

**IN THE COURT OF JUDGE, COMMERCIAL COURT  
(DISTRICT JUDGE CADRE), COIMBATORE**

**Present: Thiru. K.Hariharan, M.L.,**  
Judge,  
Commercial Court (District Judge Cadre),  
Coimbatore

**Wednesday, the 18<sup>th</sup> day of March 2026**

**C.O.S.No.18 of 2024**  
(CNR No.TNCB22-000059-2024)

**&**

**C.O.S.No.7 of 2025**  
(CNR No.TNCB22-000013-2025)

**C.O.S. No.18 of 2024**

**M/s. Sri Murugan Foundry Equipment,**

Rep. by its Managing Partner Mr. R.Murugaiyan

**... Plaintiff**

**// Vs //**

**1. M/s. Horizon Metal Tech Pvt. Ltd.,**

Rep. by its Director and Authorized Signatory Mr. Ashok Sharma

**2. Mr. Inderlal Ramsharan Sharma,**

Director of M/s. Horizon Metal Tech Pvt. Ltd.,

**3. Mr. Sunil Interlal Sharma,**

Director of M/s. Horizon Metal Tech Pvt. Ltd.,

**4. Mr. Ram Lok,**

Director of M/s. Horizon Metal Tech Pvt. Ltd.,

**5. Mr. Ashok Sharma**

Director of M/s. Horizon Metal Tech Pvt. Ltd.,

**... Defendants**

**C.O.S. No.7 of 2025**

**M/s. Horizon Metal Tech Pvt. Ltd.,**

Rep. by its Director and Authorized Signatory

Mr. Ashok Sharma

**... Plaintiff**

**// Vs //**

**1. M/s. Sri Murugan Foundry Equipment,**

Rep. by its Managing Partner Mr. R.Murugaiyan

**2. Mr. R.Murugaiyan**

Partner of M/s. Sri Murugan Foundry Equipment,

**3. Mrs. R.Manonmani,**

Partner of M/s. Sri Murugan Foundry Equipment,

**4. Mrs. Deepa Murugaiyan,**

Partner of M/s. Sri Murugan Foundry Equipment,

**... Defendants**

The above said two suits came up for final hearing before me on 12.03.2026 in the presence of **Mr.R.Senthilnathan, Advocate** for the plaintiff in C.O.S.No.18 of 2024 and for the defendants in C.O.S.No.7 of 2025 and **Mrs.A.R.Poorvaja & Mr.S.R.Iyalpari, Advocates** for the defendants in C.O.S.No.18 of 2024 and for the plaintiff in C.O.S.No.7 of 2025 and upon perusing the records and hearing arguments on both sides and having stood over for consideration till this date, this Court doth passes the following:-

**COMMON JUDGMENT**

The plaintiff has filed the suit in C.O.S.No.18 of 2024 against the defendant and its directors and the said defendant has filed the suit against the plaintiff and its partners in C.O.S.No.7 of 2024. This Court has decided that

since the suit in C.O.S.No.18 of 2024 and C.O.S.No.7 of 2025 are based on the same transaction and the plaintiffs in both the suits have rival claims on the basis of same transaction, the suit in C.O.S.No.18 of 2024 and C.O.S.No.7 of 2025 are considered to be taken as joint trial. The trial and recording of evidence will take place in the C.O.S.No.18 of 2024, since it is the earlier suit and also filed by the supplier of goods. Accordingly, the suit C.O.S.No.18 of 2024 and the suit in C.O.S.No.7 of 2025 are taken up together for Joint Trial. Hence, the said two suits now has been taken up together for disposal, since the trail proceedings were jointly conducted for the said two suits. The trial proceedings were conducted in C.O.S.No.18 of 2024. The suit in C.O.S.No.7 of 2025 was jointly tried along with C.O.S.No.18 of 2024.

## **2. Relief Sought for in C.O.S.No.18 of 2024**

The suit has been filed by the plaintiff for the relief of recovery of sum of Rs.48,95,420/- from the defendants along with interest at the rate of 18% per annum from the date of suit till the date of realization and for cost of the suit.

## **3. Relief Sought for in C.O.S.No.7 of 2025**

The suit has been filed by the plaintiff directing the defendants jointly and severally to pay a sum of Rs.74,50,310/- towards purchase of additional spare parts for the Plant, along with interest at the rate of 18% per annum from the date of suit till the date of realization and further the plaintiff also has sought for

to direct the defendants to pay a sum of Rs.99,78,310/- towards loss of profit / production, along with interest at the rate of 18% per annum from the date of suit till the date of realization and for cost of the suit.

**4. The plaint averments in C.O.S.No.18 of 2024 which are found essential for the disposal of the suit is that:-**

a) The plaintiff is the registered partnership firm and doing business of manufacturing industrial machineries viz all foundry equipment, sand plant equipment and etc., The 1st defendant is located at Himachal Pradesh and involved in the business of basic iron and steel productions and the defendants 2 to 5 are the directors of the 1st defendant firm. On 17.04.2021 the defendant has placed the purchase order with the plaintiff for the purchase of "Complete automatic plant for No Bake Casting Line" for a sum of Rs.2,04,00,000/-. The total cost of machine including the taxes and levies is a sum of Rs.2,64,95,420/-. The said purchase order dated 17.04.2021 was accepted by the plaintiff. As per the purchase order the machineries were supplied to the defendants by the plaintiff on various dates between 20.04.2021 to 25.06.2021 in nine sets. The plaintiff also has erected the machine at the defendant's site and the defendant has paid a sum of Rs.2,16,00,000/- to the plaintiff. But the defendants have failed to pay the balance sum of Rs.48,95,420/- as per the purchase order and as agreed by the defendants.

b) The plaintiff submit that the plaintiff has made several demands over phone and emails, but the defendants have not come forward to settle the above said amount. The plaintiff has also maintaining the true and proper accounts relating to the transactions with the defendants. In the above circumstances the defendants have sent the legal notice dated 17.02.2023 to the plaintiff with the false allegations and with malafide intention to evade the balance payment. For which a reply notice was also given by the plaintiff to the defendants on 07.03.2023 demanding the balance amount of Rs.48,95,420/-. In-spite of that, the defendants have failed to make the payment of Rs.48,95,420/-. Since the defendants are liable to pay the due amount, the present suit is mentioned to have been filed by the plaintiff for the aforementioned relief and sought for to decree the suit.

**5. By denying the plaint averments the 1st defendant has filed the written statement and adopted by the defendants 2 to 5. The sum and substance of the written statement averments in C.O.S.No.18 of 2024 which are found essential for the Disposal of the suit is as follows:-**

a) It is the contention of the defendants that the 1st defendant is the reputed company in the field of forging and metal castings. The 1st defendant manufactures components for the Defence Sector, Armoured Vehicle Parts / Components, Defence Vehicle Tracks, Defence 'A' Vehicle components etc and

also supplying the goods across India. The plaintiff approached the 1st defendant in the month of January 2021 with the proposal to establish 'Complete Automatic Plant for No Bake Casting Line, upon knowing the requirement of the 1st defendant, they have provided a written proposal on 27.01.2021. The plant was supposed to be built at the HMPL Location at Baddi, Himachal Pradesh and the plant is proposed to be utilized for forging and producing various iron and steel components. After mutual discussion the 1st defendant has placed the purchase order on 17.04.2021 on the condition that the supply of equipment under the purchase order to be completed in a month's time. The purchase order also included several terms including the payment terms, warranty and timeline for completion of work, along with the rates for each equipments and critical spares to be supplied by the plaintiff to the 1st defendant and submit that the said purchase order have not been filed by the plaintiff deliberately.

b) It is the submission of the defendants that the total value of the purchase order is Rs.2,04,00,000/- along with GST of 18% and which comes to the total sum of Rs.2,40,72,000/- and state that the defendants are not liable to pay any amount more than the said value. As per the payment terms, a sum of Rs.75,00,000/- has agreed to be paid in advance and the balance payment excluding a sum equivalent to 10% of the value of the purchase order is payable by the 1st defendant only upon issuance of proforma invoices and proof of

dispatch of equipments ordered. Upon supply of the equipments, the plaintiff is obliged to install and commission the equipments, free of cost and the balance 10% of the value of the purchase order retained shall be payable after successful institution, commissioning and integrated running trials. Thus, the schedule of payments as per the purchase order is fixed as (i) Advance payment as on the date of the invoices - Rs.75,00,000/-; (ii) Payment to be made after issuance of proforma invoice and proof of dispatch - Rs.99,07,200/-; (iii) Retention amount to be paid after successful installation, commissioning and integrated running trials - Rs.24,07,200/- and submit that the plaintiff had intentionally concealed the terms of the purchase order and the attached annexures. It is submitted that the invoices raised by the plaintiff was duly cleared then and there and state that the equipments supplied by the plaintiff were damaged and some of the equipments / spares were not supplied to the defendants at all by the plaintiff. Further the equipments were not supplied by the plaintiff on time as agreed under the purchase order and some of the equipments supplied and installed were defective. Due to the same, the defendants' plant could not be completed on time. The issue of damaged equipments were raised by the 1st defendant to the plaintiff vide email dated 21.06.2022 along with the entire list of machine / damaged components and thereafter multiple emails were issued citing defects / damages in the equipments supplied. Subsequent to the email dated 11.07.2022

citing the issue with one of the Ladle Preheater supplied to the defendant another email is also issued to the plaintiff by the defendant.

