

GJVD060000532020



Presented on : 04-01-2020

Registered on : 04-01-2020

Decided on : 08-05-2026

Duration : 6Y- 4M- 4D

**IN THE COURT OF
PRINCIPAL CIVIL JUDGE & J.M.F.C AT VAGHODIA,VADODARA
Presided Over by V. SEOUL**

RCS/8/2020

Exhibit No.:

Plaintiff:

Power Craft inc

Occupation :

Address: 171, road q gidc estate, waghodia.

VERSUS

Defendant:

1:- Tulsi solar technologies limited

Address: 550/3A, mahuvej, besides rajhans chocolate factory, NH-8, surat

2:Sweta daga partner

Address: 550/3A, mahuvej, besides rajhans chocolate factory, NH-8, surat

3:shrenik kumar daga

Address: 550/3A, mahuvej, besides rajhans chocolate factory, NH-8, surat

Advocate for Plaintiff: R.K.BHAVSAR

Advocate for Defendant: D M BHALIYA appearing for tulsi solar technologies limited: Advocate, appearing for 2, 3 respectively.

Claim : Amount value; Rs. 10,05,812/-

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

1. The present suit has been filed by plaintiff for the recovery of the amount of Rs. 10,05,812/- with interest from the defendant. The facts in brief of the present suit are:

2. The plaintiff is a partnership firm registered under the Indian Partnership Act, carrying on the manufacturing business of transformers under the name and style of M/S. POWERCRAFT and the suit is filed through the partner Mr. Pravinkant Bhavsar, who is a partner and has personal knowledge of each and every transaction and event of the case whereas the defendant no. 1 is a limited liability partnership firm, and defendants no. 2 and 3 are the partners of the firm, having business of spinning, weaving, and finishing of textiles, with their registered office at 550, 3/A, Mahuvej, Opp. RFO, beside chocolate factory, Surat. The defendants placed a verbal order for a 3 MVA, 22/0.415 KV Copper Wound Power Transformer with all accessories with the plaintiff. In consequence of having received the verbal order, and the defendants having placed indents for the purchase, the plaintiff sold and delivered to the defendants the same goods of the value of Rs. 19,47,000/- and the goods aforesaid were duly received by the defendants by tempo from the plaintiff's works. The defendants have admitted and acknowledged receipt thereof on the accompanying tax invoice of the plaintiff. In the absence of anything to the contrary, it is believed that the goods so sold and delivered to the defendants were received by the defendants in good and ordinary condition, and that the defendants have consumed the said goods and derived monetary benefits therefrom. Consequently, on the plaintiff preferring his bills and books of account for the recovery of the process of goods so sold and delivered to the defendants, after settling the account, the defendants' receipt of Rs. 11,00,000/-

is credited, and Rs. 8,47,000/- is outstanding in the account of the defendants. The amount of the bill was debited in the account of the defendants in the books of account of the plaintiff. The bill so preferred by the plaintiff was also duly received by the defendants. Notwithstanding the receipt by the defendants of the goods so sold and delivered, and despite a series of repeated demands made on the defendants from time to time, the defendants have failed and neglected to perform their part of the contractual obligation in discharging the aforesaid fiscal liabilities, with the result that the remaining amount of Rs. 8,47,000/- aforesaid is shown as outstanding against the defendants in the books of account maintained by the plaintiff. The outstanding amount of Rs. 8,47,000/- was being withheld without any sufficient cause and as per the terms, the defendant was liable to pay 24% interest per annum on the outstanding amount on account of delayed payments. Due to the delay in withholding the dues, the plaintiff was deprived of utilizing the funds and had borrowed money from financial institutions at a rate of 15%. Therefore, the defendants are liable to pay interest over and above the principal amount. Thus due to this, the plaintiff has issued many reminders by telephone, but the defendants have not replied or complied. Therefore plaintiff was compelled to file the present suit against the defendants and as Defendant no. 1 is a limited liability partnership firm, and defendants no. 1 and 3 are their partners, and are jointly and severally liable for the consequences of the suit.

