

**IN THE HIGH COURT AT CALCUTTA
(ORIGINAL SIDE)
COMMERCIAL DIVISION**

Present:

The Hon'ble Justice Krishna Rao

G.A. (COM) No. 2 of 2025

In

C.S. (COM) No. 820 of 2024

Sanjay Chhotaria

Versus

Amrit Kumar Buragohain

Mr. Shuvasish Sengupta

Mr. Souvik Majumdar

Ms. Anyapurba Banerjee

Mr. Aurin Chakraborty

... For the plaintiff.

Hearing Concluded On : 21.08.2025

Judgment on : 02.09.2025

Krishna Rao, J.:

1. The plaintiff has filed the present application being G.A. (Com) No. 2 of 2025 in C.S. (Com) No. 820 of 2024 under Order XII, Rule 6 of the Code of Civil Procedure, 1908, praying for judgment upon admission.
2. The plaintiff has filed the suit praying for a decree for a sum of Rs. 20,69,249.40 along with interest at the rate of 18% per annum from 2nd February, 2021 till realization of the principal amount.
3. The plaintiff is engaged in the business of trading, selling and supplying of HR Coil, MS Plate, HR Sheet and its allied products. As per the request of the defendant, the plaintiff agreed to supply the above mentioned materials with the conditions that the defendant would provide a security deposit of Rs. 30,00,000/-, the defendant would arrange of his own transportation and payment of the transporter shall be borne by the defendant only, the defendant would clear the payment through RTGS immediately upon receipt of the goods and in the event of default of payment, the defendant is liable to pay interest at the rate of 18% per annum from due date.
4. As per requirement of the defendant, the plaintiff has supplied the following materials to the defendant on and from 23rd January, 2021 to 3rd February, 2021. The details of materials supplied to the defendant are as follows:

<i>SL. No.</i>	<i>Date & Invoice No.</i>	<i>Description of goods</i>	<i>Quantity</i>	<i>Rate</i>	<i>Amount (in</i>
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					Rs.)
1.	23/01/2021 CUN/28/20 20-21	H.R. COIL 8mm x 1500 width Cut in pcs (6300mm)	26.690 MT	57,000.00/ -MT	17,95,169.40
2.	03-02-2021 CUN/30/20 20-21	(i) M.S. PLATE (HSN – 7208) 36 MM x 2500 x 12500 x 2 PC 36MM x 2000 x 6300 x 1 PC (ii) M.S. PLATE – (HSN – 7208) 6MM TOTAL -	21.230 MT 5.840 MT	57,000 MT 56,000 MT	12,10,110.00 3,27,040.00 18,13,837.00
3.	CUN/31/20 20-21	HR SHEET	3.770 MT	58,500 MT	2,60,243.00

5. The defendant by a letter dated 19th January, 2021 has submitted a cheque being No. 236222 of State Bank of India, South Guwahati Branch for a sum of Rs. 30,00,000/- in favour of the plaintiff as a security deposit towards the supply of the materials.
6. The materials supplied by the plaintiff were duly received by the defendant and the plaintiff also raised invoices against the materials supplied to the defendant. Though the defendant has received the materials and invoices but the defendant failed and neglected to clear the dues against the materials supplied to the defendant.

- 7.** The defendant inspite of receipt of materials and invoices failed and neglected to pay the amount, the plaintiff has lodged a complaint to the Officer-in-Charge, Girish Park Police Station, Kolkata - 700006 and accordingly, the police has initiated a case against the defendant for the offence under Section 420/406/506 of the Indian Penal Code, 1860 being F.I.R. No. 116 dated 5th June, 2022.
- 8.** The plaintiff by a letter dated 15th July, 2022, requested the defendant to pay a sum of Rs. 38,69,249.40 but inspite of receipt of the notice, the defendant failed to clear the dues pending against the plaintiff. The plaintiff has presented the security cheque issued by the defendant for a sum of Rs. 30,00,000/- with his banker at HDFC Bank on 24th August, 2022 but the said cheque was returned with the endorsement "Account Closed".
- 9.** Upon return of the said cheque, the plaintiff has sent a notice for initiation of case under Section 138 of the Negotiable Instruments Act, 1881 on 22nd September, 2022 but inspite of receipt of the notice, the defendant failed to pay the said amount and accordingly, the plaintiff has initiated a case under Section 138 of the Negotiable Instruments Act, 1881 against the defendant before the Learned Court of Metropolitan Magistrate at Calcutta.
- 10.** During the pendency of the case, the defendant has paid part amount of Rs. 10,00,000/- in two installments of Rs. 5,00,000/- each on 3rd December, 2022 and 30th June, 2023. When the defendant came to

know that the police has also initiated a case against the defendant, the defendant has filed an application for grant of anticipatory bail wherein the defendant has acknowledged that the plaintiff has supplied materials and raised invoices of Rs. 38,69,249/- and also admitted that an amount of Rs. 28,639,249/- is due and payable by the defendant to the plaintiff.