c) Subsequent to the same on 04.07.2022 a meeting was conducted and during the meeting the plaintiff has acknowledged that several spares and equipments were missing or defective or damaged and promised to rectify the same. Photocopy of the minutes of meeting / activity sheet dated 04.07.2022 as signed and countersigned by the representatives is also produced as document by the defendants. Subsequent to that multiple email communications were made highlighting the defective supplies, wrong supply of machineries, unexplained delays, ineffective resources development, etc., during the month of September and October 2022. The email sent on 13.09.2022 and 02.11.2022 are produced by the defendants. Even on December 2022 and January 2023, the supplies and installation work had not been completed, which had either expressly or impliedly been acknowledged by the plaintiff as well. The defendants have also in their support filed the email communications dated 29.11.2022, 08.12.2022, 12.12.2022, 19.12.2022, 20.12.2022, 06.01.2023, 07.01.2023 and 09.01.2023 and also filed the minutes of meeting dated 13.12.2022 with project activity sheet. The defendants submit that the plaintiff has never refused the defective supplies and delay in supply or commissioning work over email nor rectified the defects and delay in supplies / commissioning work. Further the plaintiff has ignored the calls and communications from the

1st defendant and their representative and has refused to pay heed to the works committed. The plaintiff was bothered only about the payments and kept on extorting money from the 1st defendant. The email dated 03.12.2022, 11.12.2022 and 10.01.2023 have also been filed by the defendants. It is the submission of the defendants that till this date the plaintiff has not completed the supplies committed under the purchase order and the plant has not been established and the installation and commissioning works have also not been completed.

d) Further the defendants submit that the plaintiff has also failed to complete the supplies committed under purchase order nor have replaced the defective and incorrect supplies and commissioned the works and submit that the conduct of the plaintiff is nothing but breach of agreement and state that the act has caused huge financial and economical loss to the 1st defendant. A review meeting is mentioned to have been conducted on 15.02.2023 where the representative of the plaintiff and the 1st defendant met and the issues pertaining to the earlier discussions were not sorted out and the plant was not ready for its operations. It is the submission of the 1st defendant that the plaintiff had never issued all the invoices listed in the plaint paragraph No.4 and state that the plaintiff has fabricated the same for the purpose of extorting money from the 1st defendant. Further it is the submission of the defendants that the 1st defendant nor their persons know about the invoices dated 12.04.2021, 30.04.2021,

25.06.2021 and state that they have not been issued to the defendants. Further it is mentioned that the copies of invoice dated 30.04.2021 and 25.06.2021 were not issued to the defendants and mentioned that the invoices has not been countersigned by the 1st defendant or their representatives and there is no proof to show the dispatch of the goods to the defendants.

e) It is admitted that a sum of Rs.2,16,00,000/- have been paid by the defendants to the plaintiff and submit that the same is in excess of value of the defective supplies and installation made and submit that there is no outstanding sum payable by the defendants to the plaintiff, as the plaintiff has not completed the supplies committed by the plaintiff and despite paying so much amount by the defendants. Due to huge expenditure and losses suffered by the 1st defendant the 1st defendant issued a legal notice dated 17.02.2023 claiming a sum of Rs.3,55,25,394/- under different heads of expenditure and losses along with compensation of Rs.25,00,000/- for the loss suffered by the defendants. However the plaintiff is mentioned to have issued a reply notice dated 07.03.2023 vaguely refusing the allegations without any reasons or explanations. Morefully the plaintiff in the said notice has refused to come forward for the appointment of an independent Expert to inspect and value the works as proposed by the 1st defendant in their notice and arbitrarily claimed a sum of Rs.49,56,623/- without any basis and was made only to evade the payments towards the claim made by the 1st defendant. It is mentioned that sum claimed

in the reply notice is different from the claim made in the plaint without any reasons.

f) The 1st defendant has also issued a demand notice dated 01.03.2023 claiming a sum of Rs.3,55,25,394/-. It is mentioned that the plaintiff has not suffered any loss and the plaintiff is mentioned to have filed this suit only to evade their liability towards the defendants. Further it is mentioned that the 1st defendant had suffered huge losses due to the negligence of the plaintiff and due to the defective supplies made by the plaintiff and submit that the same has been directly affected the overall volume of production and quality of castings as well as efficient and time bound production. It is submitted that the defendants have not received notice under Section 12A of the Commercial Courts Act, 2015. The cause of action is denied. Due to certain issues it is submitted that the bank transactions have not been retrieved by the defendants. Mentioning that the suit claim is baseless and is liable to be dismissed and sought for to dismiss the suit with costs.

**6. The sum and substance of the plaint averments in C.O.S.No.7 of 2025 which are found essential for the disposal of the suit is as follows:-**

a) The plaintiff is in the business of forging and metal castings. The plaintiff is a Private Limited company incorporated in the year 2006. The nature of the business of the plaintiff is manufacturing components for the Defence

Sector, Armoured Vehicle Components, Defence Vehicle Tracks, Defence A Vehicle Components etc and supplying the goods across India. The plaintiff is well known company all over India. During January 2021, the defendants approached the plaintiff with the proposal to establish "Complete Automatic Plant for No Bake Casting Line / Plant. Upon learning the requirements of the plaintiff, the defendants had provided a written proposal on 11.01.2021 and 27.01.2021. The plant was supposed to be built at the plaintiff's premises at Baddi, Himachal Pradesh and the same is proposed to be utilized for forging and producing various iron and steel components. After agreeing with the revised quote dated 09.03.2021 the plaintiff has placed their purchase order dated 17.04.2021 and with the condition that the supply of equipments under the purchase order were agreed to be completed in a month's time. The specification as per the purchase order is Knockout cum Reclamation Combination Unit, Dust Extraction System, Roto Shot Blasting Machines, Laddle preheater etc., with approximate features as mentioned under the proposal and the purchase order. The purchase order also carried several terms including the payment terms, warranty and timeline for completion of works, along with the rate for each equipment and critical spares to be supplied by the defendants to the plaintiff.

b) The plaintiff submit that the total value of the purchase order is Rs.2,04,00,000/- along with GST of 18% which total for a sum of Rs.2,40,72,000/- and submit that no other amount are payable by the plaintiff.

As per the terms of the purchase order a sum of Rs.75,00,000/- was paid as advance and balance payment excluding a sum equivalent to 10% of the value of the purchase order was payable by the plaintiff, upon issuance of proforma invoice and proof of dispatch which comes around Rs.99,07,200/- and as per the purchase order, the defendants are supposed to install and commission the equipments on free of cost and the balance of 10% of the value of the purchase order comes around as Rs.24,07,200/- and the same has to be paid after successful installation, commissioning of integrated running trials. The plaintiff submit that the purchase order stipulates a Warranty period of 3 years including on site replacement against design and manufacturing defects. The plaintiff also have duly remitted a sum of Rs.75,00,000/- as advance to the defendants. In pursuance of the above the defendants have initiated the supply of equipments and the plaintiff expected the supply to be concluded by 15.05.2021 as per the purchase order. However, the defendants had neither completed the supplies nor provided quality equipments. Meanwhile the defendants have been raising the invoices in respect of the supply, installation and commissioning work. Despite making the payments to the defendants under the purchase order, the plaintiff was shocked to see that some of the equipments were supplied in damaged condition or with missing spares and some of the equipments were not supplied at all. The plaintiff was dismayed upon learning that some of the equipments supplied were defective and the same did not match with the actual specification

of the plaintiff which were defective due to substandard quality of components used, errors in design and manufacturing etc., The defendants also failed to assign adequate manpower to commission and install the supplied materials in time. The list of defects and missing supplies are also recorded in the minutes of meeting and the same is mentioned to have been produced as document by the plaintiff.

