

IN THE COURT OF PAWAN KUMAR MATTO
DISTRICT JUDGE COMMERCIAL COURT-04, SHAHDARA,
KARKARDOOMA COURTS, DELHI

CS (Comm.) No. 199/2025
CNR No. DLSH01-001809-2025

In the matter of :-

MR. SATISH KUMAR
PROP. OF M/S POOJA INDUSTRIES
H-1-1376, PHASE-5, RAMPUR MANDANA, BHIWADI,
(RAJASTHAN)

ALSO AT IT'S SALES OFFICE:

39, MANAK VIHAR, NEAR YAMUNA SPORTS COMPLEX,
ANAND VIHAR, EAST DELHI, DELHI-110092

...PLAINTIFF.

VERSUS

1. MR. RAKESH DHONDIYAL

PROPRIETOR OF M/S SHRI RADHEY KRISHNA
ENTERPRISES,
ADDRESS:- B-8, PLOT NO. 43, KANTI NAGAR,
DELHI-110051.

DEFENDANT No. 1

Also at:-

PROPRIETOR OF M/S SHRI RADHEY KRISHNA
ENTERPRISES, 29/118-A, GALI NO. 10, VISHWAS NAGAR,
DELHI-110032

2. M/S SHRI RADHEY KRISHNA ENTERPRISES

THROUGH PROPRIETOR SH. RAKESH DHONDIYAL
B-8, PLOT NO. 43, KANTI NAGAR, DELHI-110005.

...DEFENDANT NO. 2.

Date of institution of the case : 03.04.2025
Date of final arguments : 11.02.2026
Date of judgment : 25.02.2026

JUDGMENT

1. Briefly stating that the plaintiff has filed the present Civil Suit (Commercial) for the recovery of the amount of Rs.13,69,349/- (Rupees Thirteen Lacs Sixty Nine Thousand Three Hundred Fourty Nine. (The Principal Amount of Rs.11, 60,459/- (Rupees Eleven Lacs, Sixty Thousand And Four Hundred Fifty Nine) along with interest of Rs.2,08,890/- (Rupees Two Lacs Eight Thousand Ninety Only) stating therein that plaintiff is having it's office at H-1-1376, Phase-5, Rampur Mandana, Bhiwadi, (Rajasthan) and sales office at 39, Manak Vihar. near Yamuna Sports Complex, Anand Vihar, East Delhi, Delhi-110092 and he is carrying the business of manufacturing PVC Compound.

2. It is further averred that the Defendant no. 1 is the proprietor of M/s. Shri Radhey Krishna Enterprises, Address B-8, Plot No. 43, Kanti Nagar, Delhi-110051. He is also having office at 29/118-A, Gali No.10, Vishwas Nagar, Delhi-110032, the defendant no.1 was used to place the orders of PVC COMPOUND with Plaintiff's firm M/s. Pooja Industries, and the plaintiff had supplied the same as per defendant's requirement and satisfaction.

3. It is further averred that after the delivery of goods, the defendants issued and gave postdated cheques to the plaintiff

according to bills and the same was updated in the ledger of Plaintiff Company.

4. It is further averred that the defendant/s requested to the plaintiff to give sometime to settle his account, as he had no funds, on which, the plaintiff cooperated and allowed the defendant's request of part payment, but, the defendants have some other malafide intention and the defendants started delaying payments on one pretext to other reason.

5. It is averred that the defendants were unable to fulfill the condition of payments and were not able to do timely payments of the supplied goods, which amounted to deliberate breach of contract by the defendants, which caused huge financial loss to the plaintiff. It is further averred that the plaintiff has also suffered huge financial loss, as his money was dumped in company of the defendant.

6. It is further averred that the following bills were raised by plaintiff to the defendants and the plaintiff was to claim the following amount from the defendants, in order to settle the dispute arising, out of the goods given by plaintiff:-

S. No.	Particulars	Bill No. & Dated	Amount
1.	Inter-State Sales GST@18%	60DT. 03.08.2024	Rs. 1,52,928/-
2.	Inter-State Sales GST@18%	61 DT. 06.082024	Rs. 1,60,574/-
3.	Inter-State Sales GST@18%	62 DT. 07.08.2024	Rs. 1,18,000/-

4.	Inter-State GST@18%	Sales	63 09.08.2024	DT.	Rs. 1,88,611/-
5.	Inter-State GST@18%	Sales	68 16.08.2024	DT.	Rs. 79,031/-
6.	Inter-State GST@18%	Sales	72 16.08.2024	DT.	Rs. 1,78,416/-
7.	Inter-State GST@18%	Sales	82 29.08.2024	DT.	Rs. 2,82,917/-
	Total				Rs. 11,60,459/-

