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C.S. (Comm. Div.) No.63 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

C.S. (Comm. Div.) No.63 of 2021

K.Krishnan

Prop. M/s.G.K.Health Care,

No.22/1, Pallilarasan Street,

Anna Nagar East

Chennai - 600 102

... Plaintiff

Vs.

Mrs.Preeti Parvesh Jain

Prop. M/s.Jains Light Shoppe

New No.510, Old NO.570, Anna Salai

Teynampet

Chennai - 600 018

... Defendant

Prayer: Complaint is filed under Order IV Rule 1 of Original Side Rules and Order VII Rule 1 of C.P.C. praying to pass a judgment and decree against the defendant on the following terms:-

- a. for a sum of Rs.1,03,61,607.16/- (Rupees One Crore Three Lakhs Sixty One Thousand Six Hundred



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Seven and paise Sixteen Only) together with interest at the rate of 24% per annum on Rs.60,14,864.84/- from the date of plaint till date of realization.

b. for cost of the suit.

For Plaintiff : Mr.K.Mohan
Defendant : Set Ex-parte on 01.11.2022

JUDGMENT

This suit is filed by the plaintiff for recovery of money of Rs.1,03,61,607.16/- (Rupees One Crore Three Lakhs Sixty One Thousand Six Hundred Seven and paise Sixteen Only) together with interest at the rate of 24% per annum on Rs.60,14,864.84/- from the date of plaint till date of realization and for costs of the suit.

2. The brief averments of the plaint is that the plaintiff's concern is involved in the business of home care, beautician items and domestic appliances and supplying to various parties on the basis of their requirements. In the course of the business transactions, the plaintiff had



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dealings with the defendant and supplied the goods to the defendant as per the requests on credit basis on running account on various dates and the payments shall be made within 15 to 20 days from the date of invoice/delivery of goods. As the transactions between the plaintiff and the defendant were continuous transaction, the plaintiff had been maintaining a mutual running account in the name of the defendant. It is further averred that the defendant had made several part payments towards his liability to the plaintiff in respect of the dealings with them and after giving credits to the various part payments made by the defendant to the plaintiff, the defendant is still due and liable to pay a sum of Rs.12,47,10,928.88/- for the supplies made under various invoices. The invoice dated 01.08.20217 (No.PC/0047) for Rs.10,54,959/- raised as against M/s.Getz Enterprises owned by their relatives of the defendant and the goods were delivered to the defendant as per their instructions. Thereafter, the defendant instructed the plaintiff to raise the said invoice as against them vide invoice dated



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08.09.2017, under the same invoice No.PC/0064 and goods were taken by the defendant and the invoice amount reflected in the statement of account furnished by the defendant by their mail dated 04.09.2017.

3. Further, the defendant purchased some products under free of cost basis for their emergency/audit purpose worth about Rs.45,47,785.81/- under seven invoices dated 30.09.2016, No.PH/0579 for Rs.38,75,564/- and Rs.1,09,650.66, dated 31.12.2016, No.PA/0280 for Rs.3,59,852.00 and Rs.3,70,283.84, dated 31.12.2016, No.PA/0277 for Rs.3,93,758/- and Rs.3,41,250/-, dated 31.12.2016, PH/0874 for Rs.12,43,788/- and for Rs.20,59,734.50, dated 25.01.2017, PH/0942 for Rs.30,23,996/- and Rs.8,12,475.98, dated 25.01.2017, PH/0940 for Rs.24,39,608/- and Rs.3,17,810.04 and dated 27.01.2017, PH/0944 for Rs.14,51,014/- and Rs.5,36,580.79/- in the normal course of business and the defendant is liable to pay the above said amount of Rs.45,47,785.81 for supplies made under the said invoices. The value of some goods were mentioned as piece



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rate basis and the defendant agreed to pay the said amount after the sales.

But, inspite of their repeated reminders and requests for the repayment of the dues, the defendant neither paid the cost nor returned the goods till date.

4. The defendant had business transaction amounting to a sum of Rs.12,97,18,135.61/- with the plaintiff and the defendant made payments on various dates to a tune of Rs.12,37,03,270.77/- including a sum of Rs.11,95,878.77 paid to M/s.Arasan Tastes as per plaintiff instructions as on 14.12.2018 after adjusting the amount of Rs.14,02,03,270.77/- made by the defendant, a sum of Rs.60,14,864.84/- is outstanding in their account.

