IN THE COURT OF SHRI SUNIL CHOUDHARY
DISTRICT JUDGE-01 (WEST), TIS HAZARI COURTS, DELHI

Civ DJ No. 11847/16

Ved Prakash Bansal,
Proprietor M/s Balaji Steels
(Proprietorship Firm)
Having its office at A-47,
Wajirpur Indl. Area,
Delhi-52. … Plaintiff

versus

Kuldeep Malik
M/s Malik Electronics
At : Shop No.4, Main Balaji Chowk,
Mohan Garden, Uttam Nagar,
Delhi-59. … Defendant

Date of Institution	**26.05.2016**
Date of Final Arguments Heard	**03.06.2026**
Date of Pronouncement of Judgment	**04.07.2026**

J U D G M E N T

1. Vide this judgment, this Court shall decide the present suit filed by plaintiff against defendant for recovery of Rs.3,34,359/- alongwith pendente lite and future interest @ 24% Per Annum.

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CASE OF THE PLAINTIFF

2. The plaintiff's case in brief is that plaintiff's proprietorship firm is in the business of electronic goods under the name and style of M/s Balaji Steels. The present suit has been instituted by the plaintiff through Special Power of Attorney Holder Sh. Ankit Bansal who is aware about the facts of the case on the basis of official record maintained by the plaintiff. The defendant's proprietorship firm has been purchasing the electronics goods on credit from the plaintiff from time to time.

3. The defendant placed order for purchasing some electronics items to the plaintiff at its office. The plaintiff sold and delivered the said goods against the invoice No. 86 dated 06.08.2015 of Rs.1,08,001/- and invoice no.113 dated 24.08.2015 for Rs.2,26,358/- to the defendant which was duly received and acknowledged by the defendant without any dispute of quality, quantity and price. The plaintiff has maintained an open and running account in the ordinary course of business in its books of accounts.

4. The Plaintiff further averred that defendant has used the material supplied by the plaintiff and still failed to pay the outstanding amount despite several requests and demands. On the non-payment, the plaintiff got served a legal notice dated 23.03.2016 upon the defendant, however, defendant neither responded the same nor paid the outstanding amount. Feeling aggrieved, present suit has been filed by

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plaintiff against defendant seeking recovery of Rs.3,34,359/- alongwith *pendente lite* and future interest @24% per annum.

DEFENCE OF THE DEFENDANT:

5. The defendant has opposed the plaintiff's case by filing Written Statement wherein he has pleaded that defendant neither had any dealings or business transactions with the plaintiff nor has ever purchased any electronics goods from the plaintiff. The statement of account and bills filed by the plaintiff are false, forged and fabricated. The bills placed on record neither bear the stamp of the defendant nor they have signature of the defendant. The defendant does not use any such stamp as indicated on the invoices relied by the plaintiff or sign in the manner in which the signatures appear on the said invoices filed and relied by the plaintiff. The defendant signs in the manner in which he has signed the written statement as well as supporting affidavit.

6. The defendant has further averred that the present suit is barred by Limitation and is bad in law for mis-joinder and non-joinder of necessary parties.

7. The defendant has specifically denied that defendant has placed an order with the plaintiff firm or that defendant purchased and / or received the electronic items vide invoice no.86 dated 06.08.2015 of Rs.1,08,001/- and invoice no.113 dated 24.08.2015 of Rs.2,26,358/-. It was further denied that defendant has acknowledged the bills or

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delivery of goods as there are no delivery challans filed by the plaintiff against the alleged delivery of goods. The defendant has prayed for dismissal of the present suit with exemplary costs.

ISSUES

8. From the pleadings of the parties, following issues were framed vide order dated 14.02.2017:

1. Whether the plaintiff is entitled for recovery of suit amount as claimed? OPP

2. Relief.

PLAINTIFF'S EVIDENCE

9. In supports of its case, the plaintiff has only examined Sh. Ankit Bansal as PW-1 who has deposed in his affidavit of evidence Ex.PW1/X in support of the facts mentioned in the plaint. He relied upon following documents:

1. Copy of SPA : Ex.PW1/A.
2. Copy of proof of Proprietorship Firm : Ex.PW1/B.
3. Copy of Invoices : Ex.PW1/B1 to Ex.PW1/B2.
4. Original Ledger : Ex.PW1/C
5. Copy of Legal Notice : Ex.PW1/D
6. Postal receipt : Ex.PW1/E
7. Tracking report : Ex.PW1/F

10. The plaintiff witness PW-1 was duly cross-examined on behalf of defendant.

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DEFENDANT'S EVIDENCE:

11. The defendant has examined himself in defendant evidence as DW-1. In his affidavit of evidence (Ex.DW1/A), he has deposed in terms of facts mentioned in the written statement. DW-1 was also cross-examined by Ld. counsel for plaintiff.

