DATED: 14.12.2022 DW.1 PRESENT AND OATH IS ADMINISTERED.

CROSS EXAMINATION BY SRI.HTN ADVOCATE FOR PLAINTIFF:

Defendant company is still in existence and operating. Our registered office at Indiranagar address mentioned in my chief affidavit. I am still director of defendants company. I am aware of the the transactions between the plaintiff and defendant. Sushen an Accountant in our office is maintaining the accounts of defendant company. We make payments on raising of invoice either through online or through cheque. I am aware of the online payments and cheques transaction pertaining to this suit. Witness volunteers that it is in his accounts. I am also aware of number of post dated cheques issued to plaintiff company by defendant. It is true that said post dated cheques were issued against supply made by plaintiff company. It is true that the transaction between plaintiff and defendant company taken place during 31.05.2017 to 27.09.2017 under 8 invoices mentioned in plaint. It is true that the total amounts in pursuance of said 8 invoices comes to

Rs.44,30,427/-. It is true that out of said Rs.44,30,427/- defendant company and paid Rs.26,05,777/- leaving the balance of Rs.18,24,650/-. It is true that against said amount our company has issued 6 cheques as mentioned in para 6 of plaint. It is true that against said 6 cheques plaintiff company initiated cheque bounce cases against myself and directors of defendant company. It is true that Ex.P19 is the proceedings of said cheque bounce case. It is true that out of 6 cheques plaintiff initiated cheque bounces proceeding only in respect of 4 cheques to a sum of Rs.12,77,352/-. Notice issued by plaintiff to initiate said criminal proceeding defendant company has issued reply. In the said reply notice we have not taken any contention of cash payments made to plaintiff company towards supply of material. It is true that Ex.P3 and P4 belongs to defendant company. It is true that in the settlement arrived between the parties in cheque bounce proceedings defendant company has collected 4 cheques produced by the plaintiff in the said proceedings. It is not true to suggest that since the remaining 2 cheques out of 6 cheques mentioned above were not part of said proceedings defendant company refuse to make any payment in respect of said 2 cheques. It is not true to suggest that since no payments were made in

respect of said 2 cheques those 2 cheques were retained by the plaintiff and we never made any attempt to collect the same. We have not made any demand to the plaintiff company to return the said 2 cheques to the defendant company. It is true that the statement produced before this court as per Ex.D3 is statement prepared by our company. It is true that except the 2 cheques in question rest of the amount has been paid by defendant company only through account payee cheque. It is not true to suggest that Ex.D3 has not been acknowledged by plaintiff company at any point of time. It is true that no such acknowledgment if forthcoming on Ex.D3. Witness volunteers that payment of cash referred in Ex.D3 also reflected in the accounts statement of plaintiff. It is not true to suggest that even in mail sent by our company there is no such reference of cash payments made to plaintiff. It is not true to suggest that there is no such mail correspondence between plaintiff and defendant company. It is not true to suggest that there is no such cash payment has been made by defendant company and received by plaintiff company at any point of time. It is not true to suggest that Ex.D1 is not at all pertaining to plaintiff company.

Question: Whether you know director so plaintiff company?

Answer: I have met him once.

I met one Mr.Goyanka initially. Said Goyanka never sent any mail to defendant company. There was many email correspondence with plaintiff and defendant company and I was marked with one such copy. From our company D7 and D9 and one Mr.Santhosh has to correspondence with plaintiff company through email.

2. I do not know one Mr.Yagappan. I have to check with regard to number of mails sent by said Yagappan to defendant. Witness volunteers that there are more mails. I have not produced all those mails before the court. I have not produced any receipt for having paid Rs.5,00,000/- twice by way of cash to the plaintiff company. It is not true to suggest that if at all we paid such amount that would have been reflected in the reply notice itself. I am not going to examine any other directors of our company. Witness volunteers that he has taken all the responsibility. Ex.P18 is the reply notice issued by defendant company. It is true that in Ex.P18 it is specifically mentioned that defendant company has paid Rs.12,77,352/- towards said 4 cheques only. It is not true to

suggest that Ex.D1 and D3 are created by my accounts branch just to evade payments. It is not true to suggest that in mail produced by defendant company there is no reference about attachment (Ex.D1). It is not true to suggest that in 3rd page of the mail produced before this court is created by our office people for the purpose of this suit. I made cash payments somewhere around 31.01.2018 and I do not remember exact date. I do not know for whom said cash payments were handed over at plaintiff company. With regard to cash payments we spoke to one of the director of plaintiff company by informing them we have some cash in hand and make the payment in cash which was considered by plaintiff company. From our office one Mr.Santhosh, Mercantise Agent has made by payment by way of cash to plaintiff's director Goyanka. Our company there is no such policy to make payment by way of cash. It is not true to suggest that the statement available at Ex.D3 is false and it is a concocted document. It is true that in page 3 of Ex.D3 there is no reference of cash payment of Rs.10,00,000/-. Witness volunteers that there is reference about Rs.5,00,000/- cash payment.

3. It is true that I have filed by Written Statement individually. It is true that in Written Statement filed by me there is no such contention of payment of Rs.10,00,000/- by cash to the plaintiff company as stated in my chief affidavit. It is true that there is variation in the averments made in my chief affidavit and also in my Written Statement. Witness volunteers that initially he was not aware of said cash payment. It is true that in my chief affidavit there is no reference about the name of person for whom we have made the payment by way of cash. It is true that in the Written Statement I have denied issuance of said 6 cheques. The signature available annexed to verifying affidavit of Written Statement filed by me is my signature. It is true that I have not specifically denied in my Written Statement the claim made by the plaintiff in this suit. It is not true to suggest that I am liable to pay the amount due under said 2 cheques to the plaintiff company. It is true that the transaction between plaintiff and defendant company was commercial in nature. It is not true to suggest that defendant company accordingly liable to pay the interest as claimed in the plaint being commercial transaction in nature. It is true that I have specifically not mentioned about said 2 cheques in question. Witness volunteers that total outstanding mentioned in my

chief affidavit involves said 2 cheques amounts also. I am not going to examined said Santhosh as a witness in this case. It is not true to suggest that to evade payments I have set up a story of cash payment of Rs.10,00,000/- to the plaintiff company.

Re-examination: Nil.

(Typed to my dictation in the open court.)

R O I & A C

(LATHAKUMARI M)
LXXXV ACC & SJ, BENGALURU.