



2025:DHC:4656-DB



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

% Judgement delivered on: 30.05.2025

+ **RFA(COMM) 52/2023**
PICCADILY HOTELS PRIVATE LIMITEDAppellant

versus

ASHISH RATHIRespondent

Advocates who appeared in this case

For the Appellant : Mr. Manish Kumar and Mr. Rohit Pal,
Advocates.

For the Respondent : Mr. Anand Prakash, Advocate.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

1. The Appellant has filed the present Appeal under Section 96 of the Code of Civil Procedure, 1908 challenging the judgement dated 11.01.2023 passed by the Ld. District Judge (Comm-02) (South-West) ('**Trial Court**') in CS (Comm) No. 178 of 2021 titled as '*Ashish Rathi v. M/s Piccadily Hotels Pvt. Ltd.*' ('**Suit**'), whereby the learned Trial Court has decreed the Suit in favour of the Respondent for a sum of ₹12,02,957/- with *pendente*



lite and future interest @ 12% p.a. from the date of filing of the Suit till its realization along with costs of ₹20,000/- in favour of the Respondent (**‘Impugned Judgment’**).

FACTUAL MATRIX

2. The Appellant is in the business of hospitality services thereby operating the hotel premises. The Respondent is engaged in the business of supplying electrical items, hardware, sanitary products, and refrigeration goods to builders, hotels, and large-scale consumers (**‘Goods’**).

3. The business relationship commenced when the Respondent approached the Appellant and offered to supply the Goods at rates cheaper than the prevailing market prices for its hotel premises. The Respondent undertook to supply the Goods in strict accordance with the terms and conditions as mutually agreed between the parties, with a specific commitment to ensure immediate delivery upon placement of purchase orders by the Appellant.

4. However, the commercial arrangement deteriorated due to the Respondent’s alleged consistent failure to supply the Goods in accordance with the agreed terms and conditions of the respective purchase orders. As per Appellant, this non-compliance occurred on numerous occasions, with the Respondent failing to deliver the Goods within the stipulated timeframes specified in each purchase order, causing significant disruption to the Appellant’s business operations. Furthermore, the Goods that were actually supplied by the Respondent were found to be of substandard and inferior



quality, failing to meet the required specifications and standards outlined in the purchase agreements by the Appellant.

5. As a direct consequence of these material breaches, the Appellant claims to have incurred substantial financial losses and suffered reputational damage in the market. The Appellant claims that the inferior quality of Goods and delayed deliveries adversely affected the Appellant's ability to serve its customers effectively. Accordingly, the Appellant terminated the business relationship with the Respondent on 12.06.2018.

6. According to the Appellant, during the entire course of their business transactions, the Appellant received Goods worth a total amount of ₹3,24,533/-, which the Appellant claims to have paid. However, the Respondent filed the Suit before the learned Trial Court on 09.04.2021, claiming to have supplied the Goods from 01.04.2018 to 02.03.2021, and seeking recovery of ₹12,02,957/- along with interest based on the allegedly outstanding invoices. This claim was disputed by the Appellant, who maintained that all legitimate payments had been made as per actual liability.

7. The learned Trial Court framed the following issues:

- “a. Whether the invoices and the statement of account relied upon by the plaintiff in support of its claim are forged and fabricated as stated in preliminary objection No. 3 of the WS?*
- b. Whether the goods supplied by the plaintiff were of inferior quality as stated in preliminary objection no. 7 of the WS?*
- c. Whether the plaintiff is entitled to decree of recovery of Rs. 12,02,957/- as prayed for in the plaint?*



d. If answer to the issue no. 3 is in affirmative whether the plaintiff is entitled to interest? If yes, at what rate and for which period?”

8. In support of its case, the Respondent examined Mr. Ashish Rathi as PW-1, who relied upon documents exhibited as PW-1/1 to PW-1/5. The Appellant examined Mr. Priyaranjan Dash, Authorised Representative of the Appellant as DW-1.

9. After considering the documentary and oral evidence, the learned Trial Court *vide* Impugned Judgement has decreed the Suit in favour of the Respondent for ₹12,02,957/- with *pendente lite* and future interest @ 12% p.a. from the date of filing of the Suit till its realization along with costs of ₹20,000/-. Being aggrieved by the Impugned Judgement, the Appellant has preferred the present Appeal.

