

**IN THE COURT OF SH. DEEPAK GARG,
DISTRICT JUDGE-COMMERCIAL COURT-09
(CENTRAL DISTRICT), TIS HAZARI COURTS, DELHI.**

CNR NO.:- DLCT01-018493-2021
CIVIL SUIT (COMMERCIAL) NO.:- 46/2022

IN THE MATTER OF :-

**M/S Jainsons Lights Pvt Ltd.
Through its /Director Sh. Rajan Jain
1932-34, 2nd & 3rd Floor,
Opposite Fountain, Chandni Chowk,
Delhi 110006**Plaintiff

VERSUS

**M/S Chandransh Lights and Power Pvt Ltd.
Through its Director Sh. Prem Prakash Singh,
Flat no. 404, Garuda Palace, 2nd Cross,
Opposite KNSIT college,
Thanisandra Main Road, Thirumanahalli,
Jakkur, Banglore, Karnataka-560064**Defendant

**SUIT FOR RECOVERY OF RS.3,33,394/ (THREE LAKH THIRTY
THREE THOUSAND THREE HUNDRED NINETY FOUR ONLY)**

Date of institution : 24/12/2021
Date on which Judgment was reserved : 05/09/2023
Date of Judgment : 05/09/2023

::- EX PARTE J U D G M E N T -::

1. By way of present judgment, this court shall conscientiously adjudicate upon suit for recovery of Rs.3,33,394/- (Rs. Three Lakh Thirty Three Thousand Three Hundred Ninety Only) along with interest, pendente lite and future @18% per annum filed by plaintiff against the defendant.

CASE OF THE PLAINTIFF AS PER PLAINT

2. Brief facts of the plaint is that plaintiff is a Private Limited company registered under the Companies Act and is dealing in sale, supply and distribution of various kinds of lights, fancy lights, lighting fixtures, outdoor lighting equipments and accessories.
3. The defendant is also a company registered under the Companies Act running its business. Defendant approached plaintiff at its business place in the month of May, 2019, for purchase of lights, lighting equipments and accessories on credit basis.
4. That defendant placed order for purchase of goods/material worth Rs.6,12,405/-. The plaintiff, acceding to the request of the defendant supplied material worth Rs.6,12,405/- on credit basis against invoices.

5. As per statement of account maintained by plaintiff, defendant has purchased material worth Rs.6,12,405/- from 15.05.2019 till 09.09.2019, through various invoices, and released total part payment amounting to Rs.2,79,011/- and a total debit balance of Rs.3,33,394/- was due and payable by defendant till 09.09.2019.
6. Thereafter, the notice of demand dated 29.12.2020 was sent to defendant to clear the outstanding payment make along with interest with effect from 09.09.2019. Defendant despite service of notice failed to make the payment & discharge its liability.
7. Plaintiff made an application before the Central District Legal Services Authority on 23.09.2021. Defendant was served with the notice issued by Central District Legal Services Authority for settlement of the dispute for but defendant failed to put appearance and as such Competent Authority closed the proceedings with a non-starter report.
8. It is averred in the plaint that the present suit is within limitation as the defendant is acknowledgment of its debt had been making part payments in respect of running ledger accounts maintained from time to time .

EX PARTE PROCEEDINGS

9. The summon of the suit was issued to defendant. Defendant was served at Bangalore address through registered post and speed post on

25/02/2022. But since defendant neither appeared nor filed any written statement despite service, defendant was proceeded ex-parte vide order dated 12.08.2022. Thereafter matter was fixed for ex-parte evidence of plaintiff.

PLAINTIFF'S EVIDENCE

10. The plaintiff in order to prove its case has led plaintiff evidence and got examined Shri Rajan Jain, AR of plaintiff company, as PW-1. PW1 has filed his evidence by way of affidavit, wherein he reiterated and reaffirmed the contents of the plaint. PW1 in his testimony has relied upon the following documents:

- i. Board Resolution of the company in my favour is **ExPW1/1**.
- ii. Photocopy of certificate of incorporation of plaintiff company is **ExPW1/2 (OSR)**
- iii. Computer generated copy of invoice no. CCTAX/893/19-20 dated 09/09/2019 is **ExPW1/3**.
- iv. Computer generated copy of Statement of Account maintained by plaintiff for the period 01/4/2019 to 31/03/2020 is **ExPW1/4**.
- v. Office copy of Legal demand notice dated 29/12/2020 is **ExPW1/5**.
- vi. Original postal receipt is **ExPW1/6**.

