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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 368/2021**

M/S TRIVENI IMPEX PVT. LTD Plaintiff

Through: Mr. Neeraj Gupta, Adv.

versus

M/S THANDI RAM JAI NARAIN & ANR.

..... Defendant

Through:

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **02.02.2024**

1. This is a Commercial Suit under Section 2(1)(C) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance Act, 2015 seeking recovery of Rs 3,56,52,099/- along with pendente lite and future interest.
2. The plaintiff is a Private Limited Company and registered under the Provisions of Companies Act, 2013 having its registered office at Netaji Subhash Chandra Place, New Delhi.
3. The plaintiff company is engaged in the business of manufacturing and supplying of spices, dry fruits, gambier seeds, betel nuts, pan parag pan masala, rice bran oil, pet bottle preforms, and cattle feed.
4. It is stated that the plaintiff has great good will and reputation in the market. The present suit has been filed by the Authorised Representative/CEO Sh. Amit Kumar Pansari, who is duly competent and authorized in this regard by the Board Resolution dated 09.02.2021.
5. The plaintiff invoked pre litigation mediation which was closed as non starter.
6. The certificate of non starter report is exhibited as PW-1/3.



7. The defendant No.1 is the partnership firm and defendant No. 2 is the partner of defendant No.1 having their office at the address mentioned in the memo of parties.
8. The defendant No. 2 on behalf of defendant No. 1 approached the plaintiff and requested him to supply goods from time to time against consideration. The defendants had assured the plaintiff for timely payments against the goods.
9. That acting upon the request of timely payment, the plaintiff supplied goods to the defendant.
10. The goods were supplied by the plaintiff through regular invoices.
11. The right to file the written statement of the defendant was closed by the order dated 01.06.2022 of the learned Joint Registrar. The defendant filed an application seeking recall of the order dated 01.06.2022 which was also dismissed on 16.09.2022.
12. The plaintiff entered the witness box on 17.03.2023 and tendered his examination in chief.
13. He was cross examined by the defendant on 23.08.2023. On 17.03.2023, plaintiff tendered his affidavit which is exhibited as PW-1/24 and the documents were also exhibited on the said date as under:-

<i>Serial No.</i>	<i>Exhibited as</i>	<i>Exhibited No.</i>
<i>1</i>	<i>PW-1/1</i>	<i>Certificate of Incorporation</i>
<i>2</i>	<i>PW-1/2</i>	<i>Board of Resolution</i>
<i>3</i>	<i>PW-1/3</i>	<i>Certificate of non-starter report</i>
<i>4</i>	<i>PW-1/4</i>	<i>The statement of account for the period of 01.04.2015 to</i>



		31.03.2016
5	PW-1/5	The Statement of account for the period of 01.04.2016 to 31.03.2017
6	PW-1/6	The Statement of account for the period of 01.04.2018 to 31.03.2019
7	PW-1/7	The Statement of account for the period of 01.04.2019 to 31.03.2020
8	PW-1/8	The Statement of account for the period of 01.04.2020 to 31.03.2021
9	PW-1/9	The Invoice no. TIPL/T1434/1718 DATED 08.11.2017
10	PW-1/10	The Invoice no. TIPL/T1436/1718 DATED 08.11.2017
11	PW-1/11	The Invoice no. TIPL/TI272/1819 DATED 19.05.2018
12	PW-1/12	The Invoice no. TIPL/TI281/1819 DATED 21.05.2018
13	PW-1/13	The Invoice no. TIPL/TI299/1819 DATED 24.05.2018
14	PW-1/14	The Invoice no. TIPL/TI4326/1819 DATED 30.05.2018
15	PW-1/15	The Invoice no. TIPL/TI386/1819 DATED



		08.06.20r8
16	PW-1/16	The Invoice no. TIPL/TI1100/1819 DATED 12.10.2018
17	PW-1/17	The Invoice no. TIPL/TI1107/1819 DATED 13.10.2018
18	PW-1/18	The Invoice no. TIPL/TI1346/1819 DATED 01.11.2018
19	PW-1/19	The Invoice no. TIPL/TI1357/1819 DATED 02.11.2018
20	PW-1/20	The Invoice no. TIPL/TI1587/1819 DATED 30.11.2018
21	PW-1/21	The Invoice no. TIPL/TI1625/1819 Dated 06.12.2018
22	PW-1/22	Invoice no. TIPL/TI1626/1819 DATED 06.12.2018
23	PW-1/23	The Invoice no. TIPL/TI1632/1819 DATED 08.12.2018
24	PW-1/24	The declaration by way of affidavit in compliance with order XI rule 6(3) CPC

14. I have gone through the cross examination and the defendant has not been able to discredit or disprove the case set up by the plaintiff.

15. The plaintiff in the present case has successfully proved that the plaintiff supplied goods as per the invoices exhibit PW-1/9 to 23 to the defendant.



16. The plaintiff was not paid for the goods received, consumed and utilized by the defendant and the statement of account shows an outstanding balance of Rs. 2,53,75,224/- as on 30.03.2019. The statements of accounts have been exhibited as exhibit PW1/4 to exhibit PW1/8.

17. There is no document filed by the defendant to show that the said claim of the petitioner is incorrect or that the amount had been paid by the defendant. The defendants have also not been able to show that the goods have not been received by them.

18. For the said reasons, the suit of the plaintiff is decreed for a sum of Rs.2,53,75,224/-.

19. The plaintiff is entitled to interest from 31.03.2019 till the date of filing the suit at the rate of 18 % per annum. The plaintiff is further entitled to interest from the date of filing of the suit till the date of payment at the rate of 12 %.

20. The plaintiff will also be entitled to costs including the court fees, stamp duty and the counsels fees quantified at Rs. 75,000/-

21. The Registry is directed to prepare the decree sheet accordingly.

JASMEET SINGH, J

FEBRUARY 2, 2024/NG

Click here to check corrigendum, if any