



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06-04-2026

WEB COPY

DATE OF DECISION : 17-04-2026

CORAM

**THE HONOURABLE MR JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

APPEAL(CAD) Nos.33 & 34 of 2024

M/s.Deendayal Totla

Rep by Prop.Harsh Totla

S/o Dinesh Totla

Business office at 81, Navlakha, Indore,

Madhya Pradesh 452 001

Appellant in Appeal (CAD) No.33/2024

M/s.Harsh Enterprises

Rep by Proprietor Harsh Totla

S/o Dinesh Totla

Business office at 5/11, Shama Chamber

Jawajar Mag, Siyaganj, Indore

Madhya Pradesh 452 007

Appellant in Appeal (CAD) No.34/2024

Vs

M/s.Varalakshmi Starch Industries Pvt Ltd

rep by its Power of Attorney Agent

K.Saravanan

S/o Kanagasabapathi

Door No.127/1, Gandhi Road

Hashtampatti, Salem District 636 007

Respondent in both the Appeals

Memorandum of Grounds of First Appeals under Section 13(1A) of Commercial Courts Act read with Section 96 of the Code of Civil Procedure against the Judgment and Decree passed by the learned District Judge, Commercial Court, Salem in C.O.S.No.18 of 2022 and in C.O.S.No.19 of 2022 respectively, dated 09.11.2023.



For Appellant(s): Mr.Navod Prasannan

For Respondent: Mr.A.Kaushik Narain Sharma for
M/s.KNS Law Chambers

WEB COPY

COMMON JUDGMENT

P.Velmurugan J.

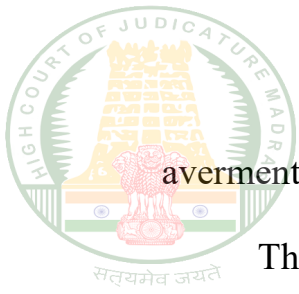
The instant appeals have been filed against the judgment and decree passed by the learned District Judge, Commercial Court, Salem in C.O.S.No.18 of 2022 and in C.O.S.No.19 of 2022 respectively, dated 09.11.2023.

2.1. The appellant in each of the appeals is the defendant in the respective commercial original suit.

2.2. C.O.S.No.18 of 2022 was filed by the respondent/plaintiff for a judgment and decree directing the appellant/defendant in Appeal (CAD) No.33 of 2024 to pay the suit claim amount of Rs.46,43,158/- to the plaintiff with subsequent interest at the rate of 18% per annum on Rs.25,08,218/- from the date of suit till realization and for costs.

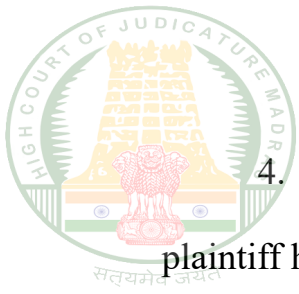
2.3. C.O.S.No.19 of 2022 was filed by the respondent/plaintiff for a judgment and decree directing the appellant/defendant in Appeal (CAD) No.34 of 2024 to pay the suit claim amount of Rs.61,23,825/- to the plaintiff with subsequent interest at the rate of 18% per annum on Rs.33,08,069/- from the date of suit till realization and for costs.

3. The gist of the plaintiff's case in both the suits, as per the plaint



averments, runs thus:-

The plaintiff is a manufacturer of tapioca starch, Sago (Sabudhana), modified starches and is a registered private company. The defendant(s) were purchasing sago from 2016. The defendant(s) were making payments and as well issuing 'C' Form declarations as required under the Central Sales Tax Act for the inter-State purchases made by them from the plaintiff. The plaintiff has maintained proper accounts for the sales and as well for the payments made. In respect of C.O.S.No.18 of 2022, based on the books of accounts, the balance due is Rs.25,08,218/- and the defendant made payment of Rs.4,59,756/- lastly on 29.08.2017. In respect of C.O.S.No.19 of 2022, based on the books of accounts, the balance due is Rs.33,08,069/- and the defendant made payment of Rs.12,15,804/- lastly on 29.08.2017. The plaintiff was repeatedly demanding the defendant(s) to pay the balance and the defendant(s) did not come forward to repay. The plaintiff then issued legal notice dated 30.10.2019 / 31.10.2019. The defendant(s) knowingly evaded the legal notice. The plaintiff then referred the issue before Mediation Authority on 09.01.2020. The defendant(s) did not turn up for the mediation and a report was received as failed. Due to the out break of Covid 19, Hon'ble Supreme Court in Suo-moto Writ Petition No.3/2020 dated 10.01.2022 has extended the period of limitation and the suit is within the said period. The last payment was made on 29.08.2017 and the limitation expires on 28.08.2020, which was extended by the order of Apex Court. Hence, the suit(s).



