DATED: 29.09.2022 PW.1 PRESENT AND OATH IS ADMINISTERED.

CROSS EXAMINATION BY SRI.ERP ADVOCATE FOR DEFENDANT No.4:

I join plaintiff company 3 years back. I have produced document to show that plaintiff company is a partnership firm. I have not produced any document to establish that even defendant company is a partnership firm. Witness volunteers that during dealership time they collected certain documents in this regard and same has not been produced before this court. We have verified about establishment of defendant company during 2008. I do not know what are the documents plaintiff has looked into pertaining to defendant company at the time of alleged dealership. It is true that requisite application referred in my affidavit has not been produced before this court. It is not true to suggest that D4 has not given any requisition to plaintiff company seeking dealership from plaintiff. I do not know about the last sentence in my chief affidavit at para 5 wherein it is mentioned that "the mode of operendi was on principle basis". I know the terms and conditions of dealership.

There is no document produced before this court which contains said terms and conditions of dealership. It is not true to suggest that 1st defendant company has no over due amount towards plaintiff. Witness volunteers that if defendant company had paid the amount they can produce the bank statement in this regard. We will be taking bank guarantee by way of security deposit at the time of dealership. It is not true to suggest that D4 is neither dealer of plaintiff company nor transacted with plaintiff at any point of time as its dealer. I am not clear which is the document / invoice in pursuance of which plaintiff is claiming the amount against defendant company. It is not true to suggest that 4th defendant was not at all due of any amount as mentioned in my affidavit to the plaintiff company. From plaintiff company some dealership management person has been deputed at that time and I do not know his name. I do not even know the date when such person has been deputed on behalf of plaintiff. It is not true to suggest that as on 2016 4th defendant was not at all residing in the address mentioned in the cause title of the plaint. I am not clear about the document produced before this court with regard to admission of liability by 4th defendant. It is not true to suggest that the statements mentioned in my chief affidavit by way of tabular column are not true. I am not clear about the action taken by plaintiff with regard to dishonor of cheques issued by 4th defendant to the plaintiff. It is not true to suggest that no discussion has been taken between the parties. Witness voluntarily disposes that Ex.P.3 is the balance confirmation letter signed by defendant No.4. It is not true to suggest that the signature available on Ex.P.3 is not that of 4th defendant. It is not true to suggest that I am not at all authorized by plaintiff company to depose as a witness in this case on behalf of plaintiff company. It is not true to suggest that the signature found on Ex.P.44 is not that of 4th defendant signature. Ex.P.44 has been collected from defendant's office. It is not true to suggest that Ex.P.44 was not issued by either 4th defendant or 2nd defendant herein.

It is true that on Ex.P.1 at ink page 5 photo of any of the defendants are not forthcoming. It is true that even the date and place also left blank. It is true that there is no signatures forthcoming on the said page. Witness volunteers that signature is not mandatory. It is true that even signatures are not forthcoming on ink page 7 to 15 of Ex.P.1. Witness again volunteers that they have not signed since it is not mandatory. It is true that in Ex.P.1 at page 16 the dealer signature with seal also left blank, so also page 17 of Ex.P.1. It is true that on Ex.P.4 the signature forthcoming is not that of 4th defendant. It is true that Ex.P.4, Ex.P.5, Ex.P.8 are cancelled invoices. Witness later deposes that there exist cross mark on these documents. It is true that in Ex.P.9, 14 to 18, 22, 23 and 25 there exist cross mark. It is true that in none of the invoices 4th defendant signature is forthcoming. Witness volunteers that their authorized person received the materials. It is true that demand notice issued by us to the defendants returned with postal shara, so also Ex.P.32 and 35. It is not true to suggest that Ex.P.44 is a forged document and D4 has not at all issued said cheque in favour of plaintiff. It is not true to suggest that even the signature forthcoming on Ex.P.3 has been made by one of our office person after drafting the same. It is not true to suggest that 4th defendant neither applied for plaintiff's dealership nor in any way transacted with plaintiff as its dealer. It is not true to suggest that I am falsely deposing before this court at the instance of plaintiff company.