7. It is also averred that the following cheques were received by the Plaintiff from the Defendant:-

S. No.	Date	Cheque No.	Amount	Drawn on	
1.	04.10.2024	042262	Rs. 1,52,928/-	Punjab Bank	National
2.	07.10.2024	042263	Rs. 1,60,574	Punjab Bank	National
3.	09.10.2024	042271	Rs. 1,18,000/-	Punjab Bank	National
4.	10.10.2024	042272	Rs. 1,88,611/-	Punjab Bank	National
5.	16.10.2024	042274	Rs. 79,013/-	Punjab Bank	National
6.	18.10.2024	042275	Rs. 1,78,416/-	Punjab Bank	National
7.	31.10.2024	042273	Rs. 2,82,917/-	Punjab Bank	National

8. It is further averred that the total outstanding amount of Rs. 11,60,459/- (Rupees Eleven Lakhs, Sixty Thousand & Four

Hundred Fifty Nine) against the cheques, which were given by the Defendants to the Plaintiff of current dates.

9. It is further averred that relying upon the assurances and commitment of the defendant and with due intimation to the Defendants, the plaintiff had presented the aforesaid above cheques on the given dates before his bank, namely HDFC BANK LTD, on Dated 04-11-2024 for clearing. However, to the utter shock that the said cheques got dishonoured vide return memo dated 05-11-2024 with the remarks "Account Blocked".

10. It is further averred that the Plaintiff had immediately informed to the Defendants about the fate of the said cheques and requested to the Defendants to make the payment of the said cheques' amount, for which, the Defendant promised to pay, but, despite of repeated requests and demands, the Defendant has failed to make the payment of the said cheques amount.

11. It is further averred that at the time of issuing the above mentioned cheques, the defendant was aware that the said cheques would not be encashed on their presentation and same would be returned unpaid and which were dishonored vide return memo dated 05-11-24 with the remarks "Account Blocked".

12. It is further averred that the Plaintiff had requested to the defendants to make the payment of amount of total Rs.11, 60,459/- (Rupees Eleven Lac, Sixty Thousand & Four Hundred Fifty Nine), as the defendant has withheld an amount of Rs.11,60,459/- (Rupees

Eleven Lac, Sixty Thousand & Four Hundred Fifty Nine) without any justified reason. The defendants had issued Order to the Plaintiff for PVC Compound and the Plaintiff had transported the said items, as per the order.

13. It is further averred that after supplying the goods, the Plaintiff requested the defendants to pay the total outstanding amount of Rs. 11,60,459/- (Rupees Eleven Lakhs Sixty Thousand & Four Hundred Fifty Nine Only) but, the defendant has failed to pay the same, despite of repeated requests of Plaintiff.

14. It is further averred that the plaintiff has telephonically, written and through whatsapp requested to the defendant to make the payment of the total amount of Rs.11,60,459/- (Rupees Eleven Lac, Sixty Thousand Four Hundred Fifty Nine) time and again, but the defendants have neglected to honor their commitments made with the Plaintiff.

15. It is further averred that the defendant is not making the payment of outstanding amount, due to which, the plaintiff has suffered huge financial loss and is being harassed due to the defendant's illegal act for not making the said payment to the plaintiff.

16. It is further averred that lastly, when the plaintiff had no option, then, he had sent a legal demand notice dated 28-12-2024 to the defendants through his counsel by speed post on dated 30-12-2024 on the address of the defendant mentioned here-in-above, and demanded

to pay the above said outstanding amount of Rs. 11, 60,459/- (Rupees Eleven Lacs, Sixty Thousand & Four Hundred Fifty Nine). The said legal notice was duly received to the defendants. However, despite issuances of the above said legal notice, the defendants have not paid even a single penny to the plaintiff.

17. It is further averred that the defendant had sent his reply to legal notice, wherein, the defendant has clearly admitted in Paras 2,3,4,5 & 7 of the reply that the defendant would make the payment within 120 days, which has also been completed, but, the defendant has failed to comply with his commitments and assurances till date.

