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Civil Suit (Comm.Div.) No.206 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.07.2024

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THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

Civil Suit (Comm.Div.) No. 206 of 2022

ITC Limited
Education and Stationery Products Businessman
ITC Centre, 5th Floor
No.760, Anna Salai
Chennai - 600 002
Rep.by its Management Accountant
Power of Attorney Holder
Mr.Hardik Patel

... Plaintiff

Vs.

1. M/s.Shraddha Agencies Private Limited
No.22, Moulana Abul Kalam Azad Road
Opp.Howrah Ac Market
Howrah - 711 101, West Bengal.
2. Rajeev Arora
Director,
M/s.Shraddha Agencies Private Limited
No.22, Moulana Abul Kalam Azad Road
Opp.Howrah Ac Market
Howrah - 711 101, West Bengal.
3. Rahika Arora
Director
M/s.Shraddha Agencies Private Limited



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No.22, Moulana Abul Kalam Azad Road
Opp.Howrah Ac Market
Howrah - 711 101, West Bengal.

4. Ankit Arora
Director
M/s.Shraddha Agencies Private Limited
No.22, Moulana Abul Kalam Azad Road
Opp.Howrah Ac Market
Howrah - 711 101, West Bengal. ... Defendants

Civil Suit has been filed under Order IV, Rule 1 of High Court Original Side Rules read with Order VII Rule I of the Code of Civil Procedure, prays for a judgment and decree jointly and severally against the defendants :

a) For a sum of Rs.1,19,17,739/- (Rupees One Crore Nineteen Lakhs Seventeen Thousand Seven Hundred and Thirty Nine only) together with interest at the rate of 24% on Rs.81,48,355/- (Rupees Eighty One Lakhs Forty Eight Thousand Three Hundred and Fifty Five only) from the date of plaint till the date of realization.

b) for the costs of the suit.

For Plaintiff : Mr.K.Krishnamoorthy

For Defendants : Set *ex-parte* on 22.11.2023

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This Civil Suit has been filed seeking for recovery of a sum of Rs.1,19,17,739/- (Rupees One Crore Nineteen Lakhs Seventeen Thousand Seven Hundred and Thirty Nine only) together with interest at the rate of 24% on Rs.81,48,355/- (Rupees Eighty One Lakhs Forty Eight Thousand Three Hundred and Fifty Five only) from the date of plaint till the date of realization and also seeking for suit costs.

2. It is the case of the plaintiff/Company that they have *inter alia* engaged in the business of marketing, sale of education and stationery products like notebooks, writing instruments etc. [hereinafter referred to as 'Goods' for brevity]. While so, the defendants approached the plaintiff for purchase of Goods. As far as the education and stationery products are concerned, orders by the customers for supply are to be placed at the plaintiff's principal office at Chennai. The defendants have also placed the orders at Chennai office. As such, the plaintiff sold and delivered the Goods to the defendants, on various dates. It is further stated that the plaintiff/Company have supplied the Goods to the defendants under



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various invoices, which clearly stipulate that any dispute between the plaintiff and the customers shall be subject to the jurisdiction of Courts in Chennai. The document, which contains the terms and conditions of sale is acknowledged and signed by the defendants. The plaintiff states that the payments for the Goods purchased by the defendants were made at irregular intervals by way of RTGS/NEFT to the plaintiff's Bank account, which was also intimated by the plaintiff's Bank at Chennai. As a consequence of payments made at irregular intervals the amount payable by the defendants against purchase of the Goods kept on accumulating.

2.1. It is further stated that during the discussions that had with the plaintiff, the defendants authorised certain transporters to call at the plaintiff's godown and collect the Goods ordered on their behalf. Accordingly, the plaintiff sold and delivered the Goods to the defendants. The defendants also entered into a condition of sale with the plaintiff, wherein the defendants specifically agreed to the condition to approach the jurisdictional Courts in Chennai, if any dispute arose. The defendants were not regular in making the payments for the Goods supplied and the amount payable by the defendants kept on accumulating. The account



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maintained with the plaintiff is a running account. Further, the defendants produced a certificate dated 09.08.2016 stating that they have been maintaining an account with the State Bank of India, Kolkata Branch. Therefore, based on the representations made by the defendants, the plaintiff supplied Goods to the defendants on various dates.