4. Written statements were filed by the defendant(s) stating that the plaintiff has no right to recover any money from them as the goods shown in the invoices were not supplied to them. The invoices and accounts are manipulated. Further the entire amounts stood satisfied and duly accepted by the plaintiff, which was suppressed to raise this false claim. The defendant(s) ordinarily carry on business at Indore and the parties also agreed that any dispute relating to their business activity shall be adjudicated at Indore. The present suits are barred by limitation, as the prescribed period for recovery of money is three years which is to be computed from the date of supply of goods. The precise date of delivery is not maintained by the plaintiff. The other averments in the plaint are all denied. The entire sum payable to the plaintiff as per the terms and conditions agreed between them was paid by the defendant(s) and accepted by the plaintiff in full satisfaction. There was no protest nor any objection by the plaintiff when they accepted the payment. The plaintiff himself states that on 29.08.2017 the payments were made as full and final settlement. There was no due amount for the period between 30.07.2016 to 24.06.2017. After every business transaction the defendant(s) paid the entire amount, which was intimated to the plaintiff. After the payments were made and intimated, the plaintiff has assured that the payments towards each and every agreement was made and there was no dues of any kind. There was no outstanding amount. The plaintiff has failed to give the essential details of the business transactions. The

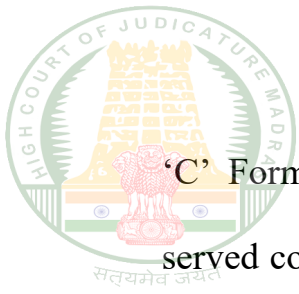


defendant(s) also filed additional written statements stating that the plaintiff has failed to mention which particular contract in the form of purchase order was breached by the defendant(s). During the relevant time 2016 – 2017, the account of the defendant(s) was handled by the accountant, namely, Mr. Govind Jhalani who is no more. Post 2017 no business transaction was carried between the parties and all the old transactions were closed in full satisfaction. The old record of the defendant(s) pertaining to the plaintiff business could not be traced earlier. These invoices were not furnished to the defendant(s) at the relevant point of time and not found in the defendants' books of accounts. The relevant copy of the invoice enclosed with the plaint were taken by the defendant(s) to the practising Chartered Accountant for inspection. On inspection it was discovered that these invoices are falsely fabricated. There is no purchase order nor the goods were supplied to the defendant(s) in these invoices. Few of the invoices were generated twice in order to extract double amount from the defendant(s). The goods under the invoices referred in the plaint must have been purchased by some other persons residing out of Madhya Pradesh where the goods were delivered. This has been done in order to claim the benefit of VAT exemption prevailing at the time in the State of Madhya Pradesh for the sale and purchase of Sabudhana. There was no agreement between the parties to carry on business at a specific rate for a definite period. Each contract is to be treated separately. The ledger account of the plaintiff is false and created. On the



inspection of account it is discovered that excess payment was received by the plaintiff from the defendant(s). The defendant(s) are entitled to recover the excess amount and to deter the defendant(s) from initiating any appropriate proceeding, these false suits have been instituted. Hence, the suits need to be dismissed.

5. The plaintiff filed a reply statement stating that the death of the accountant has been invented only to escape the legal liabilities. As per the statutory obligations, the defendant(s) must preserve the business documents for a period of 6 years from the date of transaction. The other allegation that the plaintiff invoice were submitted to a chartered accountant for scrutiny and that few of the invoices were generated twice to extract money are all false. The other averments put forth by the defendant(s) are false, especially the tax exemption for which the plaintiff is said to have delivered the goods to persons residing out of Madhya Pradesh and that the plaintiff had received excess payment from the defendant. The true facts are that the defendants place orders over phone calls and the goods were sent with CST tax invoices. On receipt of goods and acknowledging the same, the defendant(s) while selling the goods must file necessary monthly returns in the Forms prescribed by Madhya Pradesh Sales Tax Department. Unless and otherwise the inter-State purchase details are submitted to the Madhya Pradesh Commercial Tax Department, the necessary



‘C’ Forms cannot be generated. The plaintiff has enclosed the defendants’ served copy of C Form. The defendant(s) generated the ‘C’ Form from Madhya Pradesh tax website after receiving the goods from the plaintiff. The submission of ‘C’ Forms is an admission by the defendant(s) for the receipt of the goods from the plaintiff and encashing the same by selling the goods. Without the invoice from the plaintiff and the sale bills of the defendant(s), they cannot submit the ‘C’ Form. Without valid purchase documents (Invoice) the defendant(s) cannot submit ‘C’ Forms for post 2017 period. Hence, the suits are to be decreed with exemplary cost.