18. It is further averred that the defendant has not made the above said due payment to the plaintiff till date, despite of repeated requests, reminders and phone calls of the plaintiff. Therefore, the defendants are liable to pay the interest at the rate of 18% per annum to the plaintiff on the said due amount, which is the market routine practice

19. It is further averred that as per the above said facts and circumstances, the defendant is liable to pay the amount of Rs. 11,60,459/- (Rupees Eleven Lacs, Sixty Thousand & Four Hundred Fifty Nine) to the plaintiff along with pendent-lite and future interest @ 18% per annum.

20. It is further averred that as per the statement of account/ ledger account maintained by the plaintiff, an amount of Rs.13, 69,349/- (Rupees Thirteen Lacs, Sixty Nine Thousand Three Hundred Forty

Nine). i.e. Principal amount of Rs. 11,60,459/- (Rupees Eleven Lacs Sixty Thousand Four Hundred fifty Nine) and interest amount of Rs.2,08,890/- (Rupees Two Lacs Eight Thousand Eight Hundred Ninety), are still due against the defendants, as on date.

21. It is further averred that the the Plaintiff had delivered all the goods from 03-08-2024 till 29-08-2024. As mutually agreed between the Plaintiff and the defendant and the defendant had issued 7 Cheques after 60 days of the last billing date i.e. 29-08-2024, which were dishonoured and thereafter the defendant had asked for giving 120 days' time, But, the defendants have failed to pay the total amount till date.

22. It is further averred that as per the terms and conditions agreed between the plaintiff and the defendant, the plaintiff had always supplied the requisite quantity and quality of goods on credit basis and the defendant had always taken delivery of the same. It is also averred that the defendant was quite satisfied by the goods sent by the plaintiff, because, he had never made any communication/ complaint after receiving of goods regarding any defect in the goods.

23. It is further averred that after receiving the goods from the plaintiff, the defendant did not adhere to financial discipline, so, the defendant is liable to pay interest at the rate of 18% per annum to the Plaintiff.

24. It is also averred that the defendant is called upon to pay the aforesaid payment to the Plaintiff or above mentioned amount, with interest @ 18% per annum along with Rs.2,00,000/- (Rupee Two Lakhs) for mental agony suffered by the Plaintiff.

25. It is averred that the cause of action firstly arose, when, the defendant had approached to the plaintiff and placed order to supply the goods and when, the goods were delivered by the plaintiff to the defendants accordingly between 03-08-2024 till 29-08-2024 and for that supply of goods, the plaintiff raised bill, but, the defendants failed to make the payment of outstanding amount to plaintiff, despite of legal demand notice and the cause of action is still continuing, as the defendants are not paying the outstanding amount to the plaintiff. So, the plaintiff has sought to recover an amount of Rs.13, 69,349/. (Rupees Thirteen Lacs Sixty Nine Thousand Three Hundred forty Nine).

26. It is also averred the the plaintiff's sales office is situated at 39, Manak Vihar, Near Yamuna Sports Complex, Anand Vihar, Delhi-110092 and the defendant used to visit at his sales office at 39, Manak Vihar, Near Yamuna Sports Complex, Anand Vihar, Delhi-110092 and they placed the orders to the plaintiff at said office and the orders were processed and invoices were raised at Anand Vihar Delhi and the goods were supplied to the defendant through various means of transportation form the address of the plaintiff at Anand Vihar, Delhi-110092, and the payments through Cheques was made by defendant at office at 39, Manak Vihar, Near

Yamuna Sports Complex, Delhi. Cheques were received in the account maintained by the plaintiff with his Sales Office 39, Manak Vihar, Near Yamuna Sports Complex, Anand Vihar, Delhi-110092 which is situated in District Shahdara, Delhi. Therefore, the part of casue of action arose at District Shahdara, Delhi within the territorial jurisdiction of this Court, hence this court has got Jurisdiction to entertain and adjudicate upon this suit on it's merits and prayed for passing the decree for recovery of Rs.13,69,349/- (Rupees Thirteen Lacs Sixty Nine Thousand Three Hundred Fourty Nine) i.e. the Principal Amount of Rs.11, 60,459/- (Rupees Eleven Lacs, Sixty Thousand And Four Hundred Fifty Nine) along with interest of Rs.2,08,890/- (Rupees Two Lacs Eight Thousand Ninety) along with pendent lite and future interest @ 18% per annum from the date of filing of the suit till the date of it's realization with cost of the suit.

