on the side of the Defendants:-

DW1 Arjun Raj

4. List of Exhibits marked on the side of the Defendants:-

Ex.D1 10.03.2008 License issued by the Assistant Commissioner of Customs (Bonds) in favour of the 1st defendant firm

Ex.D2	27.02.2008	Online printout of proposal for insurance policy sent through E-mail letter on behalf of 1st defendant to the Cholamandalam MS Insurance company.
Ex.D3	11.03.2008	Certified copy of Burglary and House breaking Insurance policy taken for 1st defendant.
Ex.D4	11.03.2008	Photocopy of Schedule-Fire and Special Perils taken for the 1st defendant.

12.12.2024

A.A.NAKKIRAN, J.

uma/lbm

Pre-Delivery Judgement in
C.S.No.845 of 2010

12.12.2024