11. By a letter dated 4th September, 2023, the defendant informed the plaintiff that the defendant has already paid an amount of Rs. 10,00,000/- and requested for an amicable settlement. Thereafter, letters were exchanged between the parties and on 28th December, 2023, the defendant has further paid an amount of Rs. 8,00,000/- to the plaintiff. On receipt of the amount of Rs. 18,00,000/-, the plaintiff has informed the defendant that an amount of Rs. 20,69,249/- is due and payable by the defendant along with interest at the rate of 18% per annum. By a letter dated 8th April, 2024, the plaintiff requested the defendant to pay the balance amount along with interest. On receipt of the letter of the plaintiff, the defendant has sent a reply on 24th April, 2024, stating the fact that the defendant has paid a sum of Rs. 18,50,000/- and rest are due and payable and is ready and willing to pay the pending dues.

12. Mr. Shuvasish Sengupta, Learned Advocate representing the plaintiff submits that inspite of assurance made by the defendant, the defendant failed to pay the remaining amount of Rs. 20,69,249/- along with interest at the rate of 18% per annum.

- 13.** Mr. Sengupta submits that the plaintiff before filing of the instant suit has also initiated pre-institution mediation process but the defendant failed to come forward to settle the issue and on receipt of Non-Starter Report, the plaintiff has filed the present suit.
- 14.** Mr. Sengupta submits that the defendant has unequivocally admitted the dues pending against the plaintiff and thus there is no need to adduce any evidence to prove the case and prayed for judgment upon admission.
- 15.** Though the defendant has not argued the matter but has filed affidavit-in-opposition in G.A. (Com) No. 2 of 2025 wherein it is stated that upon receipt of the quantities of materials, the defendant carried out inspection thereof in presence of the plaintiff's appointed transporter/ agent and during inspection, the defendant discovered that huge quantities of MS Plates/ HR Coils/ HR Sheets were defective and not as per the specifications.
- 16.** It is the further case of the defendant that such deficient quality and substandard materials supplied by the plaintiff to the defendant, the defendant requested the plaintiff for discussion and after negotiations, it was mutually agreed upon the exact reduced price payable for the total materials supplied by the plaintiff to the defendant taking into account, the materials of substandard and deficient quality.
- 17.** The defendant stated that on 30th June, 2023, the defendant has paid Rs. 10,50,000/- to the plaintiff out of which Rs. 50,000/- is paid by

cash and Rs. 10,00,000/- is paid by way of bank transfer. The defendant further stated that the defendant has paid Rs. 18,50,000/- to the plaintiff and no amount is outstanding against the defendant.

- 18.** Heard the Learned Counsel for the plaintiff, perused the pleadings and the documents. The plaintiff has relied upon the affidavit affirmed by the defendant in connection with **CRM (A) No. 3050 of 2023** for grant of anticipatory bail wherein the defendant has affirmed the affidavit stating the following facts :

“I, Amrit Kumar Buragohain, son of Bhuban Chandra Buragohain, aged about 45 years, by occupation – businessman, residing at 54, Sashi Prabha Enclave, Sreenagar Path, Bylane – 03, Sreenagar, Dispur, Kamrup Metro, Assam – 781005, hereby solemnly affirm and state as follows:

- 1) That I had established a business relationship with the de facto complainant, Sanjay Chhotaria, director of Chhotaria Udyog Nigam, pursuant to which we had entered into commercial transaction from 23.01.2021 wherein, the defacto agreed to supply iron and steel goods vide 3 invoices worth Rupees 38,69,249 (Rupees Thirty-Eight Lakhs Sixty Nine Thousand Two Hundred and Forty Nine) on credit.*
- 2) That pursuant to such commercial relationship, the de facto complainant had supplied the iron and steel goods vide 3 invoices worth Rupees 38,69,249/- (Rupees Thirty-Eight Lakhs Sixty Nine Thousand Two Hundred and Forty Nine), against which I was supposed to make the payment to the tune of Rupees 38,69,249/- to the de facto complainant company.*
- 3) That in lieu of the total payment of Rs.38,69,249/- against the supplied goods, I have already made a payment amounting to Rupees 10,00,000/-.*

4) *That the goods supplied by the de-facto complainant were of sub-standard quality and owing to the losses incurred in my business during the lockdown period I was unable to make the requisite payments, pertaining to which the de facto complainant filed a complaint being Girish Park PS. Case no. 116 of 2022 dated 05.06.2022 under section 420, 406, 506 of the Indian Penal Code, 1860 and also initiated a cheque bounce case by depositing a cheque without taking any written confirmation from me, which was a perquisite condition of depositing such undated cheque.*

5) *That against the police complaint made by the de facto complainant, I applied for an anticipatory bail before the Hon'ble High Court at Calcutta, being CRM(A)/3050/2023. The said matter was heard on 21.08.2023, and in consonance with the order of the Hon'ble High Court, I hereby solemnly affirm as follows:*

A) That the above mentioned commercial transactions are admitted by me.