27. The summons of the suit were issued to the defendants, and on dated 29.07.2025, Sh. Anupam Thakur, Ld. Counsel for the defendants had appeared on behalf of the defendants and filed vakalatnama and submitted that plaintiff may be directed to supply the complete set of documents. Since the Ld. Counsel for the defendants had appeared on behalf of the defendants without service of summons, so, Ld. Counsel for the plaintiff had supplied the complete set of documents to the Ld. Counsel for the defendants, but certain pages therein were not legible, so, plaintiff was directed to supply the legible copies thereof to the Ld. Counsel for the defendants within 03 days. Accordingly, the matter was adjourned for 28.08.2025 for filing of the written statement,

statement of truth, affidavit of admission/denial by the defendants. But, on dated 28.08.2025, no one had appeared on behalf of the defendants, so, the matter was adjourned for the same purpose for 01.09.2025 and on dated 01.09.2025, the Ld. Counsel for the defendants had filed the hardcopies of the written statement, statement of truth, affidavit of admission/denial.

28. The defendants have contested the suit of the plaintiff on the grounds *inter alia* that the plaintiff has suppressed the material facts from the court and the suit of the plaintiff is false, frivolous and vexatious and without any cause of action. It is also stated by the defendants that defendants had made the following payments:-

of Rs. 1,52,930/- on dated 03.01.2025 against invoice bearing no. 60, of Rs. 1,60,600/- on dated 11.01.2025 against invoice bearing no. 61, of Rs. 1,18,000/- on dated 20.01.2025 against invoice bearing no. 62, of Rs. 188,600/- on dated 29.01.2025 against invoice bearing no. 63, of Rs. 79,000/- on dated 05.02.2025 against invoice bearing no. 68, of Rs. 1,00,000/- on dated 17.02.2025 and Rs. 78,500 against invoice bearing no. 72, of Rs. 1,50,000/- on dated 23.02.2025 against invoice bearing no. 82, of Rs. 50,000/- on dated 26.02.2025 against invoice bearing no. 82.

29. It is further stated that on dated 06.03.2025, when the representative of the plaintiff came for payment, then the defendant had asked him for payment receipts against the invoices, 60, 61, 62, 63, 68 and 72, but, the plaintiff had denied to release any payment receipt and further stated that due to this reason, the balance amount of

Rs. 82,917/- is pending against invoice no. 82. The defendants have also stated that they had already made payment of Rs. 10,76,700/- and further stated that plaintiff wants to extort the money from the defendants.

30. Replying to the plaint on merit, the defendants have not denied the transactions of Rs. 11,60,459/-. the defendants have also not denied the issuance of 07 cheques, details of which are mentioned herein above in para no. 7 of this judgment. The defendants have denied that they had given any assurance that the cheques given by the defendants would be honoured on their presentation. The defendants have stated that abovesaid cheques were given in goods faith, as security without putting dates thereon. The defendants have also stated that they have given the reply to the legal notice and after denying the remaining averments made in the plaint, the defendants have sought dismissal of the suit.

31. The plaintiff has filed replication to the written statement of the defendants and denied the averments made in the written statement and reiterated the averments made in the plaint and prayed for passing the decree for recovery of suit amount with interest and cost in favour of the plaintiff and against the defendants.

32. On the basis of pleadings of parties, this Court vide its order dated 24.09.2023 had framed the following issues:-

i. Whether the plaintiff is entitled to recover an amount of Rs.13,69,349/- from the defendant?(OPP)

- ii. Whether the plaintiff is entitled to recover any interest from the defendant? If so, at what rate?(OPP)*
- iii. Whether the plaintiff has suppressed the true facts from the court? (OPD).*
- iv. Whether the defendant has made the payment of Rs.1,52,930/- to the plaintiff on dated 03.01.2025 against the invoice no.60? (OPD).*
- v. Whether the defendant has made the payment of Rs.1,60,600/- to the plaintiff on dated 11.01.2025 against the invoice no.61? (OPD).*
- vi. Whether the defendant has made the payment of Rs.1,18,000/- to the plaintiff on dated 20.01.2025 against the invoice no.62? (OPD).*
- vii. Whether the defendant has made the payment of Rs.1,88,600/- to the plaintiff on dated 29.01.2025 against the invoice no.63 ? (OPD).*
- Viii. Whether the defendant has made the payment of Rs.79,000/- to the plaintiff on dated 05.02.2025 against the invoice no.68? (OPD).*
- ix. Whether the defendant has made the payment of Rs.1,00,000/- to the plaintiff on dated 17.02.2025 and Rs.78,500/- on dated 19.02.2025 against the invoice no.72? (OPD).*
- x. Whether the defendant has made the payment of Rs.1,50,000/- to the plaintiff on dated 23.02.2025 against the invoice no.82? (OPD).*
- xi. Whether the defendant has made the payment of Rs.50,000/- to the plaintiff on dated 26.02.2025 against the invoice no.82? (OPD).*
- xii. Relief.*

33. Thereafter the matter was fixed for evidence of the plaintiff. In order to prove his case, the plaintiff has examined himself as PW-1, vide his affidavit PW-1/A. He has relied upon the documents Ex. PW1/1 to PW1/10. The opportunity to cross examination the plaintiff was given to the Ld. Counsel for the defendants, but, the Ld Counsel for the defendants had stated that he did not want to cross examine this plaintiff, so, the opportunity of the defendants to cross examine the plaintiff was done Nil.