6. Based on the above pleadings, the following issues were framed in both the suits:-

- i. Whether the Court has territorial jurisdiction to entertain the suit(s)?
- ii. Whether the suit(s) are within limitation?
- iii. Whether the plaintiff is entitled to the suit claims from the defendant(s) as prayed?
- iv. To what other relief?

7. In C.O.S.No.18 of 2022, the authorised representative of the plaintiff company was examined as PW1 and Ex.A1 to Ex.A8 were marked. The sole Karta of the defendant was examined as DW1 and Ex.B1 to Ex.B6 were marked. The non starter report issued by Mediation Authority submitted by



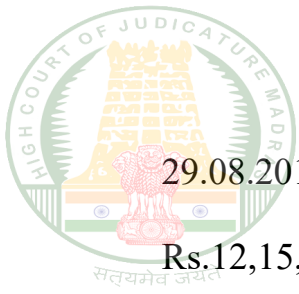
plaintiff along with the plaint and the Licence copy issued to defendant by Food and Drugs Administration, Madhya Pradesh, submitted by defendant are exhibited as Ex.C1, Ex.C2 respectively. Similarly, in C.O.S.No.19 of 2022, the authorised representative of the plaintiff company was examined as PW1 and Ex.A1 to Ex.A8 were marked. The proprietor of the enterprise arrayed as defendant was examined as DW1 and Ex.B1 to Ex.B6 were marked. The non starter report issued by Mediation Authority submitted by plaintiff is exhibited as Ex.C1.

8. The learned trial Judge, after hearing the parties and on appreciation of oral and documentary evidence, decreed both the suits by directing the defendant in C.O.S.No.18 of 2022 to pay Rs.46,43,158/- with subsequent interest on Rs.25,08,218/- at 9% per annum from the date of suit till the date of decree and thereafter at 6% per annum till realisation and the defendant in C.O.S.No.19 of 2022 to pay Rs.61,23,825/- with subsequent interest on Rs.33,08,069/- at 9% per annum from the date of suit till the date of decree and thereafter at 6% per annum till realisation together with cost of the suit(s). Aggrieved by the above judgment and decree, the present appeals have been filed.

9. The learned counsel appearing on behalf of the appellant(s) would



submit that the trial Court failed to appreciate the oral and documentary evidence let in on the side of the appellant(s) and has decreed the suit claims relying on the 'C' form under Ex.A8 obtained by the respondent on fake transactions created by them through the fabricated invoices under Ex.A7 series, without referring to the vital document letter dated 10.08.2019 under Ex.B1 issued by the respondent's sister concern stating that the appellant(s) had made the excess payment of Rs.6,37,456/- as on 10.08.2019. He would further submit that the trial Court ought not to have accepted the power of attorney under Ex.A3, which was not directly executed by the respondent company, as the stamp paper does not bear the name of the purchaser of the same, which is mandatory for execution of any document on such stamp paper. Even the Ex.C1-non starter report shows that the respondent company was represented by is power agent K.Saravanan, whereas the power of attorney Ex.A3 was executed in his favour only after pre-mediation. So the existence of power of attorney in favour of Saravanan from the pre-suit mediation is suspicious. The trial Court also failed to appreciate the fact that the business transactions between the appellant(s) and the respondent were carried on as per the terms and conditions agreed order-to-order basis and there is no whisper in the plaint to aver that the respondent was maintaining a running account in respect of the appellant(s) business transactions, since each order is treated separately and dealt with independently. The trial Court failed to appreciate the fact that on



