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

\+ RSA 45/2026, CM APPL. 14929/2026 (stay), CM APPL.14931/2026 (delay in refiling)

DEHRA METAL TECH PVT LTD .....Appellant

Through: Mr. Ajay Kumar Chopra, Mr. Mudit Talesara, Mr .Samarth Talesara, Ms. Shelly Jain, Advocates.

versus

RISHIRAJ ALUMINIUM PVT LTD .....Respondent

Through: None

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

O R D E R

% **11.03.2026**

CM APPL.14930/2026 (Exemption)

1. Exemption allowed, subject to all just exceptions.

2. The Application stands disposed of.

RSA 45/2026

3. Regular Second Appeal under Section 100 of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'CPC'*), has been filed on behalf of the Appellant against the Judgment dated 07.01.2026, whereby the learned District Judge-02, Delhi, has upheld the Judgment and Decree dated 30.08.2024 of learned ASCJ, Delhi, whereby the *Suit for Recovery of Rs.2,41,380/- along with the interest @8% p.a.,* has been decreed in favour of the Respondent.

4. The ***facts in brief***, are that the Appellant/Defendant is a Private Limited Company, namely, M/s Dehra Metal Tech Pvt. Ltd., engaged in the

business of manufacturing/processing and dealing with aluminium/metal products. The *Respondent/Plaintiff, M/s Rishiraj Aluminium Pvt*. Ltd., is engaged in the business of supply of aluminium products including aluminium wire rod.

5. According to the Plaintiff, the Defendant purchased aluminium wire rod in the month of January, 2020 for which Tax Invoice No. 2019-20/18 dated 06.01.2020 for a sum of Rs.16,41,380/- (inclusive of taxes), was issued. Against the said Invoice, the Appellant made part payment of Rs.14,00,000/-, but failed to pay the remaining amount of Rs.2,41,380/-, despite repeated requests.

6. The Legal Notice of demand dated 05.09.2020 was served upon the Appellant after which the *Civil Suit No. 926/2020 for recovery of Rs.2,41,380/- along with the interest and costs, was filed.*

7. The **Defendant/Appellant filed a Written Statement** wherein he raised a defence that portion of the goods supplied by the Respondent, *were defective and commercially unusable*. He immediately brought the same to the notice of Mr. Maharaj Singh, intermediary through whom the goods had been purchased. The Appellant claimed that *the defective goods were returned to the Plaintiff* and Invoices/adjustment entries were raised by the Appellant, towards the returned goods. After adjustment, nothing remained payable and the Suit of the Plaintiff, was exaggerated, false and liable to be dismissed.

8. On the pleadings of the parties, the following issues were framed by the learned Trial Court on 20.03.2023, as under:-

> *1. Whether Plaintiff is entitled to a decree of recovery of Rs.2,41,380/- along with interest? OPP*

2. Relief.

9. The Plaintiff examined *PW-1, Subhash Chand Aggarwal,* who corroborated the averments made in the Plaint and also proved the Tax Invoice dated 06.01.2020 and Legal Notice dated 05.09.2020.

10. The Defendant/Appellant examined *DW-1, Mr. Ankur Jain, the Authorised Representative,* who tendered the evidence on Affidavit and relied upon the Ledger Accounts maintained by the Appellant, the Invoices raised towards return of defective goods and the GST Returns filed by the Appellant in respect of the said return invoices/transactions.

11. *DW-2, Mr. Maharaj Singh, Intermediary* was also examined in support of the defence by the Appellant.

12. The *Learned Civil Judge, vide Judgment and Decree dated 30.08.2024* held that the Appellant failed to prove its defence regarding return of defective goods as he did not produce any written acknowledgment /receiving of returned goods, nor proved any documentary evidence regarding the alleged cash payment and return of goods. ***The Suit of the Respondent/Plaintiff, was accordingly decreed for Rs. 2,41,380/- along with the interest @8% p.a.***

13. Aggrieved by the Judgment and decree dated 30.08.2024, the ***Appellant preferred RCA DJ No. 120/2024***, but the same also got dismissed by the learned District Judge, Delhi *vide* Judgment dated 07.01.2026.