34. Sh. Sushil Kumar, (who is the brother of the plaintiff) has examined himself as PW-2, vide his affidavit PW-2/A, who has deposed on the similar lines, as that of the plaint. He has relied upon the document Ex. PW-2/A. The opportunity to cross examination the PW-2 was also given to the Ld. Counsel for the defendants, but, the Ld Counsel for the defendants had stated that he did not want to cross examine this PW-2, so, the opportunity of the defendants to cross examine the PW-2 was also done Nil.

35. Thereafter, the plaintiff had closed his evidence. Then, the matter was fixed for evidence of the defendants.

36. In order to prove their defence, the defendants have examined Sh. Sunil Puri as DW-1, vide his affidavit Ex. DW-1/A. He was cross examined by the Ld. Counsel for the plaintiff. The defendants did not examine any other witness and closed their evidence and the matter was fixed for hearing final arguments.

37. At the time of final arguments, the proxy counsel for the plaintiff had filed the written arguments on dated 11.02.2026. Ld. proxy counsel for plaintiff had submitted that the copy of these written arguments were sent to the Ld. Counsel for the defendants on his whatsapp, but, as on dated 11.02.2026, despite of repeated calls no one had appeared on behalf of the defendants, so, on the instruction of the court, after taking the phone number of the defendant from the plaintiff, the reader has telephonically contacted with the defendant no. 1 and his counsel, but, neither the defendants nor their counsel had appeared in the court to argue in the present matter and the Ld. proxy counsel for plaintiff had submitted that the main counsel for the plaintiff was out of the town and he has sent the written arguments through her in the court and submitted that after considering the written arguments filed by her, on that day, in the court, the matter may be decided. Since, on dated 11.02.2026, despite of repeated calls till 01:15 PM, no one had appeared on behalf of the defendants, so the matter was adjourned for today for judgment and the defendants were left at liberty to file the written arguments within two days from 11.02.2026. But till date, no written arguments are filed by the defendants/or their counsel.

38. I have given thoughtful consideration to the written arguments filed by the Ld. proxy Counsel for the plaintiff and perused the record. As the defendants and their counsel failed to assist to the court.

39. The perusal of the record reveals that the plaintiff has filed the present suit for recovery of Rs. 13,69,349/- along with interest and

cost. The burden of providing issue no.1 and 2 was on the plaintiff and since the defendants have claimed that they have made certain payments against the invoices no. 60, 61, 62, 63, 68, 72, 82. So, the burden of proving issues no. 3 to 11 was on the defendants. In order to avoid repetition, all the issues have been taken together for discussion.

40. In order to prove his case, Plaintiff has examined himself PW1, vide his affidavit Ex.PW1/A and in one way or the other, he has reiterated the averments made in the plaint, this witness has relied upon following documents:-

i. Computer generated Statement of account/ledger w.e.f. 03.08.2024 to 29.08.2024 At page no. 23), and w.e.f. 03.08.2024 to 05.11.2024 (At page no. 24) Ex.PW1/1(Colly),

ii Computer generated Tax Invoice dated 03.08.2024 alongwith e-way bill dated 03.08.2024 (at page no. 25 and 26),

Computer generated Tax Invoice dated 06.08.2024 alongwith e-way bill dated 06.08.2024 (at page no. 27 to 28),

Computer generated Tax Invoice dated 07.08.2024 alongwith e-way bill dated 07.08.2024 (at page no. 29 to 30),

Invoice dated 09.08.2024 alongwith e-way bill dated Computer generated Tax 09.08.2024 (at page no. 31 to 32),

Computer generated Tax Invoice dated 16.08.2024 alongwith e-way bill dated 16.08.2024 (at page no. 33 to 34),

Computer generated Tax Invoice dated 18.08.2024 alongwith e-way bill dated 18.08.2024 (at page no. 35 to 36),