CROSS EXAMINATION BY SRI.SRR ADVOCATE FOR DEFENDANT No.2:

Dealership form produced before this court itself is like dealership agreement. It is true that 2nd defendant has not signed the said dealership form. It is not true to suggest that I have not at all obtained authorization letter from plaintiff company. I am not aware whether said authorization letter is available before the court or not. It is not true to suggest that Ex.P.44 has not been signed by 2nd defendant. It is not true to suggest that Ex.P.44 is not the true copy of original cheque. It is not true to suggest that I have not at all seen original cheque. Said cheque was misplaced during transit i.e., shifting our office to another premises. I do not remember the exact date. I do not know whether said original cheque misplaced prior to presenting the same or at subsequent stage. As a senior executive admin I will take care of all general administrative work, infra developments. I am also custodian of office records. Different staff of plaintiff company will take care of our computer department. The scan copy of the cheque produced before this court has been taken by photo image of the concerned computer. It is true that whatever document we keep that will be scanned accordingly. It is true that if one document is kept on another and by using such 2 documents image of one document can be created. It may be true that by keeping copy of the document we can obtain scanned copy. It is true that if original document is scanned whatever the color appear on the original document will be scanned accordingly.

It is true that by using color printer we can get that image with same colour to that of original document. The original cheque of Ex.P.4 could be pink in colour. I do not remember the exact colour of the said cheque. I do not remember when the scanning of cheque has taken place in our office. It is true that I was not present when the alleged cheque was scanned. I do not remember the model of printer which plaintiff company has used to take Ex.P.44. It is true that invoices were issued after purchase order. It is not true to suggest that none of the defendants are placed any orders against Ex.P.4 to 25. It is not true to suggest that 2^{nd} defendant is not at all partner of D1 company and not at all involved in any transaction with plaintiff. It is not true to suggest that 2^{nd} defendant has no agreement with plaintiff company to pay the alleged interest claimed by the plaintiff. Without payment we deliver the goods since there will be payment condition in the invoice with certain limits. I am not aware whether plaintiff company will not deliver the goods or raise the invoice without purchase order and also without payment. The amount mentioned in Ex.P.44 is part of suit claim. It is true that Ex.P.4 to 25 are not signed by 2^{nd} defendant. It is not true to suggest that 2^{nd} defendant is not at all liable to pay any amount to plaintiff. It is not true to suggest that I am neither qualified nor authorized person to certify Ex.P.44 by filing 65B certificate of Indian Evidence Act.

(2nd defendant also adopts the cross examination of 4th defendant)

CROSS EXAMINATION BY SRI.LB ADVOCATE FOR DEFENDANT No.3:

I have personal knowledge about transaction in question. Plaintiff company was established during 17.04.2019. It is true that the alleged transaction in question taken place much prior to I joining plaintiff's company. It is not true to suggest that accordingly I am not at all aware of the alleged transaction between the parties. It is not true to suggest that 3rd defendant has not at all approached plaintiff. It is true that there is no signature of 3rd defendant on Ex.P.1. I have no knowledge whether plaintiff enquired about 3rd defendant personally prior to Ex.P.1. It is true that on Ex.P.44 3rd defendant signature is not forthcoming.

Question: What is the action taken by plaintiff for lost of Ex.P.44?

Answer: We asked concerned department to retrieve the data.

I have not produced any document to show that D2 and D4 had joint account to sign Ex.P.44. We presented the said cheque

Ex.P.44 to the bank. It is true that bank seal is not forthcoming on Ex.P.44. I do not know the reason for dishonor of Ex.P.44. It is true that inspite of dishonor of alleged cheque no notice has been issued to any of the defendants informing dishonor of cheque. It is true that in Ex.P.4 to 25 3rd defendant signature is not forthcoming. It is not true to suggest that no notice has been served on defendants issued through our advocate. It is not true to suggest that Ex.P.4 to 25 are all created by plaintiff company. It is not true to suggest that 3rd defendant neither approached plaintiff company nor transact with plaintiff.

(3rd defendant also adopts the cross examination of 4th defendant)

Re-examination: Nil.

(Typed to my dictation in the open Court.)

R O I & A C

(LATHAKUMARI M)
LXXXV ACCJ, BENGALURU.