- vii. The non starter certificate issued by the District Legal Service Authority, Central, Delhi in respect of pre-institution mediation is **ExPW1/7**.
- viii. Certificate under Section 65B of Indian Evidence Act is **ExPW1/8**.
11. PW2 Sh. Dinesh Kumar, Junior Assistant, Department of Trade and Taxes, Vyapaar Bhawan, IP Estate, New Delhi 110002 appeared and he in his testimony has relied upon the following documents:
- (i) Entries in GSTR-I in respect of Jainsons Lights Pvt .Ltd. for the period May, 2019 to September, 2019, which is **ExPW2/1** colly (5 pages)
 - (ii) The dealer profile of Jainsons Light Pvt. Ltd. whose Director is Sh. Rajan Kumar Jain as per our record, which is exhibited as **ExPW2/2 colly (4 pages)**.
 - (iii) Certificate u/s 65B of Indian Evidence Act which is **ExPW2/3**.
12. This Court heard the ex-parte final arguments advanced by Ld. Counsel for the plaintiff. I have perused the material available on record.

FINDINGS & CONCLUSIONS OF THE COURT

13. The plaintiff has filed the present suit for recovery of Rs.3,33,394/- against the defendant. As per ExPW1/3 the goods were

supplied to the defendant on 09/09/2019 vide Tax invoice no. CCTAX/893/19-20 dated 09/09/2019. ExPW1/4 i.e. copy of statement of accounts maintained by the plaintiff carries this entry dated 09/09/2019. Thus, the present suit of the plaintiff filed on 24/12/2021 is well within the period of limitation.

14. In the present case, the defendant was proceeded ex-parte, despite this fact, the plaintiff has to prove its case on merits and satisfy the court that the plaintiff is entitled for the recovery of the suit amount along with interest from the defendant.
15. In the present case, the plaintiff/PW-1 has proved on record the documents, as mentioned in his testimony, showing the liability of the defendant to pay suit amount along with interest to the plaintiff. Plaintiff has proved his authority to depose vide Resolution of the Board of Directors, ExPW1/1. The certificate of incorporation of plaintiff company is proved as ExPW1/2. PW1 has deposed that he is fully conversant with the facts of the case and competent to file the presuit suit.
16. As the PW1 has filed the requisite certificate under Section 65B of the Evidence Act are Ex.PW1/8, the computerized statement of account Ex.PW1/4 becomes admissible in evidence. The statement of account corroborates the testimony of PW1.

17. The defendant had been purchasing the material/product from the plaintiff on credit. He has proved copy of invoice no. CCTAX/893/19-20 dated 09/09/2019 which is ExPW1/3. The PW-1 has also deposed that prior to filing of the suit, a legal demand notice dated 29/12/2020 ExPW1/5 was issued to defendant, however, the defendant failed to clear the outstanding amount.
18. The plaintiff thereafter initiated pre-institution mediation proceedings which resulted in issuance of non-starter report ExPW1/7 as defendant failed to join the mediation proceedings. The defendant has also not filed written statement to contest the present suit filed by the plaintiff.
19. The testimony of PW-1 has remained unchallenged and unrebutted. The defendant also chose not to appear and when the case of the plaintiff has gone un-challenged, uncontroverted, un-rebutted and duly corroborated by the documents, this court has no reason to disbelieve the version of the plaintiff qua the claims.
20. Hence, the plaintiff has been able to prove its case and is entitled for the recovery of suit amount from the defendant. The plaintiff has also claimed an interest pendente lite and future @ 18% per annum from the defendant from the date of this suit till realisation.

21. The court is of the considered opinion that the interest of justice would be served if the plaintiff is granted interest @ 10% per annum from 09/09/2021 till filing of the suit, pendentelite and future till its realization.

RELIEF

22. In view of the above, I hereby pass :-

FINAL ORDER

(a). An ex parte decree of Rs.3,33,394 /- is passed in favour of the plaintiff and against the defendant alongwith simple interest @ 10% per annum from 09/09/2021 till filing of the suit and pendentelite and future till its realization. The cost of the suit is also awarded in favour of the plaintiff and against the defendant.

23. Decree-sheet be prepared accordingly.
24. File be consigned to Record Room after due compliance.

**Announced in the open Court on
this 05th Day of September, 2023.**

(Deepak Garg)
Distt. Judge, (Comm. Court)-09,
Central District, THC : Delhi