Computer generated Tax Invoice dated 29.08.2024 alongwith e-way bill dated 29.08.2024 (at page no. 37 to 38) as Ex.PW.1/2 (colly).

iii. Carbon copy of bulity dated 03.08.2024, issued by 'Manish Tiwari Tempo Service' (at page no. 39),

Carbon copy of bulity dated 06.08.2024, issued by 'Manish Tiwari Tempo Service' (at page no. 42),

Carbon copy of bulity dated 07.08.2024, issued by 'Manish Tiwari Tempo Service' (at page no. 45),

Carbon copy of bulity dated 09.08.2024, issued by 'Manish Tiwari Tempo Service' (at page no. 48),

Carbon copy of bulity dated 16.08.2024, issued by 'Manish Tiwari Tempo Services' (at page no. 50),

Carbon copy of bulity dated 18.08.2024, issued by 'Manish Tiwari Tempo Service' (at page no. 53),

Carbon copy of bulity dated 29.08.2024, issued by Ganga Tempo Transport Company' (at page no. 56) Ex.PW1/3 (colly).

iv. Original Cheque dated 04.10.2024 of Rs.1,52,928/- and original cheque returning memo dated 05.11.2024,

Original Cheque dated 07.10.2024 of Rs.1,60,574/- and original cheque returning memo dated 05.11.2024,

Original Cheque dated 09.10.2024 of Rs.1,18,000/- and original cheque returning memo dated 05.11.2024,

Original Cheque dated 10.10.2024 of Rs.1,88,611/- and original cheque returning memo dated 05.11.2024,

Original Cheque dated 16.10.2024 of Rs.79,013/- and original cheque returning memo dated 05.11.2024,

Original Cheque dated 18.10.2024 of Rs.1,78,416/- and original cheque returning memo dated 05.11.2024,

Original Cheque dated 31.10.2024 of Rs.2,82,917/- and original cheque returning memo dated 05.11.2024, Ex.PW1/4(colly).

v. Office copy of legal notice dated 28.12.2024 alongwith three postal receipts dated 30.12.2024, office copy of legal notice dated 14.11.2024 Ex.PW1/5(colly).

vi. Copy of reply dated 08.12.2024 to the legal notice dated 08.12.2024 and copy of reply dated 18.01.2025 to legal notice dated 28.12.2024 Ex.PW1/6(colly).

vii. Photocopy of GST registration certificate of the plaintiff Mark-A.

viii. Attested copy of non starter report is exhibited as Ex.PW1/7.

ix. Certificate u/s 63 of BSA issued by him Ex.PW1/8.

x. Statement of truth Ex.PW1/9.

xi. His Affidavit u/o 11 rule 6 of CPC is Ex.PW1/10.

41. The opportunity to cross examination of plaintiff was given to the Ld. Counsel for the defendants, but, the counsel for the defendants had stated that he did want to cross examine this witness, so, the opportunity given to the defendants to cross examine this witness was done Nil.

42. Sh. Sushil Kumar, (who is the brother of the plaintiff) has examined himself as PW-2, vide his affidait PW-2/A. He has also

deposed on the similar lines of the plaint and supported the case of the plaintiff and he has also deposed about the whatapp chatting with the defendant no. 1 and he has relied upon Printouts of Whatsapp chatting dated 08.07.2024 to 31.10.2024 between him and the defendant no. 1 (Rakesh Dhondiyal), which are Ex. PW-2/1 (colly) The opportunity to cross examination of PW-2 was given to the defendants, but the counsel for the defendants had stated that he did not want to cross examine this witness, so, the opportunity given to the defendants to cross examine this witness was done Nil.

43. Thereafter the plaintiff did not examine any other witness and evidence of the plaintiff was closed and the case was fixed for evidence of the defendant.

44. In order to prove their defence, the Defendants have examined Sh. Sunil Puri as DW1 vide his affidavit Ex.DW1/A, wherein he has deposed that he is fully acquainted with the facts of the present case and he is witness to the matter titled as Satish Kumar Vs. Munna Lal, bearing case CS (Comm.) 199/2025 pending in this court and he has personally witnessed the cash given to Sh. Satish Kumar, as instructed to him by the defendant. He has also deposed that dates and place of payments are already submitted by the defendant before this court with the plaint and also deposed that the whatever he has stated in his said affidavit Ex. DW-1/A are correct to the personal knowledge and belief of this witness and he was cross-examined by Ld. Counsel for the plaintiff and during cross-examination, he has deposed that he knows the defendant since the