SUBMISSIONS ON BEHALF OF THE APPELLANT

10. Mr. Manish Kumar, learned Counsel for the Appellant submitted that the learned Trial Court has, *inter alia*, erroneously held that the Appellant was liable to make payment of entire dues as claimed by the Respondent.

11. It was submitted that the learned Trial Court has overlooked crucial evidence and erroneously held that DW-1 was not able to identify the stamp of the Appellant. whereas there was not a single invoice on record on which the stamp of Appellant was affixed. During the cross-examination of PW-1, several crucial admissions were made that undermined the Respondent's case, specifically, when questioned about the terms and conditions mentioned in his affidavit, PW-1 admitted that no such document containing



the agreed terms and conditions was filed on record, stating that the Appellant used to communicate terms and conditions verbally over the telephone.

12. Further, it was submitted that PW-1 categorically admitted that “*No transaction took place between me and defendant w.e.f. 01.04.2017 to 30.12.2017*” and “*It is correct that I have not supplied any material to defendant after June 2018.*” This admission directly contradicted the account statement filed by the Respondent, which contained entries prior to 01.01.2018, thereby establishing that the account statement was false and fabricated.

13. It was also submitted that PW-1 admitted receiving payments by way of cheque as mentioned at points A, B, C & D of the ledger account, confirming that advance payments were received from the Appellant in 2017.

14. The Appellant’s Counsel submitted that the documents relied upon by the Respondent, especially statements of account and invoices were forged and fabricated to mislead the learned Trial Court. Most of the 33 invoices claimed to be pending against the Appellant did not bear any acknowledgment or authentic stamp of the Appellant, clearly establishing that the Respondent never supplied materials against these invoices.

15. It was submitted that the Respondent deliberately failed to file any purchase orders on record, and no evidence was produced to establish that purchase orders were ever issued by the Appellant against the invoices in question.



16. It was further submitted on behalf of the Appellant that the invoices did not bear the authentic stamp of the Appellant, and no witness was produced to prove the actual delivery of goods. Although the Respondent claimed that Project Manager, namely, Mr. Nitin Mehra received the materials, the said person was never summoned as a witness before the learned Trial Court.

17. It was submitted that the Appellant examined DW-1, namely, Mr. Priyaranjan Dash, who, after examining all the invoices exhibited as PW-1/2 during cross-examination, categorically stated that all the invoices were forged and fabricated.

18. The Appellant placed reliance upon the judgement of *K.D. Sharma v. Steel Authority of India Limited and Ors.*, (2008) 12 SCC 481 to submit that if there is no candid disclosure of relevant and material facts or a party is guilty of misleading the Court, the claim may be dismissed at the threshold without considering the merits of the claim.

19. In view of the above, it was submitted that the present Appeal deserves to be allowed and the Impugned Judgement deserves to be set aside.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

20. Mr. Anand Prakash, learned Counsel for the Respondent has submitted that the Appellant is liable to pay an outstanding amount of ₹12,02,957/- as since 29.06.2018, no payment has been received as per ledger maintained by the Respondent. It was submitted that the Respondent



had been supplying the Goods as per the purchase orders raised by the Appellant.

21. It was further submitted that the Respondent has always fulfilled all the requirements of the Appellant. Despite that, the Appellant was a chronic defaulter, and several cases of recovery had been filed against the Appellant. It was submitted that the Respondent had been regularly following up with the Appellant for paying its dues.

22. Further, the Respondent always supplied high quality Goods and the Appellant was satisfied with the same, and that is why no objection about the quality was ever raised by the Appellant.

23. The learned Counsel for the Respondent submitted that the Respondent had filed the GST returns for the invoices raised by him upon the Appellant. During the cross-examination, the Appellant's witness was not cross-examined at all on this account. Even no suggestion was put to the Appellant's witness that no GST was paid against the invoices in question. The Appellant failed to bring on record any probable material/evidence to prove that the Statement of Accounts and Invoices relied upon by the Respondent are forged and fabricated.

24. Accordingly, it was submitted that the Appeal ought to be dismissed.

ANALYSIS AND FINDINGS

25. As per the Appellant, out of the total outstanding of ₹12,02,957/-, an amount of ₹3,24,533/- is paid even though the Goods supplied by the Respondent were of inferior quality. However, the Appellant has not been able to establish its claim of inferior quality of the Goods supplied. The



Appellant has not provided any specific instances or proof of inferior quality of the Goods.

