

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE-01
SHAHDARA DISTRICT, KARKARDOOMA COURTS: DELHI.**

Presided by :SH. SHARAD GUPTA

Suit No. 301/2017

M/s. Vee Pee International Pvt. Ltd.

At IX/6493, Nehru Gali,
Gandhi Nagar, Delhi-110031.
Through its Manager
Sh. Jagdish Sharma
S/o Sh. Subhash Chand Sharma
R/o D-114, Gali no. 12,
Gamri Extension,
Delhi-110053.

.....Plaintiff

Versus

1. Sh. Ketan Shah

Prop. of M/s. Garment Inc.

2. Sh. Vipul Mahadev

Both at 201, Veer Prim Rose Towers,
Azad Nagar, #3, Desai Road, Andheri West,
Mumbai-400058.

..... Defendants

Date of Institution : 05/04/2017

Order reserved on : 21/04/2018

Order passed on : 21/04/2018

Suit for recovery for Rs.25 lacs alongwith pendentelite & future interest

JUDGMENT

1. Vide this judgment, I shall dispose of instant suit for recovery of

Rs.25,00,000/- which has been filed by M/s. Vee Pee International Pvt. Ltd. (hereinafter referred as plaintiff) against Sh. Ketan Shah and Sh. Vipul Mahadev(hereinafter referred as defendant no.1 & 2 respectively).

2. The facts set out in the instant suit are that plaintiff is a private limited company incorporated under the provision of Company Act 1956 having its registered office at IX/6493, Nehru Gali, Gandhi Nagar, Delhi and the present plaint has been issued by Sh. Jagdish Sharma duly authorized representative of the plaintiff company. That defendants are engaged in business of manufacturing readymade garments at the above address, while plaintiff is engaged in business of trading of readymade garments. That in May 2014, defendants approached to the plaintiff and procured order to supply 25,000 denim jeans to the plaintiff for which advance payment of Rs.25 lacs was made in the firm of defendant no.1 namely M/s. Garment Inc. in account no. 011401601000564 through RTGS on 24/04/2014. That the defendants accepted the factum of making payments by the plaintiff. That the defendants failed to show samples of same quality prior to supply of the goods as has been shown by them at the time of obtaining the order. That the plaintiff company requested the defendants to either show the sample of the same quality or to refund the amount of the plaintiff. That the defendants assured the plaintiff to refund the entire amount but lingered on the matter. That

despite service of legal notice dated 01/03/2017 through registered AD and speed post on 2/03/2017 the defendants failed to repay the said amount of Rs.25 lacs. Hence the present suit has been filed.

3. Summons of the suit were served upon defendants through publication in the newspaper "The Hindu" dated 27/12/2017 and "Navshakti" dated 25/12/2017. In spite of service of summons, none has appeared for defendants hence they were proceeded ex parte vide order dated 02/04/2018.

4. In ex-parte evidence, plaintiff examined its authorized representative Sh. Jagdish Sharma as PW-1.

5. PW-1 led his evidence on affidavit Ex. PW1/X. He generally deposed on the same lines of plaint. PW-1 relied and proved Statement of account of plaintiff company as Ex. PW1/1, copies of e-mails as Mark A (colly), copy of legal notice dated 01/03/2017 as Ex. PW1/3, postal receipts and registered AD card as Ex. PW1/7, board resolution and memorandum of articles of plaintiff company as Ex. PW1/8 and Ex. PW1/9.

6. I have heard the submissions of Ld. counsel for plaintiff and perused the

entire material available on record.

7. The defendants did not contest the suit despite having been served with the summons of the suit. The testimony of PW-1 remains unchallenged and consistent with the plaint, hence I have no reason to disbelieve the testimony of PW-1 to the effect that defendants are engaged in the business of manufacturing of readymade garments and that they approached the plaintiff company in May 2014 and procured an order for supply of denim jeans for which they obtained Rs.25 lacs as advance. That the defendants did not supply the goods and also did not refund Rs.25 lacs despite issue of legal notice Ex. PW1/3 vide postal receipts Ex. PW1/4 to Ex. PW1/7. the plaintiff has also proved certified copy of its statement of account as per which, Rs.25 lacs were credited to the account of defendant no. 1 firm namely M/s. Garment Inc. through RTGS on 26/06/2014.

8. As far as interest is concerned, there is no agreement regarding payment of interest, in case defendants failed to supply the required material but the transaction between plaintiff and defendants is commercial in nature, so considering the facts and circumstances and the present economic scenario, I am of considered view that interest @ 9% will be just & proper.

9. The amount was transferred to the account of M/s. Garment Inc. on 26/06/2014. Whereas the present suit has been filed on 05/04/2017. Hence the suit of the plaintiff is within limitation.

Relief

10. In view of aforesaid discussion, suit is decreed in favour of plaintiff & against the defendants jointly and severally for a sum of Rs.25,00,000/- (Rupees Twenty Five lacs only) along with interest @ 9% p.a. w.e.f. date of legal notice dated 01/03/2017 till the realization of the amount. Plaintiff is also entitled for cost of suit. Decree sheet be prepared accordingly.

10. File be consigned to record room.

**(Announced in the
open court
on 21/04/2018)**

**(SHARAD GUPTA)
Additional District Judge-01 (Shahdara)
District:Karkardooma, Delhi.**