14. Aggrieved by the decree of the Suit by learned Civil Judge and dismissal of the Appeal by the learned District Judge, **the present Second Appeal has been filed.**

15. The **grounds of challenge** are that the Appellate Court was obligated to independently re-appreciate the pleadings, evidence and the entire trial

record and to render its own findings on each material contention. However, the impugned Judgment merely affirmed the learned Civil Judge decree mechanically, without proper judicial evaluation of the Appellant's defence and evidence.

16. The learned Courts misapplied the law relating to electronic evidence under Section 65B of the Indian Evidence Act, 1872. The electronic/computer-generated business records including ledger entries, return Invoices and GST related documents, have been rejected on the technical grounds for want of Certificate under Section 65B Indian Evidence Act, 1872, without applying correct legal principles governing admissibility and proof of electronic records. An error of law, has therefore, been committed by both the Courts.

17. Reliance is placed on <u>*State of Karnataka vs. T. Naseer@ Nasir*</u> (2023 INSC 988) where the Hon'ble Supreme Court of India held that non-production of the Certificate under Section 65B at the initial stage, is a **curable defect,** and the Courts should not exclude the electronic evidence on mere technical grounds, particularly when such a defect can be cured, without prejudice.

18. The two Courts disregarded the electronic evidence produced by the Appellant by holding it to be "not proved", which is legally unsustainable. The First Appellate Court itself noted that the Appellant had filed Section 65B Certificate, but still failed to apply the correct Law and proceeded to disregard the Appellant's documents, without undertaking a legally mandated scrutiny or permitting curing of any technical defect.

19. The standard of proof in a civil/commercial dispute, has been incorrectly applied. The findings demonstrate that the Courts erroneously

considered whether proof beyond a reasonable doubt, by insisting upon strict written acknowledgments/transport receipts for return of defective goods, when in fact, it is settled law that in civil proceedings, the matter is to be decided in the light of **preponderance of probabilities,** particularly in disputes arising from routine business dealings. The insistence on documentary acknowledgment in every instance, is legally unsustainable and amounts to adopting a standard that defeats justice.

20. The Courts disbelieved the Appellant's return invoices, which had been generated around September, 2020 while the supply was made in January, 2020. The learned Courts fell in error by treating return Invoices as an "afterthought", only on account of timing. Such finding is based on conjecture and ignores the disputes and adjustments may crystallise over time, and there is no presumption in law that post-dispute accounting adjustments, are fabricated.

21. The GST input credit and its availment/non-availment, are governed by a separate statutory framework and cannot by itself, determine civil liability or negate return/adjustment in a commercial dispute. The learned Courts have wrongly treated unilateral GST/Balance Sheet entries of the Respondent, as conclusive proof of liability. The Respondent's own internal accounting entries or GST filings, cannot be treated as conclusive proof of an outstanding legally recoverable debt, particularly when the Appellant's defence was return of defective goods and adjustment of accounts.

22. The learned Courts failed to draw appropriate adverse inference against the Respondent, for withholding the best evidence. If the Respondent's case was that no goods were returned and no adjustment occurred, the Respondent could have produced records such as *Stock*

Register, Inward Register, Gate Entry Records or contemporaneous communications denying return, but no such evidence was produced.

23. It has been ignored that the Appellant had already made substantial payment of Rs.14,00,000/- out of Rs.16,41,380/-, thereby showing its *bona fide* defence.

24. The first Appellate Court dismissed the Appeal as not maintainable, but simultaneously adjudicated it on merits. The award of interest /affirmation of interest, has been made without examining the legal basis and without recording reasons.

25. The substantial questions of law have been raised in regard to grave error of law being committed by disbelieving the Appellant's electronic records including Ledger, Return Invoices and GST returns, despite the Appellant having filed Certificate under Section 65B Indian Evidence Act, 1872. The standard of "preponderance of probabilities" in Civil Suit, has also not been applied correctly.

26. A prayer is, therefore, made that the Appeal be allowed and the Suit of the Respondent, be dismissed.

Submissions heard and the record perused.

27. *The Plaintiff had filed the suit for recovery of Rs. 2,41,380/- against the Defendant, which was decreed by the Ld. Civil Judge and the Appeal against the judgement, has been dismissed by the Ld. District Judge.*

28. The ***Appellant/Defendant has filed this Second Appeal*** under Section 100 CPC, which lies only if the case involves a ***substantial question of law***, which must be clearly formulated and the Appeal is then heard only on such questions. Mere allegation that evidence has not been correctly appreciated, or that another view is possible on the same material, does not by itself

amount to a substantial question of law.