5. As per the invoices, the defendant should pay the entire amount within 15 to 20 days from the date of invoice/delivery and thereafter, the defendant should pay interest at the rate of 24% per annum on the invoice/outstanding amount. Since the said transactions are commercial in nature, the plaintiff is entitled to charge interest at the rate of 24% per



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annum. Accordingly, the defendant is liable to pay a sum of Rs.60,14,864.84 for cost of supply of goods and Rs.43,46,742.32/- towards interest at the rate of 24% per annum from 18.07.2018 to 22.07.2021, totaling Rs.1,03,61,607.16/- as shown in the statement of account filed along with the plaint.

6. After supply of goods, the plaintiff constantly demanded the defendant for payment, but the defendant postponed the payments. Hence, the plaintiff issued demand notice to the defendant calling upon them to pay the outstanding amount on 31.05.2021 and the same was acknowledgement by the defendant, however, the defendant neither made payment nor sent reply. Hence, the present suit is filed for recovery of money.

7. Since the defendant had not filed the written statement within the prescribed time, the sole defendant was set ex-parte by this Court on 01.11.2022.



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8. In order to substantiate his claim, the plaintiff filed his proof affidavit for chief examination reiterating the averments made in the plaint and he was examined as P.W.1 and also marked 165 documents as Exs.P.1 to P.165 in which, Exs.P1 to P162 are original invoices, Ex.P163 is the pre suit notice sent to the defendant by the plaintiff dated 17.05.2021 and the original acknowledgement card is marked as Ex.P164. The original statement of account of the plaintiff has been marked as Ex.P165.

9. It is seen that despite the receipt of the pre-suit notice, the defendant has not sent any reply for the same and therefore, the plaintiff has filed the present suit for recovery of money.

10. Though the matter is listed today for arguments, when the matter is taken up for hearing, the learned counsel for the defendant submits that they had filed an application for setting aside the ex-parte order and since the same was dismissed by this Court, they have preferred an appeal which is pending before the Division Bench of this Court and that he seeks



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further time for oral arguments. However, since there is no order of stay by the Division Bench, there is no legal impediment to pass judgment in the present suit.

11. The matter has been pending from the year 2021. Though the defendant did not file the written statement and remained ex-parte, this Court granted liberty to the defendant to submit oral arguments. Despite being given sufficient opportunity, the defendant is not ready to present arguments.

12. No doubt that the plaintiff cannot take advantage of the loophole left by the defendant or the ex-parte status of the defendant and the plaintiff has to prove his case in the manner known to law. In this case, the defendant remained ex-parte and there are no pleadings/evidence on the side of the defendant and that the defendant has also not cross examined P.W.1. The averments made in the plaint, the proof affidavit of P.W.1 and the oral and documentary evidence of the plaintiff are unchallenged.



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13. The original invoices produced by the plaintiff show that the defendant owes money to the plaintiff towards supply of goods and the statement of accounts of the plaintiff, marked as Ex.P165 shows that the defendant is liable to pay a sum of Rs.1,03,61,607.16/- to the plaintiff.

14. Therefore, on a perusal of the plaint averments, proof affidavit of the plaintiff and the oral and documentary evidence produced on the side of the plaintiff, this Court finds that the plaintiff has proved his claim.

15. Therefore, the suit is decreed as prayed for with costs.

16. The defendant is directed to pay to the plaintiff the suit amount within a period of three months from the date of receipt of a copy of this Judgment and decree.