c) The plaintiffs submit that the above issues were raised multiple times to the defendants, but the defendants have failed to provide any concrete response to the same and so the plaintiff started to send the emails on 21.06.2022 about the missing and damaged supplies made by the defendants and subsequently multiple emails were also sent. However the defendants have failed to initiate any steps towards rectifying the same. The said emails also have been produced as documents by the plaintiff. Subsequently a meeting was held on 04.07.2022 with the defendants, wherein which the defendants acknowledged the same and agreed that several spares and equipments were missing, defective or damaged and they have agreed to replace and rectify the same. Further the defendants had acknowledged that the commissioning and installation of several equipments were also pending and the defendants have promised to attend the same. The minutes of the meeting also stipulated that the trial run of the machineries set up shall be undertaken by the end of August 2022. Even subsequent to the said promises the defendants, the plaintiffs believed that the

defendants would undertake rectifications and wrap up the unfinished work. The plaintiff has also addressed multiple email communications to the defendants highlighting the defective supplies, wrong supply of machineries, unexplained delays, ineffective resources, insufficient deployment of manpower, lack of diligent works etc, during the month of September and October 2022. Further the plaintiff also state that the plaintiff has suffered monetary loss owing to loss of orders and indefinite delay.

d) The plaintiff submit that in-spite of the emails sent by the plaintiff, the defendants have failed to take any initiative and submit that even during the month of December 2022 and January 2023 the supplies and installation works had not been completed and the same have not been acknowledged by the plaintiff. The detailed shortcomings were raised and recorded in the minutes of meeting dated 13.12.2022 and the defendants have also countersigned the same and submit that there are multiple shortcomings that remained unaddressed, due to which the works of the plaintiff were also stalled. Several emails sent by the plaintiff to the defendants also have been filed as documents in the suit. The defendants have neither refused the defective supplies and the delay in supplies nor have rectified the defects and delay in commissioning work, despite the issues have been raised during the warranty period. The plaintiff submit that at one stage the defendants have started ignoring the calls and communications with the plaintiff deliberately and evaded their responsibility of completing their

work and rectifying the defects and stated that the defendants persons were not sufficiently equipped to perform the tasks that were necessary to complete the commissioning. Further the plaintiff had so far paid a sum of Rs.2,16,00,000/- towards majority supplies and but, works promised under the purchase order were not completed till date by the defendants. In-spite of the above and with the hope that the defendants would wrap up their works soon, the plaintiff had raised the issues once again on 15.02.2023 and conducted a review meeting between the parties and during the said meeting the plaintiff insisted for the requirements and requested for replacement of the defective and incorrect supplies and completion of installation and commissioning works. The defendants have duly acknowledged the above and admitted the issues pertaining to the earlier shortcomings that were already brought to the defendants' notice and the defendants have also promised to rectify all the issues. However, the defendants have failed to live up to this promise. In support the plaintiffs has also filed the minutes of meeting dated 15.02.2023 with the plaintiff.

e) The plaintiff submit that after the meeting dated 15.02.2023, there was no communication from the defendants. Hence without further delay, a legal notice dated 17.02.2023 was issued by the plaintiff to the defendants claiming a sum of Rs.3,55,25,394/- under the different heads of expenditure along with the compensation of Rs.25,00,000/- for the loss suffered by the plaintiff due to the

negligence and in-actions of the defendants. However the defendants have issued their reply notice dated 07.03.2023 vaguely refusing the allegations without any reasons or explanations. Morefully the defendants in their notice have refused to come forward for the appointment of independent Expert to inspect and value the proposed works and had arbitrarily claimed a sum of Rs.49,56,623/- without any basis for the sake of evading the payments towards the claim made by the plaintiff. Morefully the plaintiff has also issued a demand notice dated 01.03.2023 through post and email, whereas the defendants have failed to come forward to give any reply. In the meantime the 1st defendant have filed the suit before this Court in C.O.S.No.18 of 2024 making false claim of sum of Rs.48,95,420/- against the plaintiff herein. In which the plaintiff has also filed the written statement and submit that the suit filed by the 1st defendant in C.O.S.No.18 of 2024 is vexatious one and submit that the 1st defendant is a partnership firm and submit that the alleged suit is barred under Section 69 of Indian Partnership Act, 1932.

f) It is the submission of the plaintiff that the defective and delay in supply of machineries had caused huge financial loss to the plaintiff. In spite of making payment by the defendants to the plaintiff, the plaintiff is also mentioned to have incurred additional costs owing to the Food, Accommodation and Travel of the employees of the defendants which comes around Rs.3.5 lakhs approximately. Apart from that the plaintiff was also put to purchase spares and

equipments in place of missing / defective goods after supplies made by the defendants for the Plant, since the defendants have failed to follow the timeline specified in the purchase order and also failed to install and commission the machineries the plaintiff claim that the defendants are liable to make the payment of sum of Rs.75,50,310/-. After purchasing the additional spare parts and commissioning of the plant, the plant have become operation only on 01.06.2023. However the plaintiff submit that they still continued to find additional defects in the supplied spare parts by the defendants till date and the plaintiff is replacing those spare parts, whenever and wherever identified and submit that the plaintiff is still suffering loss and damages till date and mentioned that VHE and the 1st defendant are one and the same and state that the documents refers to VHE is only referring to the defendants.

g) It is the submission of the plaintiff that initially supplies were agreed to be completed by 15.05.2021 and the installation and commissioning of the supplies should also have taken place within two months from the date of supply and submit that the commissioning and supplying of machineries ought to have been completed within 3 - 5 months time period. Hence the plaintiff submit that the plaintiff has incurring loss of production from September 2021 till June 2023 i.e., for about 21 months and the profitability of the plant is assessed at Rs.30/- per kg as certified by the Chartered Accountant. Hence the loss suffered by the plaintiff is computed to the tune of Rs.99,78,310/-. It is the

submission of the plaintiff that in addition to the above loss and damages the plaintiff also suffered the value of Rs.74,50,310/- towards the additional spares procured by the plaintiff and submit that the value of the defective supplies made by the defendants as on date stands only a sum of Rs.1,66,21,690/-. The plaintiff submit that the defendants have admitted the receipt of said sum of Rs.2,16,00,000/- from the plaintiff and submit that the plaintiff so far has made the excess payment of Rs.49,78,310/- Hence the plaintiff submit that they are not liable to make any payment as mentioned by the defendants in C.O.S.No.18 of 2024 and submit that the defendants are liable to pay a sum of Rs.1,74,28,620/- to the plaintiff for the cost of expenditure, loss and damages suffered by the plaintiff. Hence the plaintiff has come up with the suit for aforementioned relief and sought for to decree the suit.

**7. By denying the plaint averments the 1st defendant has filed the written statement and the same is adopted by the defendants 2 to 4. The sum and substance of the written statement averments in C.O.S.No.7 of 2025 which are found essential for the disposal of the suit is that:-**

a) It is mentioned that the plaintiff has made several baseless claim and state that the plaintiff has failed to adhere to the terms of payment and the plaintiff has defaulted in clearing the outstanding dues to the defendants. It is the submission of the defendants that the plaintiff has placed the purchase order with the defendant for the purchase of complete automatic plant for No bake

casting line for a sum of Rs.2,04,00,000/- and submit that the total cost of the machinery including Taxes is a sum of Rs.2,64,95,470/- and the defendant has erected the machine at the plaintiff's site. The plaintiff so far has paid a sum of Rs.2,16,00,000/-, but the plaintiff has not paid the balance amount of Rs.48,95,420/- as per the purchase order. The defendants denied any failure in delivering equipment as per the agreed specification and submit that the equipment supplied was as per the specifications agreed upon in the purchase order. The defendants made several demands to the plaintiff to settle the outstanding amount over phone and emails. But, the plaintiff has sent the legal notice dated 17.02.2023 to the defendants with false allegations and with malafide intention to evade the balance payment. For which, a reply notice also sent by the defendants to the plaintiff and submit that the plaintiff has not paid the above said amount. Hence, the defendant is mentioned to have filed the suit in C.O.S.No.18 of 2024 against the plaintiff herein.

b) The defendants submit that the equipments were supplied as per the specification agreed upon in the purchase order and the defendants denied the allegations of any defects in supplying of machineries and state that the machines were promptly erected at the plaintiff's premises and submit that the machines are in working condition. Further it is submitted that the plaintiff has not come up with any such issues at the time of delivery of machine and submit that any issues post installation were attended to promptly by the defendants and

the plaintiff has exaggerated its claim to unjustly withhold the payments. The emails communications referred to by the plaintiff are misrepresented. The defendants are also following the payment for the completed works which are alleged to have been denied by the plaintiff. The claim of Rs.50,00,000/- towards monetary loss is mentioned as unsubstantiated and no credible proof is filed in support of the claim of the plaintiff and submit that the plaintiff is still continuing the usage of supplied equipments by the defendants. The defendants denied the demand of sum of Rs.74,50,310/- towards the purchase of additional spares. The defendants denied the allegation of excess payment of Rs.49,78,310/-. The defendants reiterated that as per the purchase order issued by the plaintiff, the defendants have erected the machines at the plaintiff's premises and state that the machines are still in working condition and denied that the machines are defective. Mentioning that there is no cause of action for the suit, the suit is liable to be dismissed and sought for to dismiss the suit.