3. Plaintiff have gave the details of claim as:

- Rs. 19,47,000/- — Amount of goods as per Invoice No. 34
- Rs. 11,00,000/- — Amount paid by defendant
- Rs. 8,47,000/- — Amount overdue
- Rs. 1,58,812/- — Interest @ 15% from 30/08/2018 to 31/12/2019
- **Rs. 10,05,812/- — Total claim amount**

4. Plaintiff have gave out that the **Cause of Action** arose when the defendant placed a verbal order with the plaintiff, and also arose on 25/08/2018 when the defendant received the goods from the plaintiff's workshop and received the tax invoice. It further arose when the defendant made a part payment of Rs. 11,00,000/-, leaving a balance of Rs. 8,47,000/- as on 30-08-2018, and also arose when the plaintiff frequently reminded the defendant to make payment of the remaining amount, and when the defendants failed to reply and comply with the same.

5. He then further gave out that he Seeks the following Relief which he has sought in his Para 15 plaint as;

a) A decree of Rs. 10,05,812/- may be granted with interest at 15% per annum from the date of filing of the suit to realization of the amount, and an order be passed against the defendants to enable the plaintiff to recover the amount from the person and property of the defendants.

b) The cost of this suit and any other relief deemed fit and proper be also awarded to the plaintiff.

6. The Court issued summons upon the defendant which was duly served upon him and the defendant appear before the Court along with his advocate who in turn put his VP vide Exhibit 6 and sought time to file reply/WS vide Exb 5 and which was given to him and filled the same vide Exhibit 16. Since the Defendant stopped coming to the court then summons were reissued to the Defendant No 2 and they appeared through Advocate vide Exhibit 51 as they were reserved In their WS Defendant gave out that all facts mentioned in the plaintiff's suit application, except those clearly and expressly admitted, are not true and are not accepted by us and the plaintiff has intentionally concealed true facts in their suit application, and since the plaintiff has not come before the Hon'ble Court with clean hands and pure

intentions and The plaintiff's claim is contrary to the established principles of law and, though there is no clear legal bar, the said suit cannot proceed legally and is liable to be dismissed as there is no legally valid cause of action for the plaintiff to file the present suit, and since the suit has been filed with the malicious intention of extracting money from us, the suit cannot be maintained and is liable to be dismissed while laying out that the facts and statements made in the plaintiff's suit application are contradictory to the documentary evidence, and hence we do not accept the same.

7. Defendants in their WS have admitted some fact and denied other. He denied that the plaintiff is a partnership firm registered under the Indian Partnership Act and carries on the business of manufacturing transformers under the name M/s. Powercraft, and that the partner Pravinkant Bhavsar has personal knowledge of all transactions and dealings of the said suit and then Denied that defendant no. 1 is a limited liability partnership firm engaged in the textile business, and that defendants no. 2 and 3 are its partners, and that their registered office is located at 550, 3/A, Mahuvej, Opp. RFO, beside chocolate factory, Surat and the defendants gave a verbal order to the plaintiff for a transformer with all accessories and pursuant to the verbal order placed by the defendants, the plaintiff sent goods worth Rs. 19,47,000/- to the defendants, which were received by the defendants via tempo, and that the defendants acknowledged receipt in the bill and that there is nothing to the contrary, and that the goods sold and delivered were in good and normal condition, and that the defendants used the same and derived monetary benefit therefrom and the fact that upon examining the account of the bills of goods sold and delivered by the plaintiff to the defendants and the amounts received therefrom, Rs. 11,00,000/- was credited from the defendants' side and the balance of Rs. 8,47,000/- remained outstanding, and that the bill amount was debited in the defendants' account in the plaintiff's books of account and thereafter