2.2. It is further stated that the defendants have duly acknowledged and confirmed that subsequent to reconciliation of the statement of accounts between the parties that a sum of Rs.1,13,93,766/- (Rupees One Crore Thirteen Lakhs Ninety Three Thousand Seven Hundred and Sixty Six Only) is due and payable by them as on 31.10.2017 to the plaintiff. It is further stated that the last sale of the Goods to the defendants was made in the month of December 2017 and the outstanding dues payable by the defendants was Rs.1,08,32,603/- (Rupees One Crore Eight Lakhs Thirty Two Thousand Six Hundred and Three only). Subsequently, after



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repeated requests, the defendants made part payment of Rs.7,00,000/- (Rupees Seven Lakhs Only) on 30.12.2017 and also returned the unsold Goods worth about Rs.12,21,863/- (Rupees Twelve Lakhs Twenty One Thousand Eight Hundred and Sixty Three Only). It is further stated that a sum of Rs.30,06,998/- (Rupees Thirty Lakhs Six Thousand Nine Hundred and Ninety Eight only) which was payable by the defendants towards miscellaneous expenses incurred in the course of trade was added towards the outstanding dues and interest amount payable by the defendants. Though the defendants promised and undertook to make the payments, they failed to make the payments and started avoiding to make the payment. The plaintiff further states that after adjusting the part payment made by the defendants by way of RTGS/NEFT in plaintiff's account, it was found that a sum of Rs.81,48,355/- (Rupees Eighty One Lakhs Forty Eight Thousand Three Hundred and Fifty Five Only) was due and payable by the defendants. The defendants also owes the plaintiff a sum of Rs.37,69,384/- (Rupees Thirty Seven Lakhs Sixty Nine Thousand Three Hundred and Eighty Four Only) towards interest at 24%



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p.a. Therefore, a sum of Rs.1,19,17,739/- (Rupees One Crore Nineteen Lakhs Seventeen Thousand Seven Hundred and Thirty Nine only) is now due and payable by the defendants to the plaintiff.

2.3. Since the defendants failed and neglected to pay the amount due and payable by them, the plaintiff issued a legal notice dated 14.05.2019 to the defendants calling upon them to pay a sum of Rs.96,89,571/- (Rupees Ninety Six Lakhs Eighty Nine Thousand Five Hundred and Seventy One only) with interest to the plaintiff. However, the defendants neither respond to the notice nor paid the outstanding due. Hence, the present suit has been filed.

3. Despite effecting paper publication, the defendants have failed to enter appearance in the suit and hence, the defendants were set *ex-parte* by this Court on 22.11.2023.

4. On the side of the plaintiff, the Authorized Signatory of the plaintiff/Company, Mr.Dileep Patnana was examined as P.W.1, who has



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reiterated the averments made in the plaint and also marked 10 documents as Exs.P1 to P10.

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

6. On a perusal of the plaint averments, Proof Affidavit of the plaintiff and documents marked on behalf of them, this Court finds that the suit claim is proved by the plaintiff, and hence, the plaintiff is entitled to the decree as sought for in the plaint. Accordingly, the suit is decreed as prayed for, with costs. Consequently, connected pending applications, if any, are closed.

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Index: Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

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List of Witness examined on the side of the plaintiff

Dileep Patnana - PW1

List of documents marked on the side of the plaintiff

SL. No	Exhibits	DESCRIPTION OF DOCUMENTS	DATED
1.	P1	Photocopy of the Power of Attorney issued by the plaintiff's Company to P.W.1	12.03.2022
2.	P2	Original letter from the defendant authorizing transporters to collect the goods	01.08.2016
3.	P3	Original conditions of sale	
4.	P4	Original certificate from State Bank of India, Kolkata	09.08.2016
5.	P5	Original confirmation of Balance Statement as on 31.10.2017	28.11.2017
6.	P6	Original Invoice for supply from plaintiff to defendant	13.12.2017
7.	P7	Office copy of the legal notice from plaintiff's counsel	14.05.2019
8.	P8	Original Bank statement from plaintiff's Banker	19.12.2020
9.	P9	Original statement of accounts from plaintiff's company	
10.	P10	Original certificate of incorporation	

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