**8.** After the pleadings, the plaintiffs and the defendants were given with opportunity to file the admission and denial of documents statement. In C.O.S.No.18 of 2024 the defendants have filed the admission and denial of document statement and the plaintiffs have failed to file the admission and denial of documents statement. In C.O.S.No.7 of 2025 the defendants have filed the admission and denial of documents statement whereas on the side of the defendants no documents have been filed in C.O.S.No.7 of 2025. Hence the

filing of admission and denial of documents statement by the plaintiff in C.O.S.No.7 of 2025 do not arise. Further, prior to the case management hearing, parties were called upon to respond as to the possibility of settlement of the suit dispute. Since the parties have not come forward for settlement, the case management hearing in this suit has been commenced.

**9.** At the commencement of case management hearing the following issues were framed by this Court on 11.09.2024 in C.O.S.No.18 of 2024:-

- (1) Whether the plaintiff is entitled for the relief of recovery of sum of Rs.48,95,420/- along with interest as prayed for?
- (2) To what other relief?

**10.** At the commencement of case management hearing the following issues were framed by this Court on 15.04.2025 in C.O.S.No.7 of 2025:-

- (1) Did the defendants supplied defective / damaged equipments to the plaintiff?
- (2) Did the defendants acknowledged the missing or defective or damaged equipments and agreed to replace and rectify the same?
- (3) Is the plaintiff sustained monetary loss due to deficient commissioning and delayed supply of equipment on the part of the defendant?

(4) Is the plaintiff entitled for relief of recovery of sum of Rs.74,50,310/- along with interest as prayed for?

(5) Is the plaintiff entitled for the relief of damages of Rs.99,78,310/- along with interest as prayed for?

(6) To what relief?

11. During the trial, on the side of the plaintiff, the Managing Partner of the plaintiff firm Mr.R.Murugaiyan was examined as PW.1 and Ex.A1 to Ex.A14 were marked and one Panel Board Manufacturer Mr.Ashok Prabhu was examined as PW2. On the side of the defendants, the Managing Partner and Authorized Signatory of the defendant firm (M/s. Horizon Metal Tech Pvt. Ltd.,) Mr.Ashok Sharma examined as DW.1 and Ex.B1 to Ex.B22 were marked and the Consultant / Engineer Mr.Subramanian and the Chartered Accountant Mr.Dinesh Vijayprakash Rathi were also examined as DW.2 and DW.3. Subsequent to the Trial the parties have also submitted for to refer to mediation and the suit was also referred to mediation and the dispute was not settled in mediation.

**Joint Trial:-**

12. Since the said two suits in C.O.S.No.18 of 2024 and C.O.S.No.7 of 2025 are being tried jointly, to avoid confusion and for the reason of clarity this Court would find appropriate to refer the parties as follows in the Judgment for

discussion. Accordingly, the plaintiff in C.O.S.No.18 of 2024 for the entire case is taken as “Plaintiffs” though they were defendants in C.O.S.No.7 of 2025. Like wise, the defendants in C.O.S.No.18 of 2024 for the entire case for discussion is referred as “defendants” though they were the plaintiff in C.O.S.No.7 of 2025. (In the finding to the issues in each suit the parties are referred to as per their original status in the suit as “Plaintiffs” and “defendants”).

### **Issue No.1 in C.O.S.No.18 of 2024**

**13.** The present suit has been filed by the plaintiff for the relief of recovery of sum of Rs.48,,95,420/-. The plaintiff is a partnership firm. The plaintiff has filed the suit for the relief of recovery of money for the machine supplied by the plaintiff to the defendants. The first aspect this Court would consider is that whether the plaintiff is a registered partnership firm and on behalf of the registered partnership firm whether the registered partner of the plaintiff firm has filed the present suit. The present suit has been filed by one Mr. R.Murugaiyan mentioning as the Managing Partner of the plaintiff firm. In support, the plaintiff has also filed the copy of **Form A** Certificate issued by the Registrar of Firms dated 03.02.2026 and the same has been filed before this Court after comparing it with the original. In the list of partners submitted along with Form A the name of the representative of the plaintiff partnership firm one

Mr. R.Murugaiyan is also found in the Register maintained in the Registrar of Firms and it is considered that the plaintiff firm is a registered partnership firm. Hence this Court would consider that the plaintiff has complied with **Section 69 (2) of Partnership Act.**

**14.** The claim of the plaintiff is that the plaintiff has supplied the materials to the worth of Rs.2,64,95,420/- to the defendants and submit that the defendants had paid a sum of Rs.2,16,00,000/- to the plaintiff and also submit that a sum of Rs.48,95,420/- is due from the defendants and submit that the defendants have not come forward to make the payment of said balance amount. Hence, the present suit is mentioned to have been instituted by the plaintiff. In support of the plaintiff's claim, the plaintiff has filed the Ex.A1 to Ex.A14 documents. Ex.A4 is purchase order dated 17.04.2021 and Ex.A5 to Ex.A10 are the invoices and Ex.A11 is the Account Statement filed by the plaintiff to show the receipt of sum of Rs.2,16,00,000/- and from the account statement it is also shown that a sum of Rs.48,95,420/- is due from the defendants to the plaintiff. Subsequently the defendants have also issued Ex.A12 Legal Notice to the plaintiff setting out the defects in the machineries supplied by the plaintiff to the defendants and by mentioning the missing components and also damaged goods and also narrated about several facts which are discussed in the written statement. The plaintiff has also filed Ex.A13 copy of reply notice issued by the

plaintiff to the defendant for the notice given by the defendants to the plaintiff. The total outstanding of the plaintiff's claim could be ascertained only from the Account Statement Ex.A11.

**15.** It is admitted fact on the side of the defendants that a sum of Rs.2,16,00,000/- have been paid by the defendants to the plaintiff. Morefully it is also the contention of the defendants that the purchase order have been issued to the plaintiff by the defendants for supplying of machinery for the worth of Rs.2,04,00,000/- and after adding the GST of 18% the total value of the machines proposed to be supplied to the defendants by the plaintiff is only Rs.2,40,72,000/- as per the purchase order issued by the defendants to the plaintiff. In support the defendants have also filed the copy of purchase order as Ex.B3.

**16.** Apart from that it is the contention of the defendants that as per the purchase order the parties have agreed for to make the payment in three installments, one is Rs.75,00,000/- as advance, and the second payment is agreed to be paid by the defendants for a sum of Rs.99,07,200/- after issuance of proforma invoice of the machineries along with the proof of despatch and submit the third payment of remaining amount of Rs.24,07,200/- has to be retained and the same has to be released only after the successful installation and commissioning and integrated running trials.

**17.** Further it is the contention of the defendants that the plaintiff have not supplied the machinery as agreed to be supplied by the plaintiff to the defendants. It is also the submission of the defendants that within one month time period from the date of the purchase order dated 17.04.2021 the machines have to be supplied by the plaintiff to the defendants i.e., 15.05.2021 and state that the plaintiff have not supplied the machine in time as agreed in the purchase order. Morefully it is also the contention of the defendants that the plaintiff also has not installed the machinery as agreed and submit that the defendants have issued several emails to the plaintiff seeking for to install the machineries. It is also the submission of the defendants that the plaintiff had sent an email dated 21.06.2022 along with entire list of missing and damaged components and also issued multiple emails citing the damages. Subsequently a Minutes of meeting is also mentioned to have been recorded between the defendants and the plaintiff and submit that the Minutes of the Meeting is also countersigned by the representative of the plaintiff.

**18.** It is also submitted that the plaintiff has never refused to the specifications regarding the defective supplies and delay in supplying and commissioning of the works and state that the plaintiff has ignored the Calls and Communications from the 1st defendant and their representatives. Further it is the contention of the defendants that till this date the plaintiff has not completed

the supplies as per the purchase order. Lastly a Review Meeting was also conducted on 15.02.2023 where the representative of both sides have discussed and submit that still after the discussions the issues are not sorted out and state that the plant is not ready for operations. Further it is mentioned that the invoice is dated 12.04.2021, 30.04.2021, 25.06.2021 were never issued to the defendants by the plaintiff. Further it is stated that the defendants are not issued with the copies of the invoices dated 30.04.2021 and 25.06.2021. The defendants further submit that there was no document filed by the plaintiff to show the despatch of goods by the plaintiff to the defendants and state that the defendants are not liable to make any payment to the plaintiff and state that the act of the plaintiff has caused huge loss and expenditure to the defendants due to defective supplies and works.

**19.** In the above circumstances this Court would consider the claim of the plaintiff in the present suit. In support, the plaintiff and the defendants have filed the written arguments. This Court also has considered the averments on both sides filed in their written arguments and this issue is pertaining to the claim of the plaintiff in the present suit in C.O.S.No.18 of 2024.

