Witness present on 05-10-2024 and Oath is Administered.

Further Chief Examination: By counsel for complainant.

I have produced GST registration certificate and certificate U/S 65B of Evidence Act. Counsel for accused submitted to mark the GST registration certificate subject to proof of the same as it is an online copy. Accordingly, online copy of GST registration certificate is marked as Ex.P.31 subject to proof and certificate U/S 65B of Evidence Act is marked as Ex.P.32.

Cross Examination: By counsel for accused.

Since 2006 I am residing at Dharwad. I have not produced any document to show that I am residing at Dharwad. The complainant is HUF. In this regard I have produced Ex.P.31 GST registration certificate. When it is suggested that Ex.P.31 is pertaining to the year 2018 witness states that prior to 2018 it was commercial sales tax(VAT). It is true that Ex.P.31 is taken from Maharashtra.

The agreement with the accused was entered into at Maharashtra. Ex.P.31 is taken from the concerned website by myself. Ex.P.2 is a complete document. Ex.P.3 is executed at Mumbai. There is a policy of the company for taking undertaking from the dealer for sale of tractors. I have not produced the said policy, however I can produce it. It is true that at my instance Ex.P.2 agreement is drafted. The cheques mentioned in Ex.P.3 were issued by the accucsed at Mumbai. There is no mention in Ex.P.2 or 3 that the cheques could be presented any where as per my whims and fancy. Witness further states that the only account which is transacted is at Dharwad Gopalpur branch. It was notified to the accused that all the transactions of the complainant HUF were to be taken through the only account at Dharwad. There is no recital in Ex.P.2 or 3 stating that the transactions would took place only through the account at Dharwad. It is false to suggest that I am falsely contending that the accused was notified that the transactions would take place through the only accout at Dharwad.

It is true that our registered office is at Mumbai and all transactions take place at Mumbai. Now there is no staff at our registered office. Prior to that there were 2 staffs. As per recital No.3 of Ex.P.2 the issuance of …..

-blank/undated cheque by the dealer is the confirmation of the credit sale transaction. I have received the cheques mentioned in Ex.P.3 on the date when Ex.P.2 agreement is executed. The issuance and receipt of the said cheques are mentioned in Ex.P.3. It is true that the said cheques were issued on 02.02.2018. As per clause No.7 of Ex.P.2 the payment due to the distributor has to be made within 5 days. According to me the credit sale transaction with accused commenced on 02.02.2018 and concluded in January 2020. During the said period 45 tractors were sold to the accused on credit basis. Ex.P.28 to 30 invoices are generated from my computer. Ex.P.20 is the document showing the sale, payment received. I have not produced audit report pertaining to the above transactions. When it is suggested that there is no certification on Ex.P.20 that the accounts are true and correct and maintained during the course of business, witness states that he himself has signed and affixed the seal. It is false to suggest that mere signature and affixing of seal will not amount to certification of the accounts as true and correct. It is true that in none of the invoices, ledger extracts the address is shown as Dharwad.

It is true that Ex.P.12 is the confirmation of account from 01.04.2017 to 31.02.2018 pertaining to the accused. It is false to suggest that after Ex.P.19 no transaction took place with the accused. It is true that on the date of agreement itself blank cheques were issued to me by the accused. It is false to suggest that as the transaction took place after issuance of cheques by the accused, the cheques were taken as security. When it is suggested to the witness that whether he has called for accounts maintained by the accused pertaining to the transactions, witness states that the accused himself had come and verified the accounts and confirmed it and subsequently he also made payment of Rs.2,50,000/- to him. On 02.02.2021 the accused had come and verified the accounts. At that time the accused was due sum of Rs.10,00,000/- and odd. At the time the accused verified the accounts, sometimes he used to sign and put his thumb impression but not on all occasions. It is false to suggest that in Ex.P.19 there is nothing mentioned that the accused has confirmed the account statement. On 02.02.2021 I had all the 5 cheques issued by the accused. The contents of Ex.P.4 are filled by one of my staffs. I am not aware whether the said staffs are alive or not.

Further cross examination deferred on the request of the counsel for accused.

(Statement of witness recorded in the open Court.)

(Hemashree D.)
II Addl. Sr. Civil Judge & JMFC.,
Dharwad.