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

Date of decision: 11th August, 2025

\+ RFA(COMM) 464/2025 & CM APPL.48894/2025, CM APPL. 48895/2025, CM APPL. 48897/2025

KABIR SARDAR .....APPELLANT

Through: Md. Shahib, Adv.

versus

AMIT JAIN .....RESPONDENT

Through: *Nemo*.

CORAM:
HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT (ORAL)

NITIN WASUDEO SAMBRE, J.

1. The challenge in the present commercial appeal is to the judgment delivered by the learned District Judge (Commercial-2), South East District, Saket Courts, New Delhi ("*Trial Court*") on 14th December, 2022 in CS(COMM) 15/2018 whereby the suit preferred by the respondent/plaintiff/decree holder came to be partly decreed.

2. The brief facts necessary for deciding the present appeal are as under:

i. The respondent/plaintiff/decree holder, a proprietor concerned is in the business of embroidery work. The appellant/defendant /judgment debtor is in the business of manufacturing ladies *kurtis* and both entered into a business transaction as the job work was provided by the appellant/defendant/judgment debtor to the respondent/plaintiff/decree holder.

ii. Alleging that against the said job work, the appellant/defendant failed to pay the amount which was due and receivable, the respondent/plaintiff approached the learned Trial Court for recovery of an amount of Rs.11,72,165/-.

iii. The respondent/plaintiff, accordingly, issued a legal notice demanding the aforesaid amount with 24% interest on 12th May, 2018 including the cost thereof.

iv. The appellant/defendant resisted the claim alleging that the claim is based on forged and fabricated bills which includes forged signatures. The learned Trial Court, accordingly, framed the issues on 03rd August, 2019 and after appreciating evidence of both the parties, learned Trial Court partially decreed the suit directing recovery of Rs.8,50,530/- with interest @ 12% per annum with effect from 12th May, 2018 till the date of realization and also directed the payment of costs of Rs.40,000/- by the appellant/defendant pursuant to the provisions of Section 35A of the CPC. As such, the present appeal.

3. Amongst other, the grounds raised by the learned counsel for the appellant/defendant are that the impugned judgment and decree is contrary to the factual matrix and evidence that is brought on record. It is urged that though the respondent/plaintiff's claim was based on invoices Ex.PW-1/1 to Ex.PW-1/21, the third copies of invoices Ex.PW-1/1 to Ex.PW-1/5 ought not to have been considered for the purpose of decreeing the suit particularly when said documents cannot be accepted as evidence to infer that the job work was in fact executed. He would further claim that the signatures of the appellant/defendant or of his representative ought not to have been inferred as proof of delivery of the items referred to in invoices Ex.PW-1/6 to Ex.PW-1/21. It is further claimed that there was no contract regarding execution of the work in question, and that being so, the learned Trial Court has committed an error in decreeing the suit in the absence of there being original documentary evidence.

4. We have considered the aforesaid contentions in the backdrop of the written statement placed on record by the appellant/defendant, the issues were framed on 03rd August, 2019, thereafter the evidence of the respondent/plaintiff and appellant/defendant was recorded.

5. The proprietor of the respondent/plaintiff has examined himself as PW-1 through affidavit Ex.PW-1/A and another witness PW-2 i.e. Mr. Sushil Gandhi, Accountant was also examined in support of the suit claim as Ex.PW-2/A.

6. As against the aforesaid evidence, the appellant/defendant examined himself as witness DW-1 (Kabir Sardar).

7. Through the evidence of respondent/plaintiff, the third copies of invoices dated 02nd May, 2015 Ex.PW-1/1; Ex.PW-1/2 dated 6th July, 2015; Ex.PW-1/3 dated 13th July, 2015; Ex.PW-1/4 dated 17th July, 2015 and Ex.PW-1/5 dated 24th July, 2015 were placed on record. The original invoices dated 5th August, 2015 *viz*. Ex.PW-1/6 to original invoice dated 28th September 2019 Ex.PW-1/21 were also produced.

8. Apart from above, the debit details for a period from 01st April, 2016 to 31st March, 2017 reflecting the job work executed *vide* Ex.PW-1/22 is also proved.

9. The ledger account of the appellant/defendant with effect from 01st April, 2015 to 31st March, 2017 *vide* Ex.PW-1/23 depicting outstanding balance of Rs.11,72,165/- against the appellant/defendant was also proved. Legal notice dated 12th May, 2018 *vide* Ex.PW-1/24 and its acknowledgement and postal receipts was proved as well.

10. The aforesaid evidence of the respondent/plaintiff himself has led to the inference that the said job work was done by the respondent/plaintiff for the appellant/defendant. However, Ex.PW-1/1 to Ex.PW-1/5 are not the original invoices and therefore cannot be proved. The respondent/plaintiff in fact has not examined any other witness to prove the said documents and therefore were rightly so discarded by the learned Trial Court in the matter of assessing the claim of the respondent/plaintiff against the appellant/defendant. The witness of the

respondent/plaintiff, Sushil Gandhi, PW-2, who maintained the statement of accounts for the respondent/plaintiff and through his evidence has proved the ledger account which according to him is based on the documents and books of accounts maintained by the respondent/plaintiff.

