IN THE COURT OF SH. ANIL KUMAR SISODIA:
DISTRICT JUDGE, COMMERCIAL-04:CENTRAL:
TIS HAZARI COURTS: DELHI.

CS (COMM) 140/2025

Krishan Murari Tripathi
Proprietor Tripathi Traders
At: 1849, Second Floor,
Bissomal Colony, Bhagirath Palace,
Chandni Chowk, Delhi-110006

Also at:
Krishan Murati Tripathi
Proprietor of M/s Tripathi Traders
First Floor, Chah Indara 2085-
2094, Bhagirath Palace,
New Fountain,
Substation Building, Hall Chandni Chowk,
Delhi-110006 **…..........Plaintiff**

Vs.

Naveen Kumar Khandelwal
Partner M/s Saranam Associates
At: RZ-9/A1, Gali No. 21 C,
Sadh Nagar, Part-2,
Palam Colony, Near Sita Ram Mandir,
Delhi-110045

Also at:
Naveen Kumar Khandelwal
Partner M/s Saranam Associates
Gali no. 19, Sadh Nagar,
Palam, Delhi-110045. **…..........Defendant**

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Date of e-filing of the suit	: 27.01.2025
Date of reserving judgment	: 02.02.2026
Date of judgment	: 07.02.2026

Judgment

1. This is a suit for recovery of Rs. 10,05,381.18 paisa along with pendente-lite and future interest against defendant.

2. Briefly stated, facts of the case are that the plaintiff is the proprietor of the proprietorship firm namely Tripathi Traders and is engaged in the trading and fitting of Electrical Goods of various brands namely Bajaj, Philips, Crompton fitting, M/H S/V Bulb, Arumed, Unarumed Cable L/T MG MDS Simans MCCB, MCB & All industrial electrical goods. The defendant is the proprietor/partner of M/s Saranam Associates. The defendant represented himself as proprietor of Saranam Associates and was earlier running another proprietorship concern in the name and style of Shree Shyam Enterprises and used to purchase the electrical goods from the plaintiff. From 26.11.2018, defendant started to purchase goods for his firm Saranam Associates. Defendant was having business relation with the plaintiff since very long. It is stated that defendant was habitual defaulter in making payment of tax invoice i.e. 196, 197, 198, 199 and 200 within time and despite the promises and assurance the defendant did not clear the entire tax invoice amount. The defendant was also defaulter in making the payment outstanding his proprietorship concern Shree Shyam Enterprises. In the course of business activity with the defendant, the plaintiff was also maintaining a running account ledger of in respect of Shree Shyam Enterprises & Saranam Associates. It is stated that a sum of Rs. 4,24, 857.50 was stand unpaid up till March, 2020 against

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Saranam Associates and a sum of Rs. 5,89,869.88 was being outstanding against his proprietorship concern Shree Shyam Enterprises up till 01.04.2020.

3. It is further stated that on 01.04.2020 the defendant approached the plaintiff and told that he has now closed the business of his proprietorship concern Shree Shyam Enterprises and further told the plaintiff that the defendant is unable to clear the above said outstanding Rs. 5,89,869.88 should be merged with the business account of M/s Saranam Associates because business activity of Saranam Associates is continued and was not closed by him. As per instruction of the defendant, the said outstanding of Rs. 5,89,869.88 was added / merged with the outstanding of Rs. 4,24,857.50 pertaining to the Saranam Associates and after merging/ adding the said amount with the account of Saranam Associates a sum of Rs. 10,14,727.38 was being outstanding up till 01.04.2020 against the defendant. It is stated that during the period 02.04.2020 to 20.05.2020, the defendant paid a sum of Rs. 3,78,000/- as part payment on the different dates against the total outstanding of Rs. 10,14,727.38 and thereafter stopped to make further payment against the said outstanding, although a sum of Rs. 6,36,727.38 was still unpaid against the defendant as on 20.05.2020. After various request and reminders, the defendant credited a part payment of Rs. 50,000/- through NEFT on 26.08.2020 and he further credited a part payment of Rs. 1,00,000/- on 24.03.2021 through NEFT and the defendant no. 1 further made part payment of Rs. 2,00,000/- through NEFT on 23.06.2021 in the account of the proprietorship concern of the plaintiff and the defendant did not clear entire outstanding of Rs. 6,36,727.38 and a sum of Rs. 2,86,727.38 was being still reflected

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unpaid till 23.06.2021 against him. Thereafter, on 16.10.2021 the defendant approached the plaintiff and requested to supply certain electrical goods for his urgent business requirement. Although there was above said outstanding against the defendant but the plaintiff considering the previous business relation with the defendant, he acceded requests of the defendant and supplied the electrical goods worth Rs. 54,880/- vide invoice bill no. 755 on credit basis. Thereafter, defendant further purchased goods from the plaintiff and plaintiff sold and supplied the electrical goods to the defendant on 18.10.2021 worth Rs. 99,089/- vide invoice no. 757 on 12.11.2021 the plaintiff further sold and supplied the goods vide invoice no. 765 worth Rs. 2,08,672/- on credit basis to the defendant. As per statement of account a sum of Rs. 6,49,368.38 was being total outstanding against the defendant. Thereafter, defendant did not make any payment towards the above said outstanding despite repeated request and reminders by the plaintiff.

