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

+ **RFA(COMM) 212/2025**

M/S SHREE METALS REPRESENTED THROUGH ITS

AUTHORIZED PARTNER MR RAHUL BAIDAPPELLANT

Through: Ms. Puja Jakhar, Advocate; Mr.
Harshit Prakash, Advocate

versus

MR AKHIL GUPTA PROPRIETOR M/S PAUL ELECTRICAL

.....RESPONDENT

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

ORDER

% **23.12.2025**

1. This hearing has been done through hybrid mode.
2. This is an appeal challenging the impugned judgment and decree dated 26th November, 2021 passed by the Id. District Judge Commercial Court-03, Central District, Tis Hazari Courts, Delhi in **CS(COMM) NO. 5234/2021** whereby the suit filed by the Plaintiff has been dismissed on the ground that the Plaintiff failed to discharge the onus of proving the fact that the goods were delivered by it to the Defendant.
3. The ground on which the suit has been dismissed is that the original documents, *i.e.*, the invoices, the ledger, etc., were not properly proved and are only marked documents. The finding of the Commercial Court is as under:



“15. Although counsel for plaintiff has contended that defendant has made part payment of Rs. 3,00,000/- which itself proved that goods were received by the defendant, the contention of Ld. Counsel for plaintiff is liable to be rejected for the relevant documents i.e. bank statement as well as ledger account statement do not stand proved in accordance with law by the plaintiff. Even otherwise, plaintiff cannot be absolved of onus of proving the fact that goods, it claims were supplied to defendant vide invoices Mark A to Mark C, were actually delivered by it to defendant.

16. Since plaintiff has failed to discharge the onus of proving the fact that goods were delivered by it to the defendant, the plaintiff is not entitled to any relief in the present suit and hence the suit of the plaintiff is dismissed. Plaintiff is left to bear cost of the suit.”

4. Ld. Counsel for the Appellant submits that the present suit was filed during the COVID-19 pandemic period, and hence, at the time of the filing of the suit the original invoices could not be traced and filed. However, the original invoices and some other documents have now been traced by the Plaintiff/Appellant and scanned copies of the same are also been filed on record in the present appeal.

5. Ld. Counsel for the Appellant, therefore, submits that an opportunity may be given to the Appellant to prove the documents by filing the original documents before the Commercial Court itself.

6. In view thereof, this Court is of the opinion, that since the suit has been dismissed merely for non-filing of original documents, the Plaintiff/Appellant deserves to be given an opportunity to file the original invoices.



7. Accordingly, the impugned order is set aside subject to deposit of Rs.10,000/- as costs with the Delhi High Court Legal Services Committee. The bank details of the Delhi High Court Legal Services Committee are as under:

- ***Name: Delhi High Court Legal Services Committee***
- ***Bank: UCO Bank, Delhi High Court.***
- ***A/c No.: 15530110008386***
- ***IFSC Code: UCBA0001553***

8. The Appellant is permitted to file the original documents which it wishes to file by 25th January, 2026 before the Commercial Court.

9. List before the Commercial Court on 10th February, 2026.

10. The Commercial Court shall entertain the documents and also examine PW-1, if so required and thereafter, adjudicate the suit in accordance with law. The impugned judgement dated 26th November, 2021 is set aside.

11. Needless to add, all rights and remedies are left open.

12. Copy of this order be communicated to the District Judge, Commercial Court-03, Central, Tis Hazari for information by the Registry.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

DECEMBER 23, 2025/pd/ck