02.07.2024

(1/2)

Witness examined on the side of the plaintiff:

K.Krishnan-P.W.1



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List of exhibits on the side of the plaintiff:

S.No.	Exhibits	Description of documents
1	Ex.P.1	The original invoice dated 10.09.2016 bearing invoice No.PH/0506.
2	Ex.P.2	The original invoice dated 10.09.2016 bearing invoice No.PE/0039.
3	Ex.P.3	The original invoice dated 10.09.2016 bearing invoice No.PD/00506.
4	Ex.P.4	The original invoice dated 20.09.2016 bearing invoice No.PH/0536.
5	Ex.P.5	The original invoice dated 20.09.2016 bearing invoice No.PE/0041.
6	Ex.P.6	The original invoice dated 22.09.2016 bearing invoice No.PH/0543.
7	Ex.P.7	The original invoice dated 27.09.2016 bearing invoice No.PA/00152.
8	Ex.P.8	The original invoice dated 27.09.2016 bearing invoice No.PA/00153.
9	Ex.P.9	The original invoice dated 30.09.2016 bearing invoice No.PH/0579.
10	Ex.P.10	The original invoice dated 30.09.2016 bearing invoice No.PA/00159.
11	Ex.P.11	The original invoice dated 06.10.2016 bearing invoice No.PH/0594.
12	Ex.P.12	The original invoice dated 19.10.2016 bearing invoice No.PA/00186.



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S.No.	Exhibits	Description of documents
13	Ex.P.13	The original invoice dated 19.10.2016 bearing invoice No.PH/0619.
14	Ex.P.14	The original invoice dated 24.10.2016 bearing invoice No.PE/0051.
15	Ex.P.15	The original invoice dated 24.10.2016 bearing invoice No.PD/00639.
16	Ex.P.16	The original invoice dated 25.10.2016 bearing invoice No.PE/0052.
17	Ex.P.17	The original invoice dated 31.10.2016 bearing invoice No.PA/00216.
18	Ex.P.18	The original invoice dated 31.10.2016 bearing invoice No.PA/00217.
19	Ex.P.19	The original invoice dated 31.10.2016 bearing invoice No.PH/0650.
20	Ex.P.20	The original invoice dated 31.10.2016 bearing invoice No.PE/0054.
21	Ex.P.21	The original invoice dated 02.12.2016 bearing invoice No.PH/0807.
22	Ex.P.22	The original invoice dated 02.12.2016 bearing invoice No.PH/0808.
23	Ex.P.23	The original invoice dated 03.12.2016 bearing invoice No.PD/00825.
24	Ex.P.24	The original invoice dated 03.12.2016 bearing invoice No.PD/00827.
25	Ex.P.25	The original invoice dated 03.12.2016 bearing invoice No.PD/00828.



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S.No.	Exhibits	Description of documents
26	Ex.P.26	The original invoice dated 03.12.2016 bearing invoice No.PH/0810.
27	Ex.P.27	The original invoice dated 03.12.2016 bearing invoice No.PH/0813.
28	Ex.P.28	The original invoice dated 05.12.2016 bearing invoice No.PA/00254.
29	Ex.P.29	The original invoice dated 05.12.2016 bearing invoice No.PA/00255.
30	Ex.P.30	The original invoice dated 07.12.2016 bearing invoice No.PA/00256.
31	Ex.P.31	The original invoice dated 07.12.2016 bearing invoice No.PA/00257.
32	Ex.P.32	The original invoice dated 07.12.2016 bearing invoice No.PH/0816.
33	Ex.P.33	The original invoice dated 09.12.2016 bearing invoice No.PA/00261.
34	Ex.P.34	The original invoice dated 09.12.2016 bearing invoice No.PH/0820.
35	Ex.P.35	The original invoice dated 27.12.2016 bearing invoice No.PD/00872.
36	Ex.P.36	The original invoice dated 27.12.2016 bearing invoice No.PD/00873.
37	Ex.P.37	The original invoice dated 27.12.2016 bearing invoice No.PD/00874.
38	Ex.P.38	The original invoice dated 27.12.2016 bearing invoice No.PH/0843.



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S.No.	Exhibits	Description of documents
39	Ex.P.39	The original invoice dated 27.12.2016 bearing invoice No.PH/0844.
40	Ex.P.40	The original invoice dated 27.12.2016 bearing invoice No.PH/0845.
41	Ex.P.41	The original invoice dated 28.12.2016 bearing invoice No.PD/00875.
42	Ex.P.42	The original invoice dated 28.12.2016 bearing invoice No.PH/0847.
43	Ex.P.43	The original invoice dated 28.12.2016 bearing invoice No.PH/0848.
44	Ex.P.44	The original invoice dated 31.12.2016 bearing invoice No.PD/00890.
45	Ex.P.45	The original invoice dated 31.12.2016 bearing invoice No.PD/00892.
46	Ex.P.46	The original invoice dated 31.12.2016 bearing invoice No.PD/00894.
47	Ex.P.47	The original invoice dated 31.12.2016 bearing invoice No.PD/00895.
48	Ex.P.48	The original invoice dated 31.12.2016 bearing invoice No.PH/0868.
49	Ex.P.49	The original invoice dated 31.12.2016 bearing invoice No.PH/0870.
50	Ex.P.50	The original invoice dated 31.12.2016 bearing invoice No.PH/0872.
51	Ex.P.51	The original invoice dated 31.12.2016 bearing invoice No.PA/00276.