4. It is stated that in the first week of April, 2022 the defendant issued two post-dated cheque no. 047919 dated 23.04.2022 for Rs. 2,86,305/- and 047946 dated 23.04.2022 for Rs. 3,62,632/- in favour of proprietorship concern of the plaintiff for discharge of legal liability against the said outstanding amount and on presentation of the cheques, the cheques were dishonoured with the reasons “funds insufficient”. Defendant further asked the plaintiff to deposit the said cheques again and as per instruction of the defendant, the plaintiff again presented the said cheques but both the cheques were dishonoured with the remarks “funds insufficient”. It is further stated that on 26.11.2022 Bhagirath Palace Building due to short circuit, the building caught fire and was burned and in the said building, the shop no. 1849 of plaintiff was

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situated and due to fire incident, all the electrical goods and documents pertaining to the business affairs of proprietorship concern of the plaintiff burned. On 28.11.2022, the plaintiff made online complaint about loss of shop and business documents with the PS Crime Branch Delhi. Thereafter, plaintiff sent a legal notice dated 04.11.2023 to the defendant thereby called the defendant to pay a sum of Rs. 6,28,492.38 with interest @ 18% w.e.f 21.07.2022 to the plaintiff but despite service of legal notice, defendant did not pay any heed towards the same and failed to send any reply to the legal notice. Finding no other alternative, plaintiff company filed the present suit against the defendant.

5. Summons of the suit were issued to the defendant. Defendant e-filed written statement on 25.04.2025 along with application for condonation of delay in filing the WS and the same was allowed subject to cost of Rs. 25,000/- to be deposited with DLSA. However, the defendant expressed his inability to deposit the cost and hence, WS was taken off the record vide order dated 02.06.2025.

6. On 30.07.2025 plaintiff filed an application u/O VI Rule 17 CPC for amendment of the plaint on the basis of defence taken by the defendant that Saranam Associates was a partnership firm. The said application was allowed vide order dated 30.07.2025. Thereafter, summons of the suit was issued to newly impleaded defendant nos. 2 and 3. However, summons was received back with the report that defendant no. 3 has expired. Thereafter, vide order dated 18.09.2025 the names of defendant nos. 2 and 3 were deleted from the array of parties and the suit continued against defendant no. 1 u/s 49 of the Partnership Act and the matter was listed for plaintiff's evidence.

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7. The plaintiff examined three witnesses in support of his case. Sh. Krishan Murari Tripathi was examined as PW-1 who has tendered his affidavit by way of evidence as Ex PW1/A and proved the following documents :-

Sr. No.	**Documents**	**Exhibits**
1	Copy of GST registration certificate of proprietorship concern	Ex.PW-1/1
2	Account ledger of Shree Shyam Enterprises	Ex. PW-1/2
3	Cheque no. 047919 dated 23.04.2022 of Rs. 2,86,305/-	Ex. PW-1/3
4	Cheque no. 047946 dated 23.04.2022 of Rs. 3,62,632/-	Ex.PW-1/4
5	Cheque returns memos dated 28.04.2022	Ex.PW-1/5 (colly)
6	Cheques return memos dated 11.07.2022	Ex. PW-1/6 (colly)
7	Complaint to police station dated 28.11.2022	Ex. PW-1/7 is de-exhibited and now marked is **Mark A**
8	Legal notice dated 04.11.2023	Ex. PW-1/8
9	Postal receipt dated 04.11.2023	Ex. PW-1/9 (colly)
10	Copies of goods & service tax return	Ex. PW-1/10 (colly)
11	Certified copy of account ledger of the Tripathi Traders	Ex.PW-1/11 (colly)
12	Non Starter Report	Ex. PW-1/12
13	Account Ledger of the defendant	Ex. PW-1/13 (colly)
14	Affidavit u/O 11 Rule 6 (3) CPC r/w Section 63 BSA, 2023	Ex.PW-1/14