the fact that the bill sent by the plaintiff was received by the defendants, and despite receiving the goods sold and delivered by the plaintiff, and despite the plaintiff making repeated demands for the said outstanding amount, the defendants failed to fulfil their financial obligations under the contract and as a result, Rs. 8,47,000/- remains outstanding in the defendants' account and that amount being withheld without any justifiable reason, and that as per the agreed terms, the defendants are liable to pay 24% annual interest on the outstanding amount for delayed payment, and that the plaintiff was deprived of using the funds and had to borrow money from financial institutions at 15% per annum, hence the defendants are liable to pay interest over and above the principal amount despite the plaintiff making repeated telephonic reminders for the aforesaid reasons, the defendants neither gave a proper reply nor made payment, and hence the plaintiff was compelled to file the present suit, and that the defendants are jointly and severally liable while giving out that the plaintiff's claim is entirely false, maliciously intentioned, and conceals the true facts. Therefore, no relief as prayed for in the plaintiff's suit application can be granted to the plaintiff.

8. As per the Defendant's Written Statement he has given out the true facts of this matter are as follows: In 2018, defendants, required a new higher-capacity transformer to replace the old one and thus they negotiated the price for this work with the plaintiff at Rs. 15,25,000/-, after deducting the GST amount payable by the plaintiff. It was also decided that in this transaction, they would return their old transformer to the plaintiff's company, whose value would be deducted and the remaining amount for the new transformer would be paid. Moreover, it was agreed that if any fault occurred in the copper winding of the said transformer within 5 years of purchase, the plaintiff would provide a standby transformer to us and repair the said transformer free of charge under warranty. Accordingly, as per the agreement with the plaintiff, on 25/08/2018, they sent the transformer to the

defendants via Tempo No. GJ-23 V-6670. The person who came with Tempo No. GJ-23 V-6670 to collect the transformer paid Rs. 2,00,000/- in cash as stated by the plaintiff, and a receipt was also taken. In the same tempo, as per the agreement with the plaintiff, they sent their old transformer to the plaintiff's company, and a letter regarding the same was also sent to the plaintiff's company. After that, defendants, paid the plaintiff a total of Rs. 11,00,000/- by cheque for this work. After deducting the price of the old transformer, the defendants had paid the full amount for the new transformer to the plaintiff. However, after the new transformer arrived, problems developed in its copper winding as it was a 3KV transformer but the winding was of only 1500KV and therefore they asked the plaintiff to provide a standby transformer, and the plaintiff said they would repair the transformer. But as per the warranty given by the plaintiff, they neither provided a standby transformer nor repaired the new transformer, and the plaintiff informed them that they did not have a standby transformer to give us. Thus they stated false excuses and, as per the warranty, did not carry out repairs. During the repair of the said transformer, it was not possible to shut down thier plant for a long time, as a prolonged shutdown due to the transformer would cause us enormous financial loss and it was due to the plaintiff's poor after-sales service and failure to provide a standby transformer, defendants, had to get the said transformer repaired at another company, Vikrant Transformers. Not only that, for the repair of the said transformer at Vikrant Transformers, for which they had to pay an additional Rs. 5,00,000/- as repair charges. Thus, the plaintiff failed to provide the warranty service for the new transformer, did not carry out repairs, and did not fulfil after-sales service obligations and thus they incurred a heavy expenditure of Rs. 5,00,000/- for getting the new transformer repaired at another company, and the full responsibility for this lies with the plaintiff and they informed the plaintiff about this matter repeatedly, but the plaintiff, in turn, fabricated entirely false facts and, by concealing the details of the old transformer that they gave in exchange as

well as the heavy repair expenses they incurred and they had filed the present suit to put mental pressure on us and extract additional money as plaintiff raised this false dispute afterwards and filed this fraudulent litigation with the sole intention of mentally pressuring us, the defendants, into paying more money. Thus, while praying that since the plaintiff has filed the present false suit without any justifiable reason and without any legally valid cause of action, Therefore, this suit should be dismissed and they be awarded compensatory costs of Rs. 1,00,000/-.