26. Bare allegations without supporting evidence cannot form the basis of a valid defence in commercial disputes. Even otherwise, the stand of the Appellant that the Goods were of inferior quality is not established because it is not the case of the Appellant that any payment was withheld or deducted because of the inferior quality of the Goods. In ordinary course of business, any prudent commercial entity would have immediately protested about inferior quality of the Goods. The failure on part of the Appellant to produce any contemporaneous evidence showing inferior quality, make the stand taken by the Appellant unsustainable.

27. Furthermore, the defence taken by the Appellant in the Written Statement was that the invoices filed by the Respondent are forged and fabricated. The reasoning given for forgery and fabrication was that the stamp affixed on the invoices did not belong to the Appellant. The Appellant's witness in the cross-examination was not able to identify the stamp on the invoices nor any other invoices were filed by the Appellant to substantiate the claim that invoices exhibited by the Respondent were forged. Allegations of forgery require comparative analysis with genuine documents but without producing genuine documents, such allegations remain unsubstantiated.

28. In *M/s Star Paper Mills Ltd. v. M/s Beharilal Madanlal Jaipuria Ltd.*, (2022) 17 SCC 645, the Appellant, a paper manufacturing company, had filed a Suit for recovery of ₹96.41 lakhs based on 189 consignments of goods allegedly supplied to the respondent (a wholesaler), supported by



invoices, debit notes, and ST-1 forms, all bearing the signatures and stamps of the Respondent's Authorized Representative. The respondent, in its defense, denied receipt of the goods and alleged that the documents had been signed under duress and that the underlying transactions were fictitious and fraudulent.

29. The Supreme Court found that the respondent had admitted its signatures on all key documents, including the invoices and statutory forms. However, no account books or contemporaneous records were produced by the respondent to substantiate its claim of fictitious or fraudulent transactions. Nor was any timely complaint or legal notice issued at the relevant time disputing the delivery of goods or coercion in signing the documents.

30. The Supreme Court held that once the plaintiff had discharged its initial burden by producing primary documentary evidence maintained in the regular course of business, the burden of proof shifted to the defendant to establish its allegations of forgery, fraud, or duress. The relevant extract of the judgment is set out below:

“13. The respondents have alleged that the alleged bills have been raised on the basis of fictitious and fraudulent transactions. Since such stand was of the respondents, the onus of proof of such issue was on the respondents. Such issue necessarily implies that the raising of the invoices is not in dispute but it was alleged that such bills are fictitious and fraudulent. The onus of proof of issue no. 4, whether the defendant no.1 accepted the bills without actual delivery of goods to it is also upon the respondents as it is their stand that the bills were accepted without actual delivery of goods.”



31. The Court further emphasized:

“The respondent had led no evidence in respect of fraud or duress apart from self-serving statement... The stand of the respondents is wholly untenable and unjustifiable in law and is only to defeat the legitimate claim raised by the appellant.”
(paras 20–21)

32. In ***J. Yashoda v. K. Shobha Rani***, (2007) 5 SCC 730, the Supreme Court has held as under:

“9. The rule which is the most universal, namely, that the best evidence the nature of the case will admit shall be produced, decides this objection. That rule only means that, so long as the higher or superior evidence is within your possession or may be reached by you, you shall give no inferior proof in relation to it....”

33. It is clear from the above that the best evidence rule requires that if superior evidence can be accessed by the concerned party, it shall give no inferior proof to substantiate its claim. In the present case, the Appellant did not produce any documentary evidence to prove its averments in the Written Statement. Further, the Appellant neither annexed any other genuine invoice nor has exhibited any document on record to show the admitted transaction between the parties in support of contention that the invoices filed by the Respondent were forged and fabricated.

34. Furthermore, the witness of the Appellant was unable to point out the payments made against the specific invoices issued by the Respondent. The witness of the Appellant was also unable to identify the signatures on the invoices. He was not able to disclose the name of the Project Manager.



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Moreover, the Appellant did not examine any other witness to substantiate the contention that invoices were forged and fabricated.

35. Therefore, in view of the discussion above, the learned Trial Court correctly held that ₹12,02,957/- was due and payable to the Respondent against the invoices filed by him and the same have not been paid. There is no ground for interfering with the Impugned Judgement of the learned Trial Court.

36. Accordingly, the present Appeal stands dismissed. Pending applications, if any, also stand disposed of. No orders as to cost.

TEJAS KARIA, J

VIBHU BAKHRU, J

MAY 30, 2025/ 'NS'