year 2023, as he was serving as his employee and had served as an employee of the defendant since December 2023 till July 2025. He used to do work for the defendant, as his field worker. He has not brought any documentary proof to show that he had ever worked, as an employee of the defendant at any point of time. He used to receive his salary from the defendant in cash. He is matriculate. He is not a witness in any case titled Satish Kumar Vs. Munna Lal. He did not go through the contents of his affidavit Ex.DW1/A, prior to signing the same. He had received a phone call from the defendant informing him that he will have to depose before this Court, so, he had come to depose. He had given cash to Sh. Sushil Kumar. He is not aware of the contents of his affidavit Ex.DW1/A. He does not know the exact date, on which, he had paid money to Sh. Sushil Kumar. He cannot tell the amount paid by him to Sh. Sushil Kumar. Sushil Kumar did not give any receipt regarding receipt of the payment. Sh. Rakesh Dhondial (defendant) would have done the written work regarding receipt of the alleged amount from him. He does not have any written proof of having making payment to Sh. Sushil Kumar. The alleged payment made by him to Sushil Kumar is known to the defendant and not to him. He does not know, whether the defendant had filed any list regarding details of payment to the plaintiff or not. He does not know the contents of his affidavit Ex. DW1/A. He has denied that he and the defendants are indulging in malpractice by extorting money from the public and businessmen or that he has come to depose falsely. He has denied that he has deposed falsely. The defendants did not examine any other witness and the Ld. Counsel

for the defendants had given statement for closing the evidence of the defendants. Accordingly, evidence of the defendants was closed.

45. Since the plaintiff has filed the present suit for recovery of Rs. 13,69,349/- , out of which the amount of Rs. 11,60,459/- is claimed to be principal amount and Rs. 2,08,890/- is claimed to be interest thereon Since the plaintiff has examined himself as PW-1 and he has relied upon the documents Ex. PW-1/1 to Ex. PW-1/10 and since the plaintiff has claimed that the defendants had issued 07 cheques of total amount of Rs. 11,60,459/- which are Ex. PW -1/4 (colly) and the plaintiff has claimed that the said cheques were issued by the defendants in discharging of their liability to pay the amounts due against the defendants and from the perusal of the record, it is proved on the record that the said cheques were dishonoured. The plaintiff has successfully proved on the record that the goods were supplied to the defendants vide tax invoices Ex. PW-1/2 (colly) and carbon copies of the builties Ex. PW-1/ 3 (colly). The plaintiff has relied upon the statement of account/ledger Ex. PW-1/1 (colly) and from the ledger Ex.PW-1/1, it is proved on the record that an amount of Rs. 11,60,459/- was outstanding against the defendants.

46. The testimony of PW-1 and documents are relied upon by the plaintiff remained unrebutted, uncontroverted, unchallenged and unimpeached and testimony of PW-1 is also supported and corroborated by PW-2. As his testimony has also gone unrebutted, uncontroverted, unchallenged and unimpeached, so, I have no ground to disbelieve the same. Therefore, I am inclined to hold that plaintiff has sucessfully

proved on the record that he is entitled to recover an amount of Rs. 11,60,459/- (principal amount) from the defendants.

47. No doubt that the plaintiff has claimed interest @ 18% per annum. But, it appears to the court that the rate of interest claimed by the plaintiff is exorbitant. Therefore, this court is inclined to hold that the plaintiff is entitled to recover amount of Rs. 11,60,459/- (principal amount) along with interest @ 9% per annum from the defendants from filing of the suit till the realization of the said amount.

48. In the abovesaid terms, issues no. 1 and 2 are decided in favour of the plaintiff and against the defendants.

49. Since the defendants have claimed that they have made certain payments qua the invoices no. 60,61,62,63,68,72,82 and in order to prove their defence, the defendants had examined DW-1, but, as DW-1 during his cross examination has admitted that he is not aware of the contents of his affidavit Ex. DW-1/A and DW-1 in his affidavit has stated that he is witness in the matter titled as Satish Kumar Vs. Munna Lal CS (Comm) 199/25 pending in this court, but no such civil suit is pending in this court. This witness in his affidavit has deposed that he had witnessed the cash given to Sh. Satish Kumar (plaintiff herein), but during his cross examination he has deposed that he had paid money to Sh. Sushil Kumar, but he failed to file any documentary proof thereof and during his cross examination he has deposed that he is not witness to case titled as Satish Kumar Vs. Munna Lal and he has also deposed that he has not gone through the contents of his affidavit Ex. DW-1/A

prior to the signing thereof and since in his affidavit, he has stated that he has witnessed the cash given to sh. Satish Kumar, but during his cross examination he has stated that he had paid cash to Sh. Sushil Kumar, so, the testimony of DW-1 is self contradictory, he has failed to produce any document to prove that any money was given to the plaintiff or to PW-2. So, the same does not inspire any confidence.