9. The plaintiff has submitted the following oral as well as documentary evidence in support of his suit:

ORAL EVIDENCE

Sr. No.	Name of Oral Evidence	Exhibit
1.	Examination of the Plaintiff; Pravinkant Savchand Bhavsar, Partner of the Power Kraft upon Affidavit- PW-1	24
2.	Examination of the Plaintiff; Deepen Pravinkant Savchand Bhavsar, Partner of the Power Kraft upon Affidavit- PW-2	34

DOCUMENTARY EVIDENCE

Sr. No.	Name of Documentary Evidence	Exhibit
1.	Register of Firms 6812299571 of Rs. 37050/-	21
2.	Ledger account of Defendant Company maintained by them	22

3.	Invoice of the Trasnfor Sold	23
4.	Quaotation of Order Details of the Transformer	31

10. The Defendant has submitted the following oral evidence in support of his suit but choose to lead no documentary evidence :

ORAL EVIDENCE

Sr. No.	Name of Oral Evidence	Exhibit
1.	Examination of the Defendant; Shrenik Kumar Daga upon Affidavit- DW-1	45

DOCUMENTARY EVIDENCE

Sr. No.	Name of Documentary Evidence	Exhibit
5.	Voucher No 1047 dated 25/08/2018	47
6.	Receipt by Tulsi Weaves Pvt Ltd	48
7.	Voucher No 95 dated 3/11/2020	49

11. After the completion of the evidence Heard the arguments of the learned advocate Mr. R.k.Bhavasara for the plaintiff and his written arguments also Vide Exhibit 58 while giving out that he has been able to prove the case as defendant has admitted he has purchased the transformer from him and has been proved from the PW-1 & 2 of which defendants couldn't bring anything on Record and The

defendants submitted evidence of DW-1 in support of their defence, including documents at Exhibit 45 with oral evidence, but no testimony under the Evidence Act was presented. Further, Exhibits 47, 48, and 49 were submitted as documentary evidence, but they did not appear for full cross-examination and as Exhibit 47 — Voucher on which the plaintiff has no signature, Exhibit 48 — Letter that was never received by the plaintiff, Exhibit 49 — Document on which the plaintiff has given no acknowledgment. He then gave out that for the Issue No. 1, the plaintiff provided a detailed description of the transformer sold at Exhibit 23, and its permanent copy was submitted in the suit. The defendants acknowledged receipt of the goods in their written reply at Exhibit 16. The plaintiff also produced account statements at Exhibit 22 showing the outstanding balance of Rs. 8,47,000/- . This was also confirmed in the plaintiff's oral evidence, and the defendants have not challenged it under Section 65 of the Evidence Act. The defendants themselves admitted that, as per the agreement with the plaintiff, the transformer was dispatched on 25/08/2018 via Tempo No. GJ-23 V-4447. The defendants have not submitted any solid proof showing that no balance is outstanding, nor have they produced any witnesses or signed vouchers/letters in cross-examination. The plaintiff's invoice clearly mentions 24% annual interest, and it was also stipulated that no complaint regarding goods would be accepted after 15 days of delivery. The defendants raised the issue of a defective transformer and outstanding dues only for the first time in this suit. Therefore, Issue No. 1 has been conclusively proved in favour of the plaintiff. The defendants have failed to prove Issue No. 2. To establish that the transformer was purchased for Rs. 15,25,000/-, they have completely failed to provide either oral or written evidence. Therefore, the answer to Issue No. 2 must be considered in the negative. The defendants have failed to prove this as well. They have not submitted any oral witness evidence to support their claim. The documents submitted at Exhibits 47, 48, and 49 could not be proved under the Evidence Act, and the oral evidence at Exhibit 45 was not

subjected to cross-examination. Since none of the exhibits have evidentiary value, the defendants' claim has no legal standing. The Court has placed the burden of proof on the plaintiff, who has fully discharged it through documentary and oral evidence. The defendants, on whom the burden of proof was placed for their counter-claims, have failed to discharge it. The defendants have not supported their reply with oral evidence, which renders their defence of no evidentiary value. The documentary evidence submitted was only entered as exhibits but not proved as per legal procedure. The defendants have admitted that the transformer sold by the plaintiff was received by them, but have failed to prove that they returned the old transformer to the plaintiff. In light of the above arguments, prayed to the court to pass a decree in favour of the plaintiff

12. Later the advocate for the Defendant did not do the Arguments nor presented the Written arguments in the suit and hence their right to file or do the Arguments in the case was closed.