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S.No.	Exhibits	Description of documents
52	Ex.P.52	The original invoice dated 31.12.2016 bearing invoice No.PA/00277.
53	Ex.P.53	The original invoice dated 31.12.2016 bearing invoice No.PA/00278.
54	Ex.P.54	The original invoice dated 31.12.2016 bearing invoice No.PA/00279.
55	Ex.P.55	The original invoice dated 31.12.2016 bearing invoice No.PA/00280.
56	Ex.P.56	The original invoice dated 31.12.2016 bearing invoice No.PA/00281.
57	Ex.P.57	The original invoice dated 31.12.2016 bearing invoice No.PA/00282.
58	Ex.P.58	The original invoice dated 31.12.2016 bearing invoice No.PH/0874.
59	Ex.P.59	The original invoice dated 17.01.2017 bearing invoice No.PH/0924.
60	Ex.P.60	The original invoice dated 17.01.2017 bearing invoice No.PH/0926.
61	Ex.P.61	The original invoice dated 18.01.2017 bearing invoice No.PH/0929.
62	Ex.P.62	The original invoice dated 25.01.2017 bearing invoice No.PH/0940.
63	Ex.P.63	The original invoice dated 25.01.2017 bearing invoice No.PH/0942.
64	Ex.P.64	The original invoice dated 27.01.2017 bearing invoice No.PH/0944.



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S.No.	Exhibits	Description of documents
65	Ex.P.65	The original invoice dated 18.02.2017 bearing invoice No.PD/001026.
66	Ex.P.66	The original invoice dated 18.02.2017 bearing invoice No.PD/001027.
67	Ex.P.67	The original invoice dated 21.02.2017 bearing invoice No.PH/0996.
68	Ex.P.68	The original invoice dated 21.02.2017 bearing invoice No.PH/0997.
69	Ex.P.69	The original invoice dated 21.02.2017 bearing invoice No.PH/0998.
70	Ex.P.70	The original invoice dated 21.02.2017 bearing invoice No.PH/0999.
71	Ex.P.71	The original invoice dated 21.02.2017 bearing invoice No.PC/003.
72	Ex.P.72	The original invoice dated 02.03.2017 bearing invoice No.PD/001060.
73	Ex.P.73	The original invoice dated 02.03.2017 bearing invoice No.PH/01028.
74	Ex.P.74	The original invoice dated 27.04.2017 bearing invoice No.PA/0028.
75	Ex.P.75	The original invoice dated 27.04.2017 bearing invoice No.PH/0058.
76	Ex.P.76	The original invoice dated 27.04.2017 bearing invoice No.PH/0060.
77	Ex.P.77	The original invoice dated 27.04.2017 bearing invoice No.PH/0061.



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S.No.	Exhibits	Description of documents
78	Ex.P.78	The original invoice dated 28.04.2017 bearing invoice No.PA/0029.
79	Ex.P.79	The original invoice dated 28.04.2017 bearing invoice No.PA/0030.
80	Ex.P.80	The original invoice dated 29.04.2017 bearing invoice No.PA/0031.
81	Ex.P.81	The original invoice dated 29.04.2017 bearing invoice No.PA/0032.
82	Ex.P.82	The original invoice dated 10.05.2017 bearing invoice No.PA/0040.
83	Ex.P.83	The original invoice dated 11.05.2017 bearing invoice No.PH/0095.
84	Ex.P.84	The original invoice dated 11.05.2017 bearing invoice No.PA/0041.
85	Ex.P.85	The original invoice dated 11.05.2017 bearing invoice No.PA/0042.
86	Ex.P.86	The original invoice dated 11.05.2017 bearing invoice No.PA/0043.
87	Ex.P.87	The original invoice dated 11.05.2017 bearing invoice No.PA/0044.
88	Ex.P.88	The original invoice dated 26.05.2017 bearing invoice No.PC/0026.
89	Ex.P.89	The original invoice dated 26.05.2017 bearing invoice No.PH/00126.
90	Ex.P.90	The original invoice dated 26.05.2017 bearing invoice No.PA/0062.