**20.** To make the claim of Rs.48,95,420/- and in support of the claim of the plaintiff, the plaintiff has filed **Ex.A1 to Ex.A14** documents as already mentioned. In which **Ex.A5 to Ex.A10** Invoices are relied on by the plaintiff

towards the supply of materials to the defendants as per the purchase order

**Ex.A4.** This Court would find it appropriate to extract the invoices details as follows:-

Invoice No.	Invoice Dated	Invoice Value (Rs.)
10	20.04.2021	5,020,900.00
16	29.04.2021	2,486,260.00
20	09.05.2021	4,071,000.00
21	09.05.2021	6,242,200.00
39	12.07.2021	4,812,575.00
141	06.01.2022	2,905,868.00
	Total	2,55,38,803.00

21. Accordingly in total the plaintiff is mentioned to have supplied the goods to the tune of **Rs.2,55,38,803/-**. Apart from that the plaintiff has entered two journal amount in Ex.A11 for a sum of Rs.9,38,700/- and also for a sum of Rs.17,820/- . Regarding the above two said sum of Rs.9,38,700/- and Rs.17,820/- there is no plea in the present suit and the plaintiff also have not filed any documents, such as invoices or any receipts for making the expenditure for the said amounts towards supplying of machineries to the defendants. Hence from the documents filed by the plaintiff the claim amount of the plaintiff for a sum of Rs.2,64,95,420/- could be ascertained only from the accounts statement and not from any other documents. Morefully the contention of the defendants is that the defendants have not received the complete set of goods proposed to be

supplied by the plaintiff to the defendants as per the purchase order. Hence this Court would consider that the burden lies on the plaintiff to establish that the goods were supplied by the plaintiff to the defendant as agreed or the plaintiff is bound to show that the goods mentioned in the invoices are also sent to the defendants.

**22.** Morefully in the written statement at paragraph No.7 the defendants have denied the receipt of goods for the invoices dated 12.04.2021, 30.04.2021 and 25.06.2021. Apart from that it is also the submission of the defendants that the plaintiff has not produced the copy of invoices dated 30.04.2021 and 25.06.2021. This Court considers whether the invoice dated 12.04.2021 is filed before this Court. There is no such invoices that have been entered with date 12.04.2021. The invoice entry dated 30.04.2021 and 25.06.2021 are found in the **Ex.A11** account statement which is for the aforementioned value of Rs.9,38,700/- and Rs.17,820/-.

**23.** It is admitted fact that the plaintiff have not filed any documents before this Court to show that the goods have been supplied / delivered to the defendants by the plaintiff. In this regard the plaintiff would have been able to file the E-way bills and GST Returns. Morefully the plaintiff have not filed the e-way bills and GST Returns submitted by the plaintiff to the GST Authorities towards supply of goods and taking of input credit. The plaintiff have not filed

the receipt of goods which were countersigned by the defendants towards the supply of goods. Under the circumstances without filing any document to show that the goods were supplied to the defendants by the plaintiff and specifically the stand of the defendants is being that the plaintiff have not supplied the goods as mentioned in the invoices to them, puts the plaintiff to establish the fact that the goods were actually supplied by the plaintiff to the defendants. But, in this regard the plaintiff has not come up with any documents to show that the goods mentioned in the invoices have been supplied by the plaintiff to the defendants.

**24.** In this regards the PW.1 was also cross examined and this Court would find it appropriate to extract the deposition of PW.1 as follows:-

"Purchase order இல் ரூபாய் 2,04,00,000/- நிர்ணயம் செய்யப்பட்டது என்று சொன்னால் சரிதான்." .....

"பிரமாண வாக்குமூலம் பத்தி 5 இல் சில இன்வாய்ஸ்களை குறிப்பிட்டுள்ளீர்கள், அதில் 30.04.2021, 25.06.2021 ஆகிய தேதிகளில் உள்ள இன்வாய்ஸ்களை இவ்வழக்கில் நீங்கள் தாக்கல் செய்யவில்லை, இவ்வாறு நீங்கள் தாக்கல் செய்யாமல் இருப்பதற்கு காரணமே அந்த இன்வாய்ஸ்கள் உண்மையில் இல்லாத காரணத்தினால் தான் தாக்கல் செய்யவில்லை என்று சொன்னால் சரியல்ல, அந்த இன்வாய்ஸ்கள் இருக்கும்." .....

"பிரதிவாதி நிறுவனத்திற்கு உரிய காலத்தில் எந்திரங்களை முழுமையாக supply செய்யவில்லை என்று சொன்னால் சரியல்ல."

"நீங்கள் பிரதிவாதி நிறுவனத்திற்கு வழங்கிய எந்திரங்களில் பல பாகங்கள் பழுதடைந்தும், செயல்படாமலும் இருந்தது என்று சொன்னால் சரியல்ல."

"பிரதிவாதி நிறுவனத்திற்கு வழங்காத பொருட்களுக்கும் சேர்த்து தான் இன்வாய்ஸில் குறிப்பிட்டுள்ளீர்கள் என்று சொன்னால் சரியல்ல." .....

"Purchase order இல் உள்ள படி நீங்கள் பொருட்களை வழங்காமலும், இயந்திரங்களை நிறுவி கொடுக்காமலும் இருந்ததால் பிரதிவாதிகளுக்கு உரிய காலத்தில் திட்டமிட்டபடி தங்கள் தயாரிப்புகளை மேற்கொள்ள முடியாமல் நஷ்டம் ஏற்படுவதற்கு காரணமாக இருந்துள்ளீர்கள் என்று சொன்னால் தவறு." .....

"உரிய உதிரி பாகங்களை நீங்கள் வழங்காத காரணத்தினால் பிரதிவாதிகள் தங்கள் தரப்பில் தாக்கல் செய்துள்ள Ex.B.17 ஆவணத்தில் உள்ளபடி கூடுதலாக உதிரிபாகங்களை வாங்கியுள்ளார்கள் ரூபாய் (சாட்சியிடம் 74 லட்சத்திற்கும்

அந்த ஆவணம் காண்பிக்கப்பட்டது, சாட்சி அந்த ஆவணத்தைப் பார்த்தார் ) என்றால் இந்த ஆவணம் வழக்கிற்காக ஜோடிக்கப்பட்டது."

"இதுபோன்று நீங்கள் வழங்குவதாக ஒப்புக்கொண்ட பாகங்களையும் உதிரி பாகங்களையும் பிரதிவாதி நிறுவனத்திற்கு வழங்காமல் விட்டுவிட்ட காரணத்தினால் பிரதிவாதிகள் அந்தப் பொருட்களை வெளியிலிருந்து தங்கள் நிறுவனத்திற்கு வாங்கியதால் பல லட்ச ரூபாய் அவர்களுக்கு நஷ்டம் ஏற்பட்டது என்று சொன்னால் சரியல்ல." .....

25. Though the plaintiff / PW.1 during cross examination has denied the questions regarding the non supply of goods by plaintiff to the defendants, but in support of the stand of the plaintiff that the entire goods have been supplied by the plaintiff to the defendants, no documents have been filed by the plaintiff to the present suit dispute. Primarily it was the contention of the defendants in the present suit that the plaintiff have not supplied the entire goods as mentioned in the invoices. This Court would consider that the plaintiff has failed to establish by filing documents that the entire goods have been supplied by the plaintiff to the defendants.

26. Further, the plaintiff have not filed the present suit not only on the basis of the invoices, the total value of the invoice amount is Rs.2,55,38,803/-

Whereas it is mentioned that the plaintiff has supplied the goods to the defendants for a sum Rs.2,64,95,420/-. Hence for the claim over the value of Rs.2,55,38,803/- this Court would in a position to look into the Account Statement Ex.A11 only. As per Section 28 of the Bhartiya Sakshya Adhiniyam (BSA) 2023, a person could not be charged with liability only on the basis of the account statement. Hence on this ground also the claim of the plaintiff do not sustain.

**27.** Apart from that the plaintiff also have claimed a sum of Rs.9,56,520/- (Rs.9,38,700/- + Rs.17,820/-) from the defendants for supply of goods. But as discussed earlier even for the said amount of Rs.9,56,520/- the plaintiff have not filed the invoices before this Court nor have filed any documents to show that the expenditure incurred for the supply of those goods to the defendants. Hence, this Court would consider that the plaintiff has failed to establish that the plaintiff has supplied the entire materials to the defendants as mentioned in the purchase order.