13. The Court has framed the following issues vide Exhibit – 17 for the adjudication of the suit.

-: ISSUES :-

1. *Whether the Plaintiff proves that they sold a 03 MVA / 22/0.145 Copper Transformer worth Rs. 19,47,000/- to the defendants, out of which the defendants paid Rs. 11,00,000/- and a balance of Rs. 8,47,000/- remains outstanding?*
2. *Whether the defendant proves that they purchased the transformer from the plaintiff for Rs. 15,25,000/- and that the full amount has been paid to the plaintiff?*
 - 2(a) *Whether the Defendant proves that the transformer supplied to them*

was not repaired by the Plaintiff and they had to get it repaired from some other person and they had paid Rs. 5,00,000/-”

3. *Whether the plaintiff is entitled to the relief as prayed for?*
4. *What order and decree?*

14. My findings on the above issues are as under:

1. *Issue No.1 – In affirmative;*
2. *Issue No. 2 – In Negative;*
3. *Issue No. 2(A) – In Negative;*
4. *Issue No. 3 – In affirmative & As per final order;*
5. *Issue No. 4 - As per final order*

15. REASONS & FINDINGS

It is well known and established principle that in civil cases that plaintiff is the master of the suit and he has to win the case on his own legs. It follows that since plaintiff comes up with a claim before the court, he owes the burden to prove the material particulars in his favour to get a decree passed. In the landmark case of **Narayan Ganesh Dastane Vs. Sucheta Narayan Dastane, 1975 AIR 1534**, the Hon'ble Supreme Court of India held that

"The normal rule which govern civil proceedings is that a fact can be said to be established if it is proved by preponderance of probabilities. The belief regarding the existence of a fact thus be founded on a balance of probabilities. The first step in this process is to fix the probabilities, the second to weigh them. Within the wide range of probabilities, the Court has often a difficult choice to make but it is this choice which

ultimately determines where the preponderance of probabilities lies."

- 16.** Before proceeding ahead, it is pertinent to mention Section 101 to 104 of Indian Evidence Act,1872 and Section 3 of Indian Limitation Act,1963 which is as below:

Indian Evidence Act,1872

Section 101:- Burden Of Proof:-

Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist. When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

Illustrations

(a)*A desires a Court to give judgment that B shall be punished for a crime which A says B has committed. A must prove that B has committed the crime.*

(b)*A desires a Court to give judgement that he is entitled to certain land in the possession of B, by reason of facts which he asserts and which B denies, to be true.*

A must prove the existence of those facts.

Section 102:-On whom burden of proof lies

The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.

Illustrations

(a)*A sues B for land of which B is in possession, and which, as A asserts, was left to A by the will of C, B's father
If no evidence were given on either side, B would be entitled to retain his possession.*

Therefore the burden of proof is on A.

(b)*A sues B for money due on a bond.
The execution of the bond is admitted, by B says that it was obtained by fraud, which A denies.*

If no evidence were given on either side, A would succeed, as the bond is not disputed and the fraud is not proved.

Therefore the burden of proof is on B.

Section 103:-Burden of proof as to particular fact

The burden of proof as to any particular fact lies on that person who wishes the Court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.