8. Sh. Kuldeep, Sr. Assistant from Department of Trade & Taxes was examined as PW-2 who proved the details of registration of Naveen

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Kumar (two registration) and Sarnam Associates and the total Input Tax Credit claimed by the defendant against the invoices as **Ex. PW-2/A (colly).**

9. Sh. Kamal Kant Samdarshi, GST Inspector was examined as PW-3 who has proved the letter dated 02.12.2025 issued by Assistant Commissioner, Ward-61 as **Ex. PW-3/A**. He also deposed that the taxpayer details of the Shri Shyam Enterprises, registration certificate bearing registration no. 07BMRPK1536KIZO in the trade name of Shri Shyam Enterprises, proprietorship concern. The name of the proprietor Sh. Naveen Kumar with show cause notice dated 27.05.2019 as well as order for cancellation of registration dated 27.05.2019. The same were exhibited as **Ex. PW-3/1 (colly)**.

He also brought the taxpayer details of Naveen Kumar, proprietor of Shri Sawariya Associates along with registration certificate bearing registration no. 07BMRPK1536K2ZN in the trade name of Shri Sawariya Associates, proprietorship concern. The name of the proprietor Sh. Naveen Kumar with show cause notice dated 15.11.2025. The same were exhibited as **Ex. PW-3/2(colly)**.

PW-1 & PW-2 were cross-examined by counsel for the defendant and PW-3 was not cross examined by the defendant and thereafter, PE was closed.

10. I have heard Ld. Counsel for plaintiff and Ld. Counsel for defendant. I have also perused the record carefully including the written submissions filed by the counsel for the defendant.

11. Counsel for the defendant has argued that plaintiff in his cross-examination has admitted that the outstanding liability of Saranam

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Associates was Rs. 38,622.32 after deducting sum of Rs. 5,89,869.88 and interest amount of Rs. 3,76,888/- dated 18.01.2025 in the ledger account Ex. PW-1/13. He further argued that the plaintiff has failed to place on record any proof of merger / clubbing of accounts of M/s Shree Shyam Enterprises in the account of M/s Saranam Associates. It was stated that plaintiff in his cross-examination admitted that there is no written document or WhatsApp messages from the defendant to club the outstanding amount of Shree Shyam Enterprises in the account of M/s Saranam Associates. He further argued that the plaintiff has not filed the invoices, transport receipt on the excuse of fire incident but the plea raised by the plaintiff is not legally maintainable as the loss report filed by the plaintiff was only marked and not exhibited. There is no report from the fire department substantiating the fire incident at the premises nor any witness was examined from the fire department. He further argued that the plaintiff has failed to prove the business transaction between the parties and has also failed to file mandatory certificate u/s 63 BSA, 2023 in proper format. Therefore, the suit of the plaintiff is liable to be dismissed.

12. Per Contra, Counsel for plaintiff has argued that the total outstanding amount against the defendant was Rs. 10,05,381.18 paisa which includes principal amount of Rs. 6,28,492.38 paisa and interest amount of Rs. 3,76,888.80 paisa. It was argued that plaintiff in his cross- examination deposed that defendant had orally told him to merge the outstanding amount of Shree Shyam Enterprises in the account of M/s Saranam Associates. Counsel for the plaintiff further argued that plaintiff also filed ledger account of Shree Shyam Enterprises as Ex.PW-1/2 and the ledger account of M/s Saranam Associates as Ex. PW-1/13.

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He argued that defendant himself issued two cheques Ex. PW-1/3 and Ex. PW-1/4 for the sum of Rs. 2,86,305/- and Rs. 3,62,632/- to satisfy his outstanding liabilities. However, the said cheques were dishonoured vide return memos Ex. PW-1/5 and Ex. PW-1/6 for the reasons “insufficient funds”. Counsel for the plaintiff has further argued that plaintiff has also examined official from GST department and PW-2 Kuldeep proved the document Ex. PW-2/A (colly) which shows that plaintiff is the proprietor of M/s Tripathi Traders and this witness has also proved GSTR 1 showing the GSTR paid on the invoices. This witness further proved that defendant was the proprietor of Shree Krishna Enterprises. Counsel for plaintiff also argued that plaintiff examined PW-3 Kamal Kant Samdarshi who proved the GST details of Shree Shyam Enterprises as Ex. PW-3/1 and Shri Sawaria Associates as Ex. PW-3/2. It was argued that perusal of these documents show that the defendant was the proprietor of these firms. It was argued that defendant has not cross-examined PW 2 and PW-3 and therefore, the records produced by these witnesses is deemed to have been admitted by the defendant. He argued that the defence taken by the defendant in the written submission that plaintiff claimed dues against “Shree Shyam Enterprises” whereas defendant was a proprietor of “Shri Shyam Enterprises” is mischievous.