**28.** Apart from that the purchase order has been issued for a value of Rs.2,04,00,000/-. As mentioned by the defendants in their written statement, when the said amount of Rs.2,04,00,000/- is added with the GST value at the rate of 18%, the total value of the goods comes around Rs.2,40,72,000/-. But instead the plaintiff has claimed a sum of Rs.2,55,38,803/- from the invoices itself. Hence for this also, the plaintiff has not come up with any specific reason

for supplying of goods over the value of purchase order. Morefully, the plaintiff have not come up with the details of goods that were supplied to the defendants from the invoices. ***Hence on the above stand, this Court would consider that the plaintiff has failed to establish that the plaintiff is entitled for the relief of recovery of sum of Rs.48,95,420/- from the defendants.***

### **Issue No.1 to 3 in C.O.S.No.7 of 2025**

**29.** The defendants in C.O.S.No.18 of 2024 have filed a separate suit in C.O.S.No.7 of 2025 claiming a sum of Rs.74,50,310/- towards purchase of additional spare parts to set up the industry and also to run the machineries and the defendants in C.O.S.No.18 of 2024 also have claimed a sum of Rs.99,78,310/- as damages towards the loss of profits / productions along with interest at the rate of 18% per annum from the date of filing of the suit till the date of realization along with costs. On the basis of the plaint averments in C.O.S.No.7 of 2025 this Court has framed the Issues.

**30.** It is the contention of the defendant (plaintiff in C.O.S.No.7 of 2025) that the plaintiff have supplied the damaged goods to the defendants and also has caused the delay in setting up of the industry for making the production by the defendants. Further, due to non supply of entire materials by the plaintiff and also the defective supply of materials by the plaintiff, the defendant is alleged to have purchased the additional spares for a sum of Rs.74,50,310/- from

the outside market to set up the industry and has claimed a sum of Rs.74,50,310/- along with interest at the rate of 18% per annum from the date of filing of the suit till the date of realization along with cost.

**31.** Now it is for the defendants to establish that the plaintiff have supplied the defective or damaged equipments to the defendant. It is the contention of the defendants that the plaintiff had acknowledged the missing or defective or damaged equipments and agreed to replace and rectify the same. Now it is the burden on the side of the defendants to establish that the plaintiff had acknowledged the missing, defective and damaged equipments and the plaintiff has agreed to replace and rectify the said missing, defective and damaged equipments.

**32.** The defendants also have filed the written arguments to this effect and this Court also has considered the submission of the defendants in the written arguments. The learned counsel for the defendants has also relied on the following judgments of the Hon'ble Supreme Court and Hon'ble High Courts in support of their arguments:-

- i.** Shreeram Finance Corporation vs Yasin Khan and others - 1989 (3) SCC 476
- ii.** KKR Products and marketing (P) Ltd., vs Y.Pradeep - 2017 SCC (online) KER 31197

- iii.** Arikala Narasa Reddy vs Venkatraman Reddy Reddygari - AIR 2014 SC 1290
- iv.** Bondar Singh vs Nihal Singh and others - AIR 2003 SC 1905
- v.** Maria Margadia Sequeria Fernandes vs Erasmo Jack De Sequeria - AIR 2012 SC 1727
- vi.** Thangam and others vs Navamani Ammal and others - AIR 2024 SC 1324
- vii.** Gopal Krishnaji Ketkar vs Mahomed Haji Latif and others - AIR 1968 SC 1413
- viii.** Seema Walia and others vs P.R.Mishra and others, 2008 (2) TAC 265
- ix.** Muddasani Venkata Narsaiah (D) Th. Lrs vs Muddasani Sarojana - AIR 2016 SC 2250.

**33.** In the written arguments, it is the submission of the defendants that the plaintiff is required to complete the entire supplies for installation and commissioning within one month from the date of purchase order and state that the plaintiff has failed to complete the supplies in accordance with the purchase order as evidenced by the Minutes of Meeting marked as Ex.B7, Ex.B10 and Ex.B12 and the email correspondences in Ex.B5, B6, B8, B9 and Ex.B11. In total the defendants have relied on the documents in Ex.B5 to Ex.B11. It is

mentioned that the plaintiff has failed to place on record the Annexure No.I and II along with Ex.A4 documents and submit that the Annexure actually contains the detailed machinery list and product specifications quantity, requirements and components and its description and the exact values and finalized price list of all spares and equipments forming as a consolidated package. It is submitted that by withholding the essential documents the plaintiff is mentioned to have concealed the very specification which governs the contractual obligation.

**34.** During the cross examination the PW.1 has initially admitted the Ex.B3 and refuted thereafter. When he was asked about the delivery schedule, it is mentioned that the existence, correctness and issuance of **Ex.B2 and Ex.B3** was admitted by the plaintiff in Statement of admission and denial. Further it is the contention that the deliberate non filing of annexures indicates the plaintiff had not adhered the specification of the supplies in the annexures from the very beginning. The DW.2 in his chief and cross examination has mentioned that he was engaged in the capacity of expert consultant to review the proposal documents before placing the purchase orders through the Managing Directors as he is technically aware of the plant and its equipments. Again he was engaged in July 2022 to verify the defective and incomplete supplies made by the plaintiff. A meeting was also constituted with the representative of both parties i.e., DW.1, PW.1 and one employee of PW.1 one Mr.Anburaj apart from

the expert consultant PW.2. A joint inspection was conducted on 04.07.2022 and followed by a meeting on 05.07.2022.

**35.** It is evident from the minutes of meeting which carries the signatures of the participants and the participants have also clearly acknowledged that several spares were missing and several equipments supplied were defective and various items were yet to be supplied. In the joint activity sheet the specific shortcomings and the defects in Shot Blasting machine were specifically recorded. Further multiple deficiencies were also noted and was recorded. The plaintiff was also undertaken to supply the missing items and to repair and replace or correct the defective parts and the same have been signed by both parties. The defects and deficiencies were also recorded in subsequent meeting dated 13.12.2022 Ex.B10 and 15.02.2023 Ex.B12.

**36.** It is the further submission by the defendants that in the Ex.B10 and also in the Ex.B12 the parties have again recorded the unresolved deficiencies including non functional components, incomplete supply and persistent operational issues which made the 1st defendant to procure certain spare materials from the market due to the plaintiff's failure to supply them and had to take up allied repair works, to mitigate the delay and loss of production, however incurring additional expenditure. Except for certain limited modifications none of the issues identified in the earlier joint inspection were

satisfactorily rectified by the plaintiff. The shortcomings related to supply of materials were also remained unresolved. A review meeting was conducted between the parties on 15.02.2023, again the plaintiff had acknowledged that the plant was still not ready for operation and that several critical defects and supply gaps continued to remain unaddressed.

**37.** It is the submission of the defendants that the email correspondences between the plaintiff and the defendants also records the missing and defective supplies in addition to the above documents, for which there is no response from the plaintiff and the operations came to a standstill. These documents would demonstrate that the non suitability of spare parts supplied by the plaintiff to the defendants led to interruption in the operations and submit that the plaintiff had failed to lead evidence regarding the defects and missing spares and also on the point of supplies confirming to the industrial standards and specifications of the defendants and state that the plaintiff has not come up with any evidence to disprove the allegations of the defendants and submitted that are admitted by the plaintiff in ***Ex.B5 to Ex.B12***.

**38.** In the above circumstances the defendant was constrained to put the supplies in operation by repairing the existing spare parts and purchasing additional spare parts at plaintiff's risk and cost, in order to mitigate the loss and to overcome the financial constraints. On that note, the defendants identified

several other defects in the equipments during its usage in daily operations, in addition to those defects that were identified and admitted in exhibits in Ex.B7, Ex.B10 and Ex.B12. They were in fact, compiled and filed as Ex.B4 as mentioned by DW.I and DW.2 in their cross verification for ready reference. It is submitted that, the plaintiff have not disputed the contents of the documents in Ex.B7, Ex.B10 and Ex.B12 as forged and even in their admission and denial of documents no specific denial is mentioned to have been made by the plaintiff over Ex.B7, Ex.B10 and Ex.B12 documents. Only at the belated stage the plaintiff has denied their signature as forged one and submit that it is only an after-thought.

**39.** Further, it is mentioned that the plaintiff has not specifically disputed the email communications in both the statement and admission of denial as well as the pleadings. Further, it is mentioned that the plaintiff simply states that the emails are misrepresented in their statement of admission and denial and fails to provide any proof to substantiate their statement. Specifically in their email communication dated 03.12.2022, 11.12.2022 and 10.01.2023 in Ex.B11 series recognizes Mr.Anburaj to sign in Ex.B7, Ex.B10 and Ex.B12 on behalf of the plaintiff as its Employee / Senior Engineer and state that the denial of participation is nothing but a malicious conduct on the part of PW.1. The said Mr.Anburaj is a party to the several emails and mentioned in the body of emails by the plaintiff in Ex.B11.

**40.** The defendant side witnesses were also not questioned about the substance of the dispute per se, about the intricacies of the defects identified in Ex.B4, B7, B10 and Ex.B12, the relevancy, price, quantity of the additional spare parts that are procured by the defendant in favour of the first relief (C.O.S.No.7 of 2025). Further the defendants also have filed the email correspondences and the same have been marked as Ex.B5, Ex.B6, Ex.B8, B9 and Ex.B11. On the side of the plaintiff there was no question posted pertaining to the said email correspondences or the contents of the defendant's exhibits indicating defective, missing and delayed supplies or any other ancillary issues reflecting from the documents, nor there was any evidence led on the side of the plaintiff.