B) That in lieu of the said business transaction, now I owe Rs.28,69,249/- to the de facto complainant and I have complete Bonafide intentions to pay the requisite outstanding amount to the de facto complainant without being harassed into criminal proceedings. Under the said circumstances it is pertinent to mention that I am not shying away from clearing my outstanding dues.

C) That I hereby solemnly affirm this affidavit under the directions of this Hon'ble Court and once again pray for granting of Anticipatory Bail."

19. The plaintiff has further relied upon the order passed by the High Court in **C.R.M. (A) No. 3050 of 2023** dated 28th August, 2023 wherein it is recorded that the Counsel for the defendant admitted the liability of Rs. 28,69,249/- with regard to the business transaction. It is also recorded that the defendant sustained heavy loss during COVID period, he has

not recovered and the defendant proposes to pay the amount at least within a period of six (6) months. On the basis of the said submission of the defendant, the Hon'ble Court had granted anticipatory bail to the defendant.

20. The defendant has not denied with regard to the business transaction between the plaintiff and the defendant. The defendant has only taken the plea that the material supplied by the plaintiff to the defendant was not as per the specification but the defendant has not disclosed any document to establish that after supply of materials, the defendant has informed the same to the plaintiff.
21. The defendant has also issued a security cheque of Rs. 30,00,000/- to the plaintiff and when the defendant failed to pay the amount, the plaintiff has presented the same for encashment but the said cheque was dishonoured and returned to the plaintiff with the endorsement "Account Closed".
22. In the case of ***Uttam Singh Duggal & Company Limited vs. United Bank of India & Ors.*** reported in ***(2000) 7 SCC 120***, wherein the Hon'ble Supreme Court held that:

"12. As to the object of Order 12 Rule 6, we need not say anything more than what the legislature itself has said when the said provision came to be amended. In the Objects and Reasons set out while amending the said Rule, it is stated that "where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The object of the Rule is to enable the party to obtain a speedy

judgment at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled". We should not unduly narrow down the meaning of this Rule as the object is to enable a party to obtain speedy judgment. Where the other party has made a plain admission entitling the former to succeed, it should apply and also wherever there is a clear admission of facts in the face of which it is impossible for the party making such admission to succeed."

23. In the present case, it is admitted that the defendant has placed the purchased order upon the plaintiff and the plaintiff has supplied materials to the defendant and the defendant has issued a cheque for a sum of Rs. 30,00,000/- as security. On supply of materials, the plaintiff has raised invoices. In spite of receipt of the materials, the defendant has not paid the amount. The plaintiff has presented the cheques for encashment but the same was returned with the endorsement "Account Closed". As the defendant failed to pay the amount after receipt of materials, the plaintiff has made a complaint to the police authority and after dishonoured of the cheque, the plaintiff has also filed a complaint case under Section 138 of the Negotiable Instruments Act, 1881. During pendency of the said cases, the defendant has paid Rs. 18,00,000/- leaving aside the balance amount of Rs. 20,69,249/-.

24. Considering the above, this Court finds that the defendant has admitted the claim of the plaintiff and the defence which the defendant has raised that the plaintiff has supplied materials below the specifications but there is no evidence to prove that the plaintiff has supplied the materials below the specification. In the affidavit filed

before the Court at the time of grant of anticipatory bail, the defendant has admitted that an amount of Rs. 28,69,249/- is due and payable and will pay the same within six (6) months but the defendant has not paid the balance amount.

- 25.** In view of the above, the plaintiff is entitled to get a decree for a sum of Rs. 20,69,249/- along with interest @12% per annum from 2nd February, 2021 till the realization of the total amount.
- 26.** The defendant is directed to pay an amount of Rs. 20,69,249/- along with interest @12% per annum from 2nd February, 2021 till the realization of the total amount.
- 27. G.A. (Com) No. 2 of 2025 is disposed of.** Accordingly, **C.S. (Com) No. 820 of 2024** is also **disposed of**. Decree be drawn accordingly.

(Krishna Rao, J.)