11. Apart from above, the certificate under Section 65B of the Indian Evidence Act, 1872 is also proved as Ex.PW-2/A.

12. As against above, the appellant/defendant, DW-1/A though claimed that extra payment was made to the respondent/plaintiff and further took a stand that forged and fabricated copies of bills were produced by the respondent/plaintiff on record, it was for the appellant/defendant to prove such claim which he has failed to do by adducing appropriate evidence and discharging such burden. The appellant/defendant in fact has not led any evidence on the said issue.

13. Apart from above, the appellant/defendant has given evasive answers regarding the acknowledgements appearing on the invoices either of himself or of his representative. The entire evidence in the form of documents bearing details was duly scanned and analyzed by the learned Trial Court which rightly led to the suit being partly decreed. The claim which was not proved, i.e. to the tune of Rs.3,21,635/- was disallowed by the learned Trial Court in favour of the appellant/defendant.

14. The fact remains that once the invoices are proved by the respondent/plaintiff, the Trial Court was justified in decreeing the suit.

15. The reliance can be placed on the authoritative judgments in the matter of the importance of the invoices in the business transaction. The Apex Court in the matter of in ***Commr. of Customs v. South India Television (P) Ltd.: (2007) 6 SCC 373*** made an observation that unless proven otherwise, invoice is the proof of evidence and the relevant paragraph is extracted hereinbelow:

> "*12. However, **before rejecting the invoice price the Department has to give cogent reasons for such rejection. This is because the invoice price forms the basis of the transaction value**. Therefore, before rejecting the transaction value as incorrect or unacceptable, the Department has to find out whether there are any imports of identical goods or similar goods at a higher price at around the same time. Unless the evidence is gathered in that regard, the question of importing Section 14(1-A) does not arise. **In the absence of such evidence, invoice price has to be accepted as the transaction value. Invoice is the evidence of value.** Casting suspicion on invoice produced by the importer is not sufficient to reject it as evidence of value of imported goods. Undervaluation has to be proved. If the charge of undervaluation cannot be supported either by evidence or information about comparable imports, the benefit of doubt must go to the importer. If the Department wants to allege undervaluation, it must make detailed inquiries, collect material and also adequate evidence.*"

[Emphasis Supplied]

16. Further, Coordinate bench of this court in the case of ***Modern Construction Co. Delhi v. Hitech Enterprises: 2023 SCC OnLine Del 5185*** held invoices/bills constitute "*written contracts*" within the meaning of Order XXXVII CPC

> *"12. The first fundamental question for consideration is the maintainability of the suit under Order XXXVII of CPC as to determine whether the claims of the respondent were based on the "Invoices" or on the "Ledger Account".*
> *13. The term 'Invoice' has been defined in Black Laws Dictionary 55th Edn as- "A written account, or itemized statement of merchandise shipped or sent to a purchaser, consignee, factor, etc. with the quantity, value or prices and charges annexed, and may be as appropriate to a consignment or a memorandum shipment as it is to a sale. Joseph B. Cooper & Son, Inc v. Finlay Depts., Inc., 11 Misc. 2d 382, 174 N.Y.S.2d 265, 269. Document showing details of a sale or purchase transaction. A list sent to a purchaser, factor, consignee, etc., containing the items, together with the prices and charges of merchandise sent or to be sent to him. A writing made on behalf of an importer, specifying the merchandise imported, and its true cost or value." 14. Thus, Blacks Law Dictionary defines any writing specifying the goods and its true price is an Invoice which is akin to a Written Contract.*
> *15. A Co-ordinate Bench of this Court in the case of KglSystel Ltd. v. Fujitsu Icim Ltd., 2001 SCC OnLine Del 440 held that Invoice is a Written Contract.* ***It was further observed that since Invoices/Bills are written contracts within the contemplation of Order XXXVII of CPC, the suit***

should be tried under the summary procedure as envisaged under this Order.

16. Likewise, in the case of Indian Iron & Steel Company Ltd. v. Nada Brothers, 2004 SCC OnLine del 518, this Court referred to the decision in M/s KglSystel Ltd.(supra) and echoed the same view.

17. The question as to whether Invoices/bills are 'written contracts' within the contemplation of Order 37 CPC, is thus settled"

[Emphasis Supplied]

17. The fact remains that from the aforesaid observations of the Apex Court and Coordinate Bench of this Court, it is apparent that the invoices can always lead to an inference about existence of an agreement of business and in such an eventuality, the contentions raised that there was an absence of agreement of sale *interse* between the parties as sought to be canvassed cannot be accepted. As such contention to that effect raised by the appellant/defendant are liable to be rejected.

18. We have already observed that the entire evidence *viz*. Ex.PW-1/1 to Ex.PW-1/5 was rightly discarded by the learned Trial Court and disallowed the claim to the extent of Rs.3,21,635/- as the careful analysis of the said evidence has led to disallowing the said invoices.

19. As far as the invoices Ex.PW-1/6 to Ex.PW-1/21, the ledger extract, Ex.PW-1/23 and the service of the legal notice sufficiently established the claim of the respondent.

20. In that view of the matter, no case for causing interference in the appellate jurisdiction is made out.

21. The appeal stands merit as such dismissed. The pending applications (if any) stand dismissed.

22. A copy of this judgment be uploaded on the website of this Court forthwith.

NITIN WASUDEO SAMBRE
(JUDGE)

ANISH DAYAL
(JUDGE)

AUGUST 11, 2025/ab/sm