29.08.2017, when the respondent received the payment of Rs.4,59,756/- and Rs.12,15,804/- respectively, in full and final settlement with regard to the supply of their last transactions, no demand or objection was raised by the respondent inasmuch as it was fully settled. However, after two years, the respondent came forward with Ex.A4-legal notice dated 31.10.2019 demanding Rs.25,08,218/- and Rs.33,08,069/- respectively, for the first time based on cooked up and fabricated invoices to defraud and deceit the appellant(s) with such false claims. The trial Court also failed to take judicial notice of Ex.B2-Inspection Report of Chartered Accountant, wherein the Auditor confirms that no purchase orders shown in Bill No.423 dated 20.02.2017 for Rs.10,95,881/-; Bill No.71 dated 24.06.2017 for Rs.13,54,465/-; Bill No.360 dated 25.01.2017 for Rs.13,54,232/-, Bill No.410 dated 17.02.2017 for 11,26,804/-; Bill No.429 dated 21.02.2017 for Rs.11,15,997/- respectively, and when no goods under the said bills were delivered to appellant(s) by the respondent, the claim is made by the respondent based on wrong ledger entries without proper verification. The learned counsel would further submit that even according to the respondent, an excess amount of Rs.12,15,804/- was paid by the appellant(s) under Ex.B1. When the very suit claims are barred by limitation, the trial Court has wrongly entertained the suit claims and has decreed the same with costs. Therefore, the learned counsel submitted that the judgment and decree passed by the trial Court in the respective suit are liable to be set aside.



10. The learned counsel appearing on behalf of the respondent would submit that the appellant(s) have been purchasing Tapioca from the respondent company since 2016 and has paid subsequently for every purchase and the transactions between the appellant(s) and the respondent have been properly recorded in the books of accounts of the respondent. The learned counsel would submit that when the last payment of Rs.4,59,756/- and Rs.12,15,804/- respectively, were made by the appellant(s) on 29.08.2017 to the respondent, as per the books of accounts, the appellant(s) were still liable to pay Rs.25,08,218/- and Rs.33,08,069/- as on that date. Therefore, the respondent was forced to issue the legal notice to the appellant(s) demanding the outstanding amount. However, the appellant(s) failed to reply nor cleared the dues. Even the appellant(s) did not participate in the mediation and therefore a non starter report was issued by the authority. Hence the respondent made the suit claims before the trial Court and the trial Court, after hearing both sides and appreciating both the oral and documentary evidence, has rightly decreed the suit claims in favour of the respondent. Therefore, the learned counsel submitted that the instant appeals are devoid of merit and liable to be dismissed, as the appellant(s) are attempting to evade payment of the lawful and admitted dues payable to the respondent under the respective well-reasoned decree.

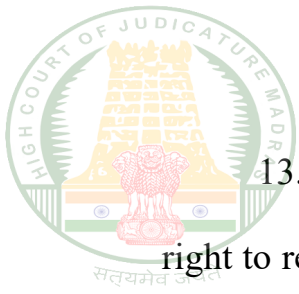
11. We have considered the submissions made by the learned counsel on



either side and perused the materials available on record.

WEB COPY

12. It is the specific case of the respondent/plaintiff that it manufactures Tapioca Starch, Sago (Sabudhana) and the appellant(s) were purchasing sago from 2016. The appellant(s) were also making payments for the purchases and issuing 'C' Form declarations as required under the Central Sales Tax Act for the inter-State purchases made by them from the respondent. The respondent states that as per the books of accounts, as against the balance of Rs.25,08,218/-, the appellant in Appeal (CAD) No.33 of 2024 has made payment of Rs.4,59,756/- lastly on 29.08.2017 and as against the balance of Rs.33,08,069/-, the appellant in Appeal (CAD) No.34 of 2024 has made payment of Rs.12,15,804/- lastly on 29.08.2017. Since the appellant(s) did not come forward to clear the outstanding amount, the respondent issued the legal notice under Ex.A4, for which there was no response. Even the appellant(s) did not turn up for mediation and a failure report was filed. Therefore, the respondent laid the suit claims before the trial Court, which have been entertained by the trial Court based on the order passed by the Hon'ble Supreme Court in Suo-moto Writ Petition No.3 of 2020 dated 10.01.2022, even though the last payment was made on 29.08.2017 and the limitation expired on 28.08.2020, due to the Corona pandemic.