Illustration

[(a)] *A prosecutes B for theft, and wishes the Court to believe that B admitted the theft to C, A must prove the admission.*

B wishes the Court to believe that, at the time in question, he was elsewhere. He must prove it

104. Burden of proving fact to be proved to make evidence admissible

The burden of proving any fact necessary to be proved in order to enable any person to give evidence of any other fact is on the person who wishes to give such evidence.

Illustrations

(a) *A wishes to prove a dying declaration by B. A must prove B's death.*

(b) *A wishes to prove, by secondary evidence, the contents of a lost document.*

A must prove that the document has been lost.

17. ISSUES NO. – 1

18. Considering the facts, circumstances of the case & documentary evidence produced by the plaintiff, this Court think it proper to discuss the issues number – 1 the sake of brevity which is as “*Whether the Plaintiff proves that they sold a 03 MVA / 22/0.145 Copper Transformer worth Rs. 19,47,000/- to the defendants, out of which the defendants paid Rs. 11,00,000/- and a balance of Rs. 8,47,000/- remains outstanding?*” In support of this PW-1 & Pw-2 who are the partners of the firms who have deposed that Vide Exhibit 31 the quotation to the Defendant was sent as per the needs of the defendants and thereafter the Firm has sent the Transformer to them and in support of it he has presented the Exhibit 21 register of firms records which prove the company was registered and they are the Partners of it and with the Exhibit 22 ledger account of the

Defendants company maintained by them and the invoice billed to the Defendant and thus which clearly proves that they had supplied the Transformer to the defendant company. Defendant tried to take the defense of that they had paid the cash of Rs. 2,00,000 to the tempo driver who brought the Transformer and tried to produce the voucher no 1047 dated 25/08/2018 vide Exhibit 47 & the letter Vide Exhibit 48 which states that they had taken the new transformer while handing over the old one however this clearly proves that they have received the transformer and thus as per the bill vide Exhibit 23 there is no mention of the old transformer being taken or adjusted or any communication which would prove that they had agreed to take the old one for Rs 5,00,000/- and thus say of the Defendant that they had given the Rs 2 lac to the Tempo driver vide Exhibit 47 voucher and Rs 5 lac for the Old Transformer which was sent by them is not proved as DW-1 didn't come to court to complete the Full Cross-Examination and thus when they admit that they have filled the WS on the Behalf of the Defendant no 1-3 then he should have come for the full-cross-Examination also but he failed to do so and thus his version can't be accepted nor there is any other witness or proof which would prove otherwise that he has agreed to the terms of the Exchange or sent the old transformer and new was faulty and thus asked for the repair despite being in the 5 year warranty nor there is any Notice sent by him to the plaintiff while giving out that there was fault and he sent the money Rs 2 lac to the plaintiff through the Tempo driver vide Exhibit 47 voucher as he couldn't bring in that how the Signature or receipt of the plaintiff is proved on that fact nor the fact that transformer was sent to plaintiff vide Exhibit 47 letter which is of the Different company if seen properly as its Tulsi weaves not the Tulsi solar and hence when the PW-1 & PW-2 have given the facts as per the Plaintiff and have supported it and thus **Issue no 1 is decided in affirmative and in the favour of the plaintiff.**

19. Now coming to the Issue No 2 which is “*Whether the defendant proves that they purchased the transformer from the plaintiff for Rs. 15,25,000/- and that the full amount has been paid to the plaintiff?*” in order to prove this Defendant needs to prove that they had agreed to the price of the Rs. 15,25,000/- and paid that amount however DW-1 didn't come to court to complete the Full Cross-Examination and thus when they admit that they have filled the WS on the Behalf of the Defendant no 1-3 then he should have come for the full-cross-Examination also but he failed to do so and thus his version can't be accepted nor there is any other witness or proof which would prove otherwise that he has agreed to the amount of Rs. Rs. 15,25,000/- however the Bill vide Exhibit 23 shows the price of the Transformer as the Rs. 19,47,000/- as Amount of goods as per Invoice No. 34 of which Rs. 11,00,000/- Amount paid by defendant and Rs. 8,47,000/- Amount overdue which is proved by the Exhibit 22 Ledger account of the Defendant and in the PW-1 & PW-2 nothing could be extracted by the Defendant advocate about the Exchange price or even the Exchange if it was agreed as Exhibit 31 Quotation never disclosed anything like that nor the Receipt of Rs 2 lac payment is proved nor there is any explanation of how Rs Rs. 15,25,000/- was arrived upon by the Defendants when the order was placed by them to the Plaintiff or the GST was to be born by the Plaintiff and not the Defendant and it is also settled principle that when the Sale is done then the whole amount of the sale price is there and upon which GST is to be paid and thus total amount comes in and hence in the contrary it can't be assumed and thus **Issue no 2 is decided in Negative and in the Against of the Defendant.**