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S.No.	Exhibits	Description of documents
91	Ex.P.91	The original invoice dated 31.05.2017 bearing invoice No.PH/00134.
92	Ex.P.92	The original invoice dated 26.07.2017 bearing invoice No.PD/00239.
93	Ex.P.93	The original invoice dated 26.07.2017 bearing invoice No.PC/0045.
94	Ex.P.94	The original invoice dated 26.07.2017 bearing invoice No.PH/00197.
95	Ex.P.95	The original invoice dated 26.07.2017 bearing invoice No.PA/0091.
96	Ex.P.96	The original invoice dated 01.08.2017 bearing invoice No.PC/0047.
97	Ex.P.97	The original invoice dated 17.08.2017 bearing invoice No.PD/00286.
98	Ex.P.98	The original invoice dated 17.08.2017 bearing invoice No.PD/00287.
99	Ex.P.99	The original invoice dated 17.08.2017 bearing invoice No.PH/00219.
100	Ex.P.100	The original invoice dated 17.08.2017 bearing invoice No.PH/00223.
101	Ex.P.101	The original invoice dated 22.08.2017 bearing invoice No.PH/00230.
102	Ex.P.102	The original invoice dated 23.08.2017 bearing invoice No.PH/00233.
103	Ex.P.103	The original invoice dated 31.08.2017 bearing invoice No.PA/00105.



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S.No.	Exhibits	Description of documents
104	Ex.P.104	The original invoice dated 31.08.2017 bearing invoice No.PH/00248.
105	Ex.P.105	The original invoice dated 31.08.2017 bearing invoice No.PD/00311.
106	Ex.P.106	The original invoice dated 31.08.2017 bearing invoice No.PD/00312.
107	Ex.P.107	The original invoice dated 31.08.2017 bearing invoice No.PD/00313.
108	Ex.P.108	The original invoice dated 31.08.2017 bearing invoice No.PD/00314.
109	Ex.P.109	The original invoice dated 01.09.2017 bearing invoice No.PH/00252.
110	Ex.P.110	The original invoice dated 08.09.2017 bearing invoice No.PC/0064.
111	Ex.P.111	The original invoice dated 09.09.2017 bearing invoice No.PH/00270.
112	Ex.P.112	The original invoice dated 09.09.2017 bearing invoice No.PH/00271.
113	Ex.P.113	The original invoice dated 09.09.2017 bearing invoice No.PH/00341.
114	Ex.P.114	The original invoice dated 11.09.2017 bearing invoice No.PH/00278.
115	Ex.P.115	The original invoice dated 11.09.2017 bearing invoice No.PA/00111.
116	Ex.P.116	The original invoice dated 19.09.2017 bearing invoice No.PH/00296.



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S.No.	Exhibits	Description of documents
117	Ex.P.117	The original invoice dated 19.09.2017 bearing invoice No.PD/00370.
118	Ex.P.118	The original invoice dated 02.10.2017 bearing invoice No.PD/00403.
119	Ex.P.119	The original invoice dated 02.10.2017 bearing invoice No.PH/00325.
120	Ex.P.120	The original invoice dated 03.10.2017 bearing invoice No.PD/00405.
121	Ex.P.121	The original invoice dated 03.10.2017 bearing invoice No.PD/00406.
122	Ex.P.122	The original invoice dated 03.10.2017 bearing invoice No.PD/00407.
123	Ex.P.123	The original invoice dated 03.10.2017 bearing invoice No.PD/00408.
124	Ex.P.124	The original invoice dated 03.10.2017 bearing invoice No.PD/00409.
125	Ex.P.125	The original invoice dated 03.10.2017 bearing invoice No.PH/00326.
126	Ex.P.126	The original invoice dated 06.10.2017 bearing invoice No.PD/00423.
127	Ex.P.127	The original invoice dated 06.10.2017 bearing invoice No.PD/00424.
128	Ex.P.128	The original invoice dated 14.10.2017 bearing invoice No.PD/00452.
129	Ex.P.129	The original invoice dated 16.10.2017 bearing invoice No.PH/00355.