29. In the present case, Ld. Trial Court held that the Appellant failed to prove actual return of defective goods or any adjustment extinguishing the outstanding amount, primarily because there was no acknowledgment or Receipt produced, evidencing the return. These are pure findings of *fact,* based on appreciation of oral and documentary evidence and, in the absence of demonstrated perversity, do not give rise to a *substantial question of law* within the meaning of Section 100 CPC.

30. The Appellant/Defendant categorically admits that he received *Aluminium Wire Rods* from the Plaintiff in January, 2020 vide Invoice No. 2019-20/18, amounting to Rs. 16,41,380/-. The Defendant asserted that some of the goods were later found to be defective and returned. Accordingly, the Defendant made a part payment of Rs. 14,00,000/- and claims to have settled the remaining balance by paying Rs. 2,908/- in cash, after deducting Rs. 2,38,472/-, the value of the defective goods,.

31. The Defendant/Appellant claimed that the entire transaction took place in cash and no Receipt was ever executed vis-à-vis the acknowledgement of the return of goods. Section 58 of the Indian Evidence Act, 1872 embodies the rule that **facts admitted need not be proved**. Thus, the foundational fact of advancement stands established under Section 58 of the Indian Evidence Act, 1872, requiring no further proof by the Plaintiff. The primary dispute revolved around the return of goods, and the Defendant's deposition claiming the entire amount stood paid, the burden of proving both assertions **rested upon the Defendant**.

32. However, the Defendant has failed to prove its Ledger, and the alleged Invoices raised towards the returned goods and the GST returns as

per law, as neither the Ledger nor the Invoices bear the signatures of the authorised representative of the Plaintiff Company, nor the same were ever admitted on behalf of the Plaintiff in any of the communications.

33. Further, the Defendant has also failed to prove that the Plaintiff has ever taken or claimed any input credit in respect of the GST returns raised by the Defendant's alleged defective goods.

34. While the authorised representative as DW-1 deposed in his evidence by way of affidavit, that he returned the defective goods, but made a telling admission in his cross-examination, relevant part of which is reproduced as under:

> *"……**I do not know to whom the cash of Rs. 2,908/- was handed over at the plaintiff's place by my employee**/Sh., Vinod to whom. (Vol. I got- the telephonic confirmation from the plaintiff that he had received the said amount.) **There is no receipt of cash transaction of the said amount. I do not remember the mobile number to which number I contacted or even I do not remember the name of the person.** (Vol. I lost my mobile 6 months ago and there were not many dealings with the plaintiff) It is wrong to suggest that the bank statement produced by me today is self-created. (Vol. The said statement is taken out by way of online mode and the link is mentioned at the bottom of the statement). It is correct that I had taken the print out of 13 pages but brought only 3 pages. (Vol. I had brought the statement as per the directions by Ld. Counsel for plaintiff)."*

35. It emerges from the admission in cross-examination of DW-1 that admittedly, the aluminium wire rods were received by the Defendant, in the month of January, 2020 vide Ex.PW1/B Tax Invoice No. 2019-20/18 dated 06.01.2020 for a sum of Rs.16,41,380/- (inclusive of taxes). Significantly,

DW-1 was unable to produce the acknowledgement or receipt of the defective returned aluminium wire rods to the Plaintiff. It is highly unbelievable and improbable that while the invoice of aluminium wire rod is prepared, there would be no document in the acknowledgement of its return.

36. The Ld. Trial Court and the Appellate Court did not reject the records merely for want of a 65B Certificate, but examined their probative value and found them insufficient to establish actual return of goods. It is evident from the record that the Appellate court has considered the electronic evidence but found it unsupported by independent corroboration from the material on record. Such evaluation primarily concerns weight of evidence, not admissibility, and is therefore, factual in nature. Hence, the averment of total exclusion of Section 65B of Indian Evidence Act, 1872, does not crystallise into a substantial question of law.

37. There is no substantial question of law raised, nor is there any merit in the present **Appeal, which is hereby, dismissed**.

38. Pending Applications, if any, also stand disposed of.

NEENA BANSAL KRISHNA, J

MARCH 11, 2026/RS