20. Now coming to the Issue No 2 (A) which is “*Whether the Defendant proves that the transformer supplied to them was not repaired by the Plaintiff and they had to get it repaired from some other person and they had paid Rs. 5,00,000/-*” in order to prove this Defendant needs to prove that they had got the Repair

work and they had paid Rs. 5,00,000 to them however the however DW-1 didn't came to court to complete the Full Cross-Examination and thus when they admit that they have filled the WS on the Behalf of the Defendant no 1-3 then he should have come for the full-cross-Examination also but he failed to so and thus his version cant be accepted nor there is any other witness or proof which would prove otherwise that he has got the Transformer repaired as the Defendants have taken the defense that the Transformer received by them was faulty and asked the related questions to them and couldn't handle the load of 3000 KV as being of 1800KV but they couldn't bring anything out of it nor they have produced any witness or technician or repair persons or independent person who can prove that the transformer was faulty nor there is anything that would show that within the 15 days of the Receiving the product they has sent the notice to the Plaintiff or the Defect occurred in 5 years and to which they brought it in to the notice of the plaintiff and thereafter they have refused the service and thus when the PW-1 & PW-2 in their cross-Examination have also denied and defendant couldn't bring in their cross-examination that he had brought it into their knowledge but didn't it then contrary stand can be assumed. Also the alleged money voucher of Rs 2 lac to the plaintiff through the Tempo driver vide Exhibit 47 voucher as he couldn't bring in that how the Signature or receipt of the plaintiff is proved on that fact nor the fact that transformer was sent to plaintiff vide Exhibit 47 letter which is of the Different company if seen properly as its Tulsi weaves not the Tulsi solar or the money voucher of Rs 5 lac to the Vikrant Trasnformer vide Exhibit 49 voucher but there is no person on the Record of Vikarant Transformers that their repair men came to repair the Transformer at the Defendants; Tulsi solar, but the voucher is of Tulsi weaves and very fact that Defendant No has no where given that he has agreed to the price or the plaintiff had agreed to hi version as law is clear about the presumption .

Section 4. "May presume".

Whenever it is provided by this Act that the Court may presume a fact, it may either regard such fact as proved, unless and until it is disproved, or may call for proof of it.

"Shall presume". - *Whenever it is directed by this Act that the Court shall presume a fact, it shall regard such fact as proved, unless and until it is disproved.*

"Conclusive proof" - *When one fact is declared by this Act to be conclusive proof of another, the Court shall, on proof of the one fact, regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it.*

21. Now looking over this fact and Read with the Section 4 of the Indian Evidence Act, 1972 and thus effect also the claim of the Plaintiff looking over the invoice raised and the supply being done and defendant fails in that as he has not agreed to their invoice and he disputed to that fact or agreed by who will born the GST and the Exb 31 no where shows the same also and. Thus the Negative interference is drawn against the claim of the GST or the price as dictated by the Defendnats thus the Defense of the Defendants fails badly, thus, **Issue no 2 (A) is decided in Negative and in the Against of the Defendant.**