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S.No.	Exhibits	Description of documents
130	Ex.P.130	The original invoice dated 16.10.2017 bearing invoice No.PH/00356.
131	Ex.P.131	The original invoice dated 16.10.2017 bearing invoice No.PA/00125.
132	Ex.P.132	The original invoice dated 28.10.2017 bearing invoice No.PD/00483.
133	Ex.P.133	The original invoice dated 31.10.2017 bearing invoice No.PD/00490.
134	Ex.P.134	The original invoice dated 31.10.2017 bearing invoice No.PD/00491.
135	Ex.P.135	The original invoice dated 31.10.2017 bearing invoice No.PD/00492.
136	Ex.P.136	The original invoice dated 31.10.2017 bearing invoice No.PD/00493.
137	Ex.P.137	The original invoice dated 31.10.2017 bearing invoice No.PH/00374.
138	Ex.P.138	The original invoice dated 31.10.2017 bearing invoice No.PH/00376.
139	Ex.P.139	The original invoice dated 31.10.2017 bearing invoice No.PH/00379.
140	Ex.P.140	The original invoice dated 02.11.2017 bearing invoice No.PD/00496.
141	Ex.P.141	The original invoice dated 03.11.2017 bearing invoice No.PD/00498.
142	Ex.P.142	The original invoice dated 03.11.2017 bearing invoice No.PD/00501.



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S.No.	Exhibits	Description of documents
143	Ex.P.143	The original invoice dated 03.11.2017 bearing invoice No.PH/00382.
144	Ex.P.144	The original invoice dated 03.11.2017 bearing invoice No.PH/00384.
145	Ex.P.145	The original invoice dated 13.11.2017 bearing invoice No.PD/00526.
146	Ex.P.146	The original invoice dated 13.11.2017 bearing invoice No.PH/00402.
147	Ex.P.147	The original invoice dated 20.11.2017 bearing invoice No.PH/00416.
148	Ex.P.148	The original invoice dated 02.01.2018 bearing invoice No.PA/00151.
149	Ex.P.149	The original invoice dated 06.01.2018 bearing invoice No.PC/00135.
150	Ex.P.150	The original invoice dated 05.01.2018 bearing invoice No.PH/00476.
151	Ex.P.151	The original invoice dated 12.01.2018 bearing invoice No.PH/00480.
152	Ex.P.152	The original invoice dated 17.01.2018 bearing invoice No.PH/00483.
153	Ex.P.153	The original invoice dated 19.01.2018 bearing invoice No.PH/00486.
154	Ex.P.154	The original invoice dated 05.02.2018 bearing invoice No.PD/00744.
155	Ex.P.155	The original invoice dated 05.02.2018 bearing invoice No.PD/00745.



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S.No.	Exhibits	Description of documents
156	Ex.P.156	The original invoice dated 05.02.2018 bearing invoice No.PC/00149.
157	Ex.P.157	The original invoice dated 06.02.2018 bearing invoice No.PD/00748.
158	Ex.P.158	The original invoice dated 07.02.2018 bearing invoice No.PD/00752.
159	Ex.P.159	The original invoice dated 13.02.2018 bearing invoice No.PH/00516.
160	Ex.P.160	The original invoice dated 19.03.2018 bearing invoice No.PC/00169.
161	Ex.P.161	The original invoice dated 12.05.2018 bearing invoice No.PH/0029.
162	Ex.P.162	The original invoice dated 18.06.2018 bearing invoice No.PH/0081.
163	Ex.P.163	The original demand notice dated 17.05.2021
164	Ex.P.164	The original acknowledgement card
165	Ex.P.165	The original statement of account of G.K.Health Care

List of witnesses examined on the side of the defendants - **Nil**

List of exhibits marked on the side of the defendants - **Nil**

02.07.2024

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Index : Yes / No

Speaking Order : Yes / No

Neutral Case Citation : Yes/No

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