13. At the outset, it may be mentioned that it is a settled principal of law that the plaintiff is required to prove his case on the principle of preponderance of probabilities. It is also an equally settled proposition that the case of the plaintiff has to stand on its own legs and it cannot take advantage of the weakness of case of the defendant. No doubt, in the present case, the defence of the defendant was struck off due to non-

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payment of cost but it would not preclude the plaintiff from proving his case.

14. It is an admitted case of the plaintiff that plaintiff has merged / clubbed the liability of Shree Shyam Enterprises amounting to Rs. 5,89,869.88 in the liability of Shree Shyam Enterprises which is also reflected in the ledger account of Shree Shyam Enterprises Ex. PW-1/2 and the ledger account of M/s Saranam Associates Ex. PW-1/13. However, the plaintiff has failed to prove on record any written advice / direction of the defendant to merge the liability of two accounts. PW-1 in his cross- examination admitted that there is no written documents SMS messages or email in this regard and volunteered that defendant had orally told him this fact and there is no witness to the same. The plaintiff has not even obtained and proved on record the balance confirmation of accounts after merger of the liabilities of the two firms which could establish that defendant had agreed to the said merger. Not only this, the plaintiff has further failed to prove on record any invoice or transport receipt to show that the goods were supplied to Shree Shyam Enterprises by the plaintiff. Plaintiff has further not summoned any records from the GST department to show that the plaintiff had supplied the goods to M/s Shree Shyam Enterprises. Merely proving the GST registration of the proprietorship firm of the defendant is not sufficient to prove the liability on the firm of the defendant i.e. M/s Shree Shyam Enterprises. Hence in the absence of any oral or documentary evidence to prove that M/s Shree Shyam Enterprises was liable to pay a sum of Rs. 5,89,869.88 and that the outstanding liability of Shree Shyam Enterprises was merged in the account of M/s Saranam Associates with the consent /directions of the erstwhile partners of M/s Saranam

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Associates, I am of the considered opinion that plaintiff is not entitled for the recovery of Rs. 5,89,869.88 on account of the outstanding liability of M/s Shree Shyam Enterprises.

15. The plaintiff has also claimed interest of Rs. 3,76,888/- from the defendant @ 24% per annum for the period 21.07.2022 to 18.01.2025. However, the plaintiff in para 4 of his cross-examination deposed that the invoices mention the rate of interest @ 18% per annum but no invoice was placed on record as the invoices got burned due to fire. He also deposed that the rate of interest claimed by him in para 23 of the affidavit is based on the rate of interest mentioned on the invoices. However, he could not tell the number of invoices on which interest rate was mentioned @ 18% and 24% respectively. It is pertinent to note here that plaintiff has not filed a single invoice to show that the rate of interest was mentioned on the invoices. Not only this, plaintiff himself was not sure as to how many invoices were containing the terms mentioning rate of interest @ 18% and @ 24% per annum. In fact, there is nothing on record to show that the plaintiff and defendant agreed to pay interest on the delayed payment. Therefore, in the absence of any agreement on the payment of interest, I am of the considered opinion that plaintiff is also not entitled to claim the pre-suit interest of Rs. 3,76,888/- as claimed in the plaint.

16. PW-1 in his cross-examination has further admitted that as per the ledger Ex.PW-1/13, the outstanding liability against M/s Saranam Associates is of Rs. 38,622.32 paisa if the amount of Rs. 5,89,868.88 (being the liability of Shree Shyam Enterprises) and amount of Rs. 3,76,888.80 (being the amount of interest claimed by the plaintiff) is

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deducted in the ledger account Ex. PW-1/13.

17. In view of my findings herein above that plaintiff is not entitled for recovery of the outstanding liability of Shree Shyam Enterprises amounting to Rs. 5,89,869.88 and the interest amount of Rs. 3,76,888.80, the plaintiff is only entitled for recovery of Rs. 38,622.32 paisa as admitted by the plaintiff during his cross-examination.

18. Accordingly, the suit of the plaintiff is partly decreed. A decree of Rs. 38,622.32 Paisa is passed in favour of the plaintiff and against the defendant. The plaintiff shall be entitled to pendente lite and future interest on the aforesaid amount @ 9% per annum. The parties shall bear their own costs.

Decree sheet be prepared accordingly.

File be consigned to record room after due compliance.

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Announced in the open Court
Dated: **07th February, 2026**

(**ANIL KUMAR SISODIA**)
DISTRICT JUDGE-04, CENTRAL
TIS HAZARI COURT, DELHI