**41.** It is mentioned that the plaintiff had evidently made the defective and incomplete supplies and breach of the purchase order and failed to install and commission the plant. The plaintiff's conduct throughout the project shows clear acknowledgment of its own lapses, apart from delay and defective supplies by the plaintiff. It is submitted that there were several critical issues and lapses existed on the part of the plaintiff including missing supplies, lack of proper and timely response on the side of the plaintiff. Further, the man power supplied by the plaintiff is also mentioned to be insufficient and inefficient. Further the witnesses examined on the side of the plaintiff as PW.2 have also not produced

any documents, though they have admitted that there are certain documents available with the plaintiff / PW.1.

**42.** Though the PW.1 during his cross examination has deposed that the machines were commissioned within a week after the invoice dated 12.07.2021, no such pleading was taken by the plaintiff nor any proof for successful commissioning has been produced by the plaintiff till date. The email correspondences dated 12.07.2021 marked as Ex.B5, Ex.B6, Ex.B8, B9 and Ex.B11 also show that the ideal scenario of non-completion of supplies and expose the blatant lie of PW1 and PW2 and on the other hand the Exhibit marked on behalf of the defendant clearly establishes that the supplies were not completed as late as 15.02.2023. Further, the PW2 has not even produced the proof of his business and the copy of the Purchase Order to ensure the relevancy and admission of his evidence before this Court and submit that the evidence of PW.2 is liable to be disregarded in its entirety. Apart from the above contentions the defendants have also placed their contention raised in their written statement and also in the written arguments and submit that the defendants are entitled for the claim of sum of Rs.74,50,310/- towards the defective and incomplete supplies.

**43.** This Court has also considered the written arguments filed by the defendants and by the plaintiff. The written arguments of the plaintiff mainly focuses on the cross examination of PW.1, DW.1 and DW.2. DW.1 is the

Managerial Person of the defendant company and the DW.2 is the Technical Adviser of the DW.1 company. DW.3 is the Chartered Accountant who has computed and issued Ex.B18 certificate. The sum and substance of the contention of the plaintiff in the written arguments that the plaintiff has installed the machinery in the month of June 2021 itself and any claim made by the defendants in the present suit is not correct and submit that the claim of the defendants are invalid and sought for to reject the defendants' claim.

***Purchase Order:***

**44.** It is admitted fact that the purchase order has been entered between the parties. The plaintiff has filed the copy of purchase order which is Ex.A4 along with the plaint. But, in the purchase order by the plaintiff the Annexures I & II has been mentioned in the purchase order and the said Annexures have not been filed by the plaintiff along with Ex.A4 Purchase Order. The plaintiff have not come up with any specific reason that for non filing of the Annexures I & II along with the purchase order in the present suit. In the purchase order filed by the plaintiff which is two page purchase order which emphasizes the conditions of supply and the consideration for the supply etc and the details of machinery is not found in the purchase order submitted by the plaintiff before this Court. Hence, at first this Court is of considered stand the plaintiff have not filed details of the machineries which the plaintiff had agreed to supply to the defendants.

45. Further, though the value of the machinery is mentioned as Rs.2,04,00,000/- in the said purchase order Ex.A4, the same also specifies that 18% would be collected Extra. When the amount of Rs.2,04,00,000/- is added with GST of 18% which exactly comes around Rs.2,40,00,000/-. But other than the said particulars this Court is not in a position to examine the exact particulars of the purchase order, since the annexures have not been filed along with the purchase order by the plaintiff.

46. On the defendants' side the purchase order has been filed as Ex.B3 and the same has been filed along with the Annexure I & II. Regarding the purchase order the plaintiff / PW.1 has deposed during the cross examination at page No.4 to 10 as follows:-

"பிரதிவாதி ஊர்களுக்குக் கொடுத்த முழு கொள்முதல் ஆணை இந்த ஆவணம் தான் என சாட்சியிடம் இவ்வழக்கில் குறியீடு செய்யப்பட்டிருந்த EX.B.3 ஆவணம் காண்பிக்கப்பட்டது, சாட்சி அந்த ஆவணத்தை படித்துப் பார்த்து இந்த ஆவணம் தான் கொடுக்கப்பட்டது என்று தெரிவித்தார்."

"Purchase order இல் ரூபாய் 2,04,00,000/- நிர்ணயம் செய்யப்பட்டது என்று சொன்னால் சரிதான்."

"இந்த Purchase order இல் உள்ளவாறு மேற்கண்ட நிர்ணயிக்கப்பட்ட தொகைக்கு உங்களால் அதில் குறிப்பிடப்பட்டுள்ள உதிரி பாகங்களை பிரதிவாதி நிறுவனங்களுக்கு வழங்கி அந்த உதிரிபாகங்களை பிரதிவாதி நிறுவனத்தில் நிறுவிக் கொடுக்க வேண்டும் என்பது உங்களால் ஒப்புக்கொள்ளப்பட்டது என்றால் சரிதான்."

"பிரதிவாதி நிறுவனத்தின் தொழிற்சாலை பற்றியும் அந்த நிறுவனத்தின் எந்திரங்களுக்கான தேவை என்ன என்பது குறித்தும் உங்களுக்கு முழுமையாக தெரியும் என்று சொன்னால் சரிதான், தெரியும்."

"Ex.A.5 to Ex.A.10 இன்வாய்ஸ்களில் குறிப்பிட்டுள்ள பொருட்களை பிரதிவாதிகளுக்கு முழுமையாக supply செய்து விட்டதாக supply செய்ததைக் காட்ட அதற்குரிய ஆவணங்களான Freight bill, e-way bill, GST returns ஆகியவற்றை இவ்வழக்கில் நீங்கள் தாக்கல் செய்யவில்லை என்று சொன்னால் Freight bill இன்வாய்ஸ் உடன் இணைக்கப்பட்டுள்ளது, e-way bill மற்றும் GST returns ஆகியவற்றை தாக்கல் செய்யவில்லை."

"நீங்கள் பிரமாண வாக்குமூலம் பத்தி 5 இல் சில இன்வாய்ஸ்களை குறிப்பிட்டுள்ளீர்கள், அதில் 30.04.2021,

25.06.2021 ஆகிய தேதிகளில் உள்ள இன்வாய்ஸ்களை இவ்வழக்கில் நீங்கள் தாக்கல் செய்யவில்லை, இவ்வாறு நீங்கள் தாக்கல் செய்யாமல் இருப்பதற்கு காரணமே அந்த இன்வாய்ஸ்கள் உண்மையில் இல்லாத காரணத்தினால் தான் தாக்கல் செய்யவில்லை என்று சொன்னால் சரியல்ல, அந்த இன்வாய்ஸ்கள் இருக்கும்."

"நீங்கள் Purchase order இல் சொன்னவாறு ஒரு மாத காலத்தில் எந்திரங்களை பிரதிவாதி நிறுவனத்திற்கு வழங்கவில்லை என்று சொன்னால் சரியல்ல, வழங்கியுள்ளோம், delivery time மூன்று மாதம் ஆகும், மூன்று மாத காலத்திற்குள் நாங்கள் வழங்கிவிட்டோம்."

"நீங்கள் கூறுவது தவறு, கொள்முதல் ஆணையான purchase order ல் ஒரு மாதம் தான் கால அவகாசம் குறிப்பிடப்பட்டுள்ளது என்று சொன்னால் (சாட்சி purchase order பார்க்க வேண்டும் என்று கேட்டதால் Ex.B.3 ஆவணம் சாட்சியிடம் வழங்கப்பட்டு அவர் அதை படித்துப் பார்த்தார்) சரியல்ல, இந்த purchase order எங்களால் வழங்கப்பட்டது அல்ல என்று தெரிவித்தார்."

"நீங்கள் இந்த நீதிமன்றத்தில் தாக்கல் செய்துள்ள Ex.A.4 purchase order உங்களால் தாக்கல் செய்யப்பட்டுள்ளது, அந்த ஆவணத்திலும் ஒரு மாத காலம் அவகாசம் வழங்கிதான் குறிப்பிடப்பட்டுள்ளது என்று சொன்னால் (சாட்சியிடம் Ex.A.4 ஆவணம் காண்பிக்கப்பட்டது சாட்சி அதை படித்துப் பார்த்தார்) பின்னர் இது பற்றி தனக்கு தெரியவில்லை என்றும், இது சம்பந்தமாக தனது வழக்கறிஞரைதான் கேட்க வேண்டும் என்று தெரிவித்தார்."