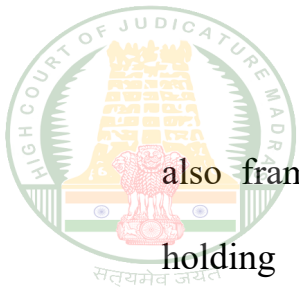
13. Per contra, the appellant(s) would state that the respondent has no right to recover any money from them, as the goods shown in the invoices were not supplied to them and the invoices and accounts were manipulated. When the appellant(s) ordinarily carry on business at Indore and the parties also agreed that any dispute relating to their business activity shall be adjudicated at Indore, the very institution of the suit claims are barred by limitation, as the prescribed period for recovery of money is three years which is to be computed from the date of supply of goods. Since the entire sum payable to the respondent as per the terms and conditions agreed was paid by the appellant(s) and accepted by the plaintiff in full satisfaction without any protest or objection, the trial Court has wrongly entertained the suit claims, which are barred by limitation and decreed the same based on the fabricated documents created by the respondent.

14. In the light of the above pleadings, the points for consideration in the present appeals are (i) whether the suit claims are barred by limitation and (ii) whether the judgment and decree passed by the trial Court in the respective suit are liable to be interfered with by this Court?

15. As far as the objection raised by the learned counsel for appellant(s) as to the limitation is concerned, it is not in dispute that the transactions between the appellant(s) and the respondent are admitted. However, the claim of



the respondent is that as per the invoices under Ex.A7 series, there is a balance due from the appellant(s). The last payment made by the appellant(s) was on 29.08.2017 and the Ex.A6 ledger account shows that the last payment made on 29.08.2017 was received by the sister concern of the respondent. Even the ledger account Ex.B3 placed by the appellant(s) would show that the last payment was made by them on 20.07.2017 / 06.07.2017. Therefore, the transactions and the payments made between the parties are admitted. Though the respondent claims that there is balance outstanding from the appellant(s) and since the appellant(s) have not cleared the same, issued the suit notice and thereafter filed the suit claims in the year 2022. According to the appellant(s), the suit claims are barred by limitation, as the same have not been laid within three years. According to the respondent, since the last payment was on 29.08.2017 and though the suits ought to have been filed before 28.08.2020 within three years, due to the Corona pandemic, the Hon'ble Supreme Court in *Suo Motu W.P.No.3 of 2020* by an order passed during the pandemic dated 10.01.2022 extended the period of limitation. Therefore, as admitted by the appellant(s), when the last payment was made on 20.07.2017 / 06.07.2017, the three year period would expire on 19.07.2020 / 05.07.2020. When the suit claims were made on 23.05.2022, as per the order of the Hon'ble Supreme Court in the suo motu writ petition, which extended the period of limitation, the suits filed by the respondent are within the period of limitation. The trial Court



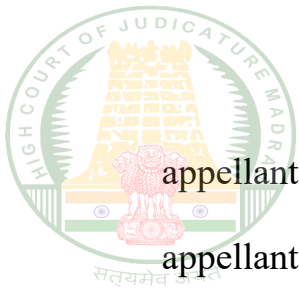
also framed a specific issue and also decided in favour of the respondent holding that the suit claims are not barred by limitation and they are entertainable. This Court also, while going through the entire pleadings, oral and documentary evidence and also the order passed by the Hon'ble Supreme Court in the suo motu writ petition extending the period of limitation during the pandemic period, finds that the suit claims are within the time and not barred by limitation. The first point is answered accordingly.

16. So far as the second point is concerned, admittedly, the respondent is a manufacturer of Tapioca Starch, Sago (Sabudhana) Modified Starches, which is a private limited company. The appellant(s) have been purchasing sago from 2016 and they were making payments as and when 'C' form declarations as required under the Central Sales Tax Act for the inter-State purchases made by them from the respondent. The respondent also maintained the accounts. Based on the books of accounts maintained by the respondent, the appellant(s) were having balance due of Rs.25,08,218/- and Rs.33,08,069/- respectively and when the respondent made a demand, the appellant(s) failed to clear the dues. Therefore, the respondent sent the legal notice under Ex.A4. Even then the appellant(s) did not make any payment. Therefore, the respondent laid the suit claims. The main contention of the appellant(s) is that though they purchased the goods from the respondent and also made the entire payments and there is



no balance due, the respondent have created concocted documents for the purpose of claim, which are not genuine. According to the appellant(s), there was no due amount for the period between 30.07.2016 and 24.06.2017, as there was no transaction post 2017. All the transactions were old transactions in respect of which there were no dues.