50. The defendants have failed to appear in the witness box to prove their defence.

51. Since their Lordship of Supreme Court in case of **Vidhyadhar vs Manikrao & Anr.**, AIR 1999 SC 1441 was pleased to hold, as under:-

“Where a party to the suit does not appear into the witness box and states his own case on oath and does not offer himself to be cross examined by the other side, a presumption would arise that the case set up by him is not correct as has been held in a series of decisions passed by various High Courts and the Privy Council beginning from the decision in Sardar Gurbakhsh Singh v. Gurdial Singh and Anr. This was followed by the Lahore High Court in Kirpa Singh v. Ajaipal Singh and Ors. AIR (1930) Lahore 1 and the Bombay High Court in Martand Pandharinath Chaudhari v. Radhabai Krishnarao Deshmukh AIR (1931) Bombay 97. The Madhya Pradesh High Court in Gulla Kharagjit Carpenter v. Narsingh Nandkishore Rawat also followed the Privy Council decision in Sardar Gurbakhsh Singh's case (supra). The Allahabad High Court in Arjun Singh v. Virender Nath and Anr. held that if a party abstains from entering the witness box, it would give rise to an inference adverse against him. Similarly, a Division Bench of the Punjab & Haryana High Court in Bhagwan Dass v. Bhishan Chand and Ors., drew a presumption under Section 114 of the Evidence Act against a party who did not enter into the witness box”.

Similarly, the Loardship of Supreme Court in case title as Iqbal Basith Vs N. Subbalakshmi, (2021) 2 SCC 718, it is ruled that:

"Adverse presumption u/s 114(g) of the Evidence Act can be drawn against the defendant if does not present himself for cross-examination and refuses to enter witness box in order to refute the allegations made against him or support his pleadings in his written statement."

52. The burden of proving the issues no. 3 to 11 was on the defendants, but, the defendants have choosen to refrain from examining themselves. No doubt that defendants have examined Sh. Sunil Puri as DW-1, but Sh. Sunil puri has failed to bring on record any documentary proof to show regarding any payment to the plaintiff and DW-1 has also stated that he had witnessed, the cash given to Sh. Satish Kumar, but during his cross examination, he has deposed that he has paid cash to Sh. Sushil Kumar, so, the testimony of DW-1 is self contradictory, so, the same does not inspire any confidence. so, the testimony of DW-1 cannot be looked into.

53. Since their lordship of Supreme Court in case **Vidhya Dhar Vs. Manik Rao and Iqbal Basith Vs. N. Subba Lakshmi (supra)** was please to hold that an adverse inference is liable to be drawn against such party, who does not come in the witness box, so, in the light of the law laid down by the Hon'ble Apex Court in the abovesaid judgments an adverse inference is drawn against the defendants. I am inclined to hold that the case set up by the defendants in their written statement is not correct, so, I am inclined to hold that the defendants have failed to prove that the plaintiff has suppressed true and material facts from the court or that defendants had made any part payment and as claimed by them in their written statement.

Therefore, issues no. 3 and 11 are decided in favour of the plaintiff and against the defendants.

RELIEF:-

54. Since this court has given it's findings on all the issues in favour of the plaintiff and against the defendants, therefore, this court is inclined to hold that the plaintiff is entitled to recover of an amount of Rs. 11,60,459/- (being principal amount) from the defendants along with interest @ 9% per annum from the date of institution of present suit till the realization of the said amount with the cost of the suit and in the abovesaid terms, suit of the plaintiff for recovery of Rs. 11,60,459/- (being principal amount) along with interest @ 9% per annum from the date of institution of present suit till the realization of the said amount is decreed with cost in favour of the plaintiff against the defendants.

55. The Defendants are directed to pay Rs. 11,60,459/- (being principal amount) along with interest @ 9% per annum from the date of institution of present suit till the realization of the said amount with cost of the suit to the plaintiff.

56. Decree Sheet be prepared accordingly.

57. File be consigned to record room.

**Announced in the open
court on 25.02.2026**

**(PAWAN KUMAR MATTO)
DISTRICT JUDGE
(COMMERCIAL COURT)-04
SHAHDARA, KKD COURTS, DELHI**