47. From the above portion of PW.1 regarding the purchase order the plaintiff has not submitted the Annexures attached with the purchase order and later when the Ex.B3 purchase order was showned to the PW.1 along with the annexues, PW.1 has admitted the purchase order and later in the cross examination, PW.1 has also denied the purchase order and the PW.1 has deposed that "**Ex.B.3 and Ex.A.4 purchase order** இரண்டும் ஒரே ஆவணங்கள், **Ex.B.3** ஆவணத்தில் **Annexures** மட்டும் தான் கூடுதலாக சேர்க்கப்பட்டுள்ளது என்று சொன்னால் சரியல்ல, இரண்டும் வெவ்வேறு ஆவணங்கள்" and he has deposed that the purchase orders are entirely different. But when the first two pages of Ex.A4 purchase order filed by the plaintiff when compared with the defendant's purchase order filed as Ex.B4, both are found to be same.

48. The list of properties in annexures in Ex.B3 shows the value of the machinery and the value of the machinery have been arrived as Rs.2,04,00,000/-. The said Rs.2,04,00,000/- is mentioned as the purchased price in Ex.A4 purchase order filed by the plaintiff and the portion of purchase order filed by the plaintiff have been admitted by the plaintiff / PW.1. As the PW.1 have not filed the Annexures and have denied the Annexures filed by the defendants in Ex.B3, this Court would consider that the same could not be acceptable and sustained as the plaintiff cannot take shelter of his own lapses for non filing the Annexures along with the Ex.A4 purchase order. Hence this Court is of considered stand that the Annexures furnished by the defendants along with Ex.B3 is presumed as purchase order issued by the defendants, since the plaintiff have not rebutted the same, nor the plaintiff have come forward to file the actual purchase order as mentioned earlier by this Court.

49. The next aspects taken into consideration by this Court is that **"Whether the plaintiff has supplied the machineries as agreed to be supplied to the defendants, if so on what date the same have been supplied and what all are the machineries that have been supplied"** and the second part is, **"whether the machines were supplied with defects"**.

50. It is the submission of the plaintiff in the present suit that the machines were supplied by the plaintiff to the defendants on the date of last

invoice and the date of last invoice as per the averments of the plaintiff is dated 06.01.2022. If that is construed as the date of last invoice, the invoice itself would show that the goods have not been supplied by the plaintiff within the agreed period as per the purchase order, which is within one month time period. Only after including the value of the last invoice dated 06.01.2022 for a sum of Rs.29,05,868/- the total value of supply of goods has been arrived for a sum of Rs.2,55,38,803/- by the plaintiff. Hence, the supply of the goods as per the documents filed by the plaintiff is considered to have been taken place up to 06.01.2022.

**51.** But, when the plaintiff / PW.1 has deposed before this Court, the PW.1 has deposed that the entire goods have been supplied by the plaintiff to the defendants and the PW.1 has also deposed at page No.11 during cross examination at page No.11 as follows:-

"கடைசி இன்வாய்ஸின் தேதி என்ன என்று உங்களால் கூற முடியுமா என்றால் (சாட்சியிடம் ஆவணப்பட்டியல் காண்பிக்கப்பட்டு ஆவண பட்டியலை சாட்சி பார்த்துவிட்டு) 12.07.2021 தேதியிட்ட இன்வாய்ஸ்க்குப் பிறகு ஒரு வார காலத்தில் எந்திரங்களை நிறுவி கொடுத்ததாக கூறினார்."

**52.** As per the plaintiff's version Ex.A9 invoice dated 12.07.2021 is the last invoice, but the plaintiff himself has failed to prove Ex.A10 Invoice dated

06.01.2022 towards the supply of the goods. The above two documents show that the plaintiff is not with definite stand before this Court regarding the date of complete supply of goods as per the purchase order. From the above invoice dated 06.01.2022, this Court is of considered stand that from the evidence filed by the plaintiff this Court is unable to ascertain that the goods were supplied by the plaintiff to the defendant on 12.07.2021. Apart from that the plaintiff in the present suit have also not filed the documents to show that the entire goods were supplied by the plaintiff to the defendants. In support of the supply of goods the plaintiff have not filed the GST Returns, E-way Bills, or any documents showing the transit of goods and receipt of the goods by the defendants, nor the plaintiff has filed any documents to show that the complete goods were received to the defendant.

53. Further this Court also would consider appropriate to refer to the emails that has been transacted between the parties in the present suit. Regarding the said emails the plaintiff in the present suit have not given any specific denial before this Court. Further, before going into the discussion regarding the details of the emails, the plaintiff's email ID have been mentioned in every invoices filed by the plaintiff which are marked as Ex.A5 to Ex.A10. In the Ex.A5 invoice the email ID of the plaintiff is mentioned as "***vmefoundry@gmail.com***". This Court would consider that there are several emails transacted between the

plaintiff and the defendants and the emails from 21.06.2022 have been filed by the defendants before this Court whereas the plaintiff have not filed the emails transacted between the plaintiff and the defendants before this Court, nor the plaintiff / PW.1 have deposed before the Court about the sending of emails.

54. This Court would find it appropriate to discuss regarding the contents in the emails is that there are several specific contention that have been taken by the defendants in the present suit, which are (i) the plaintiff have not supplied the complete goods to the defendants as per the invoices (ii) the machines supplied by the plaintiff to the defendants were also defective; (iii) the parties have convened a meeting on 05.07.2022, 13.12.2022 and 15.02.2023; (iv) since the works were not completed, nor the goods were supplied and there was no proper response from the plaintiff to the defendants for the notices and emails issued, and so the defendants have decided to complete the pending works through the third parties, (v) since through the third party the additional goods / spares parts were purchased and the installation works were also carried out, the project work was completed and started functioning only from the month of June 2023. Claiming the expenses incurred for installation of machineries in support the defendants have filed the invoices before this Court and claimed a sum of Rs.74,50,310/-. Since the plaintiff ought to have completed the project within the month of September 2021 as per the purchase

order and submit that the project work was not completed. Due to which the company was not functioned and the production in the company have not begun. Due to the non supplying of machineries by the plaintiff as agreed in the purchase order. Hence the defendants have also claimed the compensation for the losses suffered by the defendants and the defendants have computed the value as Rs.99,78,310/- and sought for to decree the said portion of the amount also.

**55.** It is admitted fact that the purchase order have been entered between the parties. As per the purchase order and as mentioned in the purchase order, the machines have to be supplied within one month from the date of the purchase order, the date of the purchase order is 17.04.2021. Further in the terms and conditions of the purchase order it is specifically mentioned that the delivery of the machines has to be taken place within the month of 15th May 2021. From the invoices filed by the plaintiff it could be ascertained that before the said agreed period of 15.05.2021 four invoices have been raised. But to show that the machines were actually supplied to the defendants completely no documents have been filed by the plaintiff before this Court and the rest of two invoices have been raised on 12.07.2021 and 06.01.2022, (which is the last invoice).

**56.** From the Ex.A11 Accounts Statement it could be ascertained that a sum of Rs.2,16,00,000/- have been given credit by the plaintiff and hence it is

admitted fact that the defendants have paid a sum of Rs.2,16,00,000/- to the plaintiff. As per the terms of purchase order, the advance payment is Rs.75,00,000/- and the balance payment is on proforma invoice and proof of despatch and 10% has to be retained by the defendants and will be given after successful installation and commissioning and integrated running trials. Further the plaintiff has also specified about the three years of comprehensive warranty for all equipment except consumable items. Regarding the installation and commissioning it has been mentioned that it is free installation and commissioning at no extra cost.

57. When above is the terms of the purchase order, as discussed earlier the plaintiff have not established that the entire machineries have been supplied by the plaintiff to the defendants, ***the next contention is that the goods supplied by the plaintiff to the defendants were also defective.*** Now it is for the plaintiff to establish that the the goods supplied by the plaintiff to the defendants was not defective. Since the burden of proof lies on the defendants, since the contention of installation of work was defective and the plaintiff also has to establish that the plaintiff / PW.1 has installed and commissioned the machineries as deposed in his cross examination and that the PW.1 has completed the installation one week after on 12.07.2021.

**58.** From the documents filed by the plaintiff this Court was not in a position to ascertain that the machineries were installed by the plaintiff and the plant has started its commissioning as agreed by the parties in the purchase order **Ex.A4 or Ex.B3**. This Court has also considered the emails filed as documents by the defendants regarding the transactions taken place between the plaintiff and the defendants from 21.06.2022 to 07.03.2023. For the first time, the defendants has informed to the plaintiff in the **Ex.B5** email dated 21.06.2022 about the list of missing supplies. Every emails sent by the defendants to the plaintiff as filed before this Court reflects that the emails were sent to "**vmefoundry@gmail.com**" which is the email of furnished by the plaintiff in the **Ex.A5 to Ex.A10** invoices. In the e-mail dated 21.06.2022 the defendants have informed the plaintiff that the details of missing machineries in the supply made by the plaintiff to the defendants. Subsequent to the said email Ex.B5 on 