22. Now coming to the Issue No 3 which is "*Whether the plaintiff is entitled to the relief as prayed for?*" in order to prove this Plaintiff needs to prove that is he delivered the products as agreed to which the Defendants refused and thus he has sought relief in para 15 of the plaint as "*A decree of Rs. 10,05,812/- may be granted with interest at 15% per annum from the date of filing of the suit to realization of the amount, and an order be passed against the defendants to enable the plaintiff to recover the amount from the person and property of the defendants*" now with the above discussion it is proved that Plaintiff has

supplied the transformer and he has billed the Defendant vide exhibit 23 of which Rs 11 lac came and rest remained unpaid. Also the very Fact Exhibit 31 quotation sent to the Defendant is also proved from the PW-1 & PW-2 Deposition of which nothing came fruitful in their cross-Examination. As it has come on the record that Rs. 19,47,000/- was the Amount of goods as per Invoice No. 34 and Rs. 11,00,000/- Amount was paid by defendant and thus Rs. 8,47,000/- — Amount overdue and as per the Bill Rs. 1,58,812/- Interest @ 15% from 30/08/2018 to 31/12/2019 and thus the Rs. 10,05,812/- as Total claim amount is being arrived upon by the Plaintiff however as the Bill mentions 24% as interest however he has charged 15% and thus cant be taken wrong as it is per the wish of the plaintiff can charge if its less but he cant charge of more and thus 15 % interest is justified. and thus **Issue no 3 is decided in affirmative and in the favour of the plaintiff.**

23. With the above discussion plaintiff has successfully able to establish that there is due from the defendant of Rs. 10,05,812/- and when it is not returned that it plaintiff should be compensated for it as law of the equity gives about the same. Thus issue no 1 & 3 are decided in affirmative and in the favour of the plaintiff while Defendants issues No2 & 2A, were decided in against him. Therefore, a strong presumption lies in favour of the plaintiff that the plaintiff is entitled to recover the amount of Rs. Rs. 10,05,812/- /- from the defendant but so far as the question of interest is concerned, the plaintiff has asked the interest at the rate of 24% from the defendant but the plaintiff has not submitted any documentary evidence regarding any interest agreed upon between the parties for non-payment of the amount if partly remained unsettled. In such circumstances, the Court has to decide the rate of interest as per the provision of Section 34(1) of Civil Procedure Code. Section 34(1) of Civil Procedure Code is reproduced below:

"Where an in so far as a decree is for the payment of money, the Court may in the decree, order interest at such rate as the court deems reasonable to be paid on the principal sum adjudged, from the date of the suit of the decree".

Therefore, on the basis of the facts of the present suit, in view of the discussed provision of law and in the interest of justice, the Court thinks it proper to award simple interest at the rate of 6% per annum on the amount due from the defendant from 04/01/2020 from the date of filling the suit till today ie till the date of the Judgment and if there is delay of more than 3 months (apart from appeal preferred; If any; preferred by the any of the parties) then till realization of Decree . Hence, in the interest of justice, reply to issue number – 4 is answered as in affirmative and the Court passes the following final order for issue number – 4.

- :FINAL ORDER: -

- 1.** The suit of the plaintiff is hereby allowed.
- 2.** The plaintiff is entitled to recover the amount of Rs. 10,05,812/- /- (Ten Lakh five thousand eight Hundred twelve only) from the defendant along with simple interest of 6% (Six Percent) per annum which is due from 04/01/2020 from the date of filling of the suit to till date from the person and properties of the defendant.
- 3.** The plaintiff is liable to get the cost of the suit ashe had paid an amount of Rs. 23,950/- as the court fees and engaged the lawyer to get his legal due, thus Defendant is directed to pay him Rs 31,001/- as the cost of

the litigation .

4. Decree be drawn accordingly.

5. Suit file be assigned to the Central Record Room as per rules, after the Appeal period is over

Pronounced in the Open Court today on 08th day of May , 2026.

Date: 08/05/2026

Place: Waghodia

(Vikas Seoul)

Principal Civil Judge,

Waghodia , Vadodara

GJ01357