12. I have heard the Ld. Counsels for the parties and have considered the submissions made. Further, I have also carefully gone through the entire record.

Submissions made on behalf of the Plaintiff

13. The Ld. Counsel for the plaintiff has argued that the Plaintiff and the defendant both are in the business of electronic goods. The Plaintiff, on receipt of order from the defendant, has sold the electronic goods to the defendant against the invoice no. 86 dated 06.08.2015 of Rs. 1,08,001/- and invoice no. 113 dated 24.08.2015 of Rs. 2,26,358/- which was delivered to the defendant who has accepted the delivery by affixing its seal and putting signatures. The said transactions are duly reflected in the ledger account of the plaintiff properly maintained by it in the ordinary course of business. The Plaintiff has been able to prove its case by the testimony of PW-1 Sh. Ankit Bansal and the documents.

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14. The Ld. Counsel for the plaintiff has further argued that the defendant has raised false plea that there was no sale transaction between the plaintiff and the defendant or that the plaintiff has not sold and delivered the goods mentions in the said invoices no. 86 dated 06.08.2025 or in invoice no. 113 dated 24.08.2015 to the defendant. On the strength of the said arguments, the Ld. Counsel for the plaintiff has prayed for the decree of the suit.

Submissions made on behalf of the Defendant

15. Per Contra, the Ld. Counsel for the defendant has argued that suit filed by the plaintiff deserved to be dismissed on the following grounds-

(1) The defendant has never purchased any electronic goods from the plaintiff and the present suit has been filed on the basis of false and fabricated documents which includes invoices and the statement of ledger account.

(2) The burden of proof to prove the issue no. 1 was on the plaintiff who has miserably failed to prove its case. As the defendant has specifically denied to have purchased any electronic goods from the plaintiff and putting its seal and signatures on the invoices **Ex. PW1/B1 and PW1/B2**, it was incumbent upon the plaintiff to prove that the said seal and signatures were of the defendant. The signatures of the defendant were available on the written statement and supporting affidavit which the plaintiff could have got compared with the said invoices. The plaintiff has failed to get the signatures

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compared. The Ld. Counsel for the defendant argued that therefore, the plaintiff has failed to prove that the defendant has accepted and acknowledged the delivery of the goods sold through the said invoice **Ex. PW1/B1 and PW1/B2.**

(3) That the plaintiff has failed to prove the statement of ledger account **Ex. PW1/C** as the plaintiff has failed to tender in evidence the certificate required under Section 65 B of the Indian Evidence Act, 1872. In absence of tendering of the said certificate under Section 65 B of the Indian Evidence Act, 1872, the statement of ledger account can't be considered. It has been further argued that even if the said statement of ledger account **Ex. PW1/C** is considered proved, as per Section 34 of the Indian Evidence Act, 1872 the same is not sufficient in itself to prove the liability against the defendant. It has been further argued that the said statement of ledger account **Ex. PW1/C** is not audited by any charter accountant and therefore cannot be considered as proof of liability against the defendant.

(4) The plaintiff has failed to adduce the transporter's evidence to prove the delivery of the goods to the defendant. The sole Plaintiff witness PW-1 Sh. Ankit Bansal has admitted that he is not aware that who has signed on the Invoices **Ex. PW1/B1** and **PW1/B2**. The plaintiff has failed to prove delivering of the goods to the defendant.

(5) That the plaintiff has failed to prove any purchase order given by the defendant to the plaintiff for the sale of goods mentioned in the Invoices **Ex. PW1/B1** and **PW1/B2.**

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Date: 2026.07.04 15:48:43 +0530

ISSUEWISE ANALYSIS AND CONCLUSION

***Issue No.1:* Whether the plaintiff is entitled for recovery of suit amount as claimed? OPP**

16. It is a settled proposition of law that the burden of proving a fact rests upon the party who asserts its existence. Such burden shifts to the opposite party only after the party bearing the initial onus has adduced sufficient evidence to establish a *prima facie* case in its favour. Unless and until the plaintiff discharges this initial burden, the defendant is under no obligation to prove his defence. In this regard, reference may be made to the decision of the Hon'ble Supreme Court in ***Mohd. Abdul Azam Khan v. Nawab Qasim Ali Khan*, (2022) 20 SCC 233**, wherein it was held that the initial burden to prove the claim lies upon the plaintiff and only upon the successful discharge of such burden does the onus shift upon the defendant to establish the circumstances disentitling the plaintiff from the relief claimed.