17. However, the respondent has made a specific pleading regarding the document Ex.A8, which is a 'C' form declaration required under the Central Sales Tax Act for the inter-State purchases made by the appellant(s) with the respondent. When the goods have to cross the border, the appellant(s) have to follow the legal formalities. Once the 'C' form declarations were signed/accepted by the appellant(s) and when they accepted the transactions/purchases and when they were received by the respondent, they filed the same before the Commercial Taxes Department, which clearly show that the appellant(s) accepted the transactions. Once the 'C' form declarations are signed by the appellant(s), then it is for them to prove that the amount was paid and there was no balance due. Though the appellant(s) produced the document Ex.B2-Auditor's report, they failed to examine the auditor as a witness and mere production of the document itself is not sufficient and the same has got to be proved. On the other hand, the respondent has proved their case by oral and documentary evidence through Exs.A6, A7 & A8. Though the



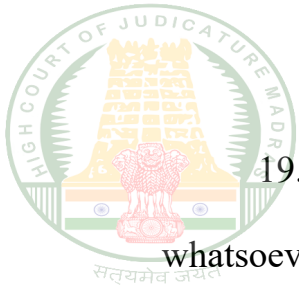
appellant(s) mainly relied on the documents under Exs.B1, B2, B4 & B5, the appellant(s) have admitted the 'C' form declarations under Ex.A8 and also the

invoices under Ex.A7 series. It is also to be noted that before filing the suits, the respondent sent the legal notice under Ex.A4 and there was no reply from the appellant(s). The ledger account maintained by the respondent under Ex.A6 related to the company of the appellant(s) for the period from 01.04.2016 to 31.03.2021 and the carbon copy of invoices under Ex.A7 series would establish the transactions between the parties from 30.07.2016 to 24.06.2017 and the 'C' form declarations issued by the Central Sales Tax Department under Ex.A8 submitted by the appellant(s) themselves in this regard. Since the Goods and Services Tax Act came into operation in the year 2017 subsequent to the transactions between the parties and prior to that, there were inter-State purchases, the 'C' form declarations were submitted. Therefore, the documents under Exs.A6, A7 & A8 would very well establish the transactions between the parties under the relevant invoices along with the consequent 'C' forms issued by the Department. Though the learned counsel for the appellant(s) mainly relied on the document under Ex.B1, as stated earlier, the auditor was not examined. When the respondent/plaintiff filed the suits, the burden is not that much on the plaintiff to prove the case beyond reasonable doubt like a criminal case. In civil case, if the plaintiff is able to prove the case with preponderance of probability, the onus then shifts to the defendant regarding the liability. It is to



be noted that when Ex.A4 legal notice was sent to the appellant(s), there was no response. Even the documents under Exs.A6, A7 series and A8 would clearly show that the respondent made the supplies and also the appellant(s) acknowledged the same. The respondent asserts that balance amount is due from the appellant(s) as per the books of accounts maintained by them and whereas the appellant(s) say that there is no dues and the entire amount has been paid. It is for the appellant(s) to prove that the entire amount has been paid and there is no dues.

18. From a reading of the entire materials along with the documentary evidence, this Court finds that the respondent has proved its case and the appellant(s) failed to discharge their burden that there is no liability on their part and when the appellant(s) take a defence of limitation, that itself creates a doubt that there are dues. It is to be noted that the appellant(s) have not proved their case with any contra evidence. Though the appellate Court, as a fact finding Court can always re-appreciate the evidence and give its independent findings, on a reading of the entire materials, this Court finds that the respondent has proved its case with oral and documentary evidence and therefore, there is no reason to interfere with the judgment and decree passed by the trial Court in both the suits. The second point is also answered accordingly.

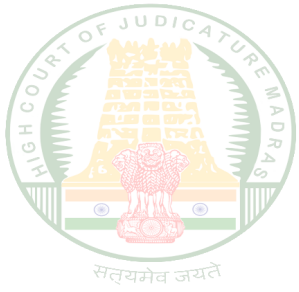


19. In the light of the above discussions and findings, finding no merits whatsoever, both the appeals are dismissed. Consequently, CMP Nos.18800 & 18802 of 2024 are also dismissed. There shall be no order as to costs.

(P.VELMURUGAN J.) (K.GOVINDARAJAN THILAKAVADI J.)
17-04-2026

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

SS



WEB COPY

APPEAL(CAD) Nos.33 & 34 of
2024



**P.VELMURUGAN J.
AND
K.GOVINDARAJAN
THILAKAVADI J.**

SS

**Judgment in
APPEAL(CAD) Nos.33
& 34 of 2024**

17-04-2026