17. Applying the aforesaid principle to the facts of the present case, it is evident that the entire burden to establish the alleged transaction of sale and the consequent liability of the defendant squarely rests upon the plaintiff. The plaintiff has sought to discharge this burden through the testimony of PW-1, who has deposed that the defendant had placed orders for purchase of electronic goods and that the plaintiff supplied the same under Invoice No. 86 dated 06.08.2015 for a sum of Rs.1,08,001/- (Ex. PW1/B1) and Invoice No. 113 dated 24.08.2015 for a sum of Rs.2,26,358/- (Ex. PW1/B2). It has further been deposed that the amount of the said invoices was duly reflected in the ledger account maintained by the plaintiff in the ordinary course of business.

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18. The aforesaid assertions have been categorically denied by the defendant. DW-1 has consistently deposed that he never entered into any business transaction with the plaintiff, never placed any purchase order, nor purchased any electronic goods from the plaintiff. He has further denied having received or acknowledged delivery of any goods mentioned in the aforesaid invoices.

19. A careful examination of the pleadings reveals that the defendant has, from the very inception of the proceedings, consistently disputed the very existence of any transaction with the plaintiff. The defendant has specifically denied placing any purchase order, receiving any goods, or acknowledging the invoices relied upon by the plaintiff. Consequently, the burden lies heavily upon the plaintiff to establish, by cogent and reliable evidence, not merely the sale to the defendant but also the actual delivery of the goods to the defendant.

20. The principal documents relied upon by the plaintiff are Invoice No. 86 dated 06.08.2015 (Ex. PW1/B1) and Invoice No. 113 dated 24.08.2015 (Ex. PW1/B2). The defendant has specifically disputed the signatures and seal appearing on the said invoices, contending that neither the signatures nor the stamp belong to him or his proprietorship concern. In this backdrop, the testimony of PW-1 assumes considerable significance. During his cross-examination, PW-1 candidly admitted that he was unable to identify the person who had signed or affixed the alleged stamp upon the invoices. Relevant portion of his testimony reads as under:

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Date: 2026.07.04 15:48:57 +0530

"I cannot tell as to who has signed and stamped at point A on Ex.PW1/B1 and at point A on Ex.PW1/B2. It is correct that the transporter did not supply me delivery challans against the goods delivered to the defendants but he had given me only the carbon copies of the bills".

21. Equally significant is the testimony of DW-1, who, during his cross-examination, categorically denied the suggestion that he had received the goods in question or had acknowledged the same by affixing the stamp of his firm and his signatures upon the invoices. Thus, the alleged acknowledgment of delivery remains seriously disputed and unsubstantiated.

22. In the peculiar facts of the present case, the evidence of the transporter or delivery personnel assumes vital importance. The plaintiff has failed to examine the person through whom the goods were allegedly transported and delivered to the defendant. On the contrary, PW-1 admitted during cross-examination that the goods were allegedly transported through a Champion Vehicle (Auto Loader) belonging to a third party but failed to give any details. He further admitted that he neither possessed any consignment note nor any receipt evidencing payment of freight charges. He also admitted that he had never personally accompanied the goods or visited the defendant's premises at the time of delivery. In the absence of any transportation documents, delivery challans, freight receipts or testimony of the transporter, this Court finds no satisfactory evidence to establish that the goods covered under Ex. PW1/B1 and Ex. PW1/B2 were ever delivered to the

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Date: 2026.07.04 15:49:04 +0530

defendant. The plaintiff has, therefore, failed to prove one of the essential ingredients of its claim.

23. The aforesaid conclusion finds support from the decision of the Hon'ble High Court of Delhi in ***Harish Mansukhani v. Ashok Jain*****, in 2009(109) DRJ (DB); RFA 4/2008 decided on 19.11.2008,** wherein The Hon'ble High Court observed:

> *"Mere raising of a bill and reflecting the same in a statement of account is not good evidence without establishing delivery of the goods under the bills. We may hasten to add that in the instant case there is no evidence to even establish that the bills were raised upon the defendant, in that, were ever delivered to the defendant. There is no contemporaneous letter proved on record in which the plaintiff made a grievance upon the defendant that a huge outstanding amount was due from the defendant to the plaintiff".*

24. As regards the alleged acknowledgment appearing upon Ex. PW1/B1 and Ex. PW1/B2, the defendant has specifically denied both the signatures and the seal. Despite such categorical denial, the plaintiff neither sought comparison of the disputed signatures with the admitted signatures of the defendant nor examined any handwriting expert. The admitted signatures of the defendant were available on the written statement as well as the accompanying affidavit, yet no attempt was made by the plaintiff to establish the authenticity of the disputed signatures. Moreover, PW-1 himself admitted that he could not identify

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the person who had signed or stamped the invoices. In these circumstances, the plaintiff has failed to prove that the defendant had acknowledged receipt of the goods.

25. The plaintiff has also relied upon the ledger account (Ex.PW1/C). The Ld. Counsel for the defendant has objected to its admissibility on the ground that the mandatory certificate under Section 65B of the Indian Evidence Act, 1872 was never proved in evidence. Although the plaintiff had placed on record a certificate under Section 65B subsequent to the institution of the suit, the same was never tendered or exhibited during the examination of PW-1. Consequently, the ledger account cannot be read in evidence in accordance with law.

26. Even assuming, for the sake of argument, that the ledger account is admissible, the same would still not advance the plaintiff's case. Under Section 34 of the Indian Evidence Act, entries in books of account regularly maintained in the course of business are relevant but are not, by themselves, sufficient to fasten liability upon any person. Such entries require independent corroboration.

27. The Hon'ble Supreme Court of India in **'Chandradhar Gosawmi and Others Vs. Gauhati Bank Limited, 1996 SCC Online SC 255"** has held while considering Section 34 of the Evidence Act-

> *"It is clear from a bare perusal of the section that no person can be charged with liability merely on the basis of entries in books of account, even where such books of account are kept in the regular course of business. There has to be*

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further evidence to prove payment of the money which may appear in the books of account in order that a person may be charged with liability thereunder, except where the person to be charged accepts the correctness of the books of account and does not challenge them."

28. In the present case, the plaintiff has failed to produce any independent evidence proving the delivery of goods. Consequently, the ledger account, even if taken into consideration, cannot by itself establish the defendant's liability.

29. Another aspect which assumes significance is that the suit has been prosecuted through the plaintiff's Special Power of Attorney Holder, namely PW-1, who is the sole witness examined by the plaintiff. A perusal of his affidavit reveals that his knowledge regarding the transaction is derived solely from the office records maintained by the plaintiff and not from his personal participation in the alleged transaction. During cross-examination, it became evident that PW-1 possessed no personal knowledge regarding the delivery of goods or the acknowledgment thereof.

30. The Hon'ble Supreme Court of India in **Manisha Mahendra Gala & Ors. Versus Shalini Bhagwan Avatramani & Ors** (2024) 6 SCC 130 has held as under-

"It is, therefore, settled in law that Power of Attorney holder can only depose about the facts within his personal knowledge and not about those facts which

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are not within his knowledge or are within the personal knowledge of the person who he represents or about the facts that may have transpired much before he entered the scene".

31. Applying the aforesaid principle, this Court finds that the testimony of PW-1 lacks probative value insofar as the actual transaction of sale and delivery is concerned. Furthermore, the plaintiff himself has chosen not to enter the witness box without furnishing any explanation. In the facts and circumstances of the case, an adverse inference is liable to be drawn against the plaintiff.

32. It is also pertinent to note that the order dated 28.05.2019 records the submission made on behalf of the plaintiff that an application would be moved to bring on record the statement allegedly made by the defendant before the police. However, neither was any such application ever filed nor was any such document placed or proved on record. The plaintiff, therefore, failed to produce even this additional piece of evidence which it had itself proposed to rely upon.

33. In view of the foregoing discussion, this Court is of the considered opinion that the plaintiff has failed to establish, by cogent, reliable and admissible evidence, that the defendant had placed the alleged purchase orders, that the goods covered under Ex. PW1/B1 and Ex. PW1/B2 were actually delivered to the defendant, or that the defendant acknowledged receipt thereof and became liable to pay the amount claimed. The plaintiff has fail to prove its claim.

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34. Accordingly, **Issue No. 1 is decided against the plaintiff and in favour of the defendant.**

Relief :

35. In view of above discussion, present suit is dismissed with no order as to costs. Decree sheet be drawn accordingly.

File be consigned to Record Room.

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Announced in the open court on this 04th day of July, 2026.

(Sunil Choudhary)
District Judge-01 (West)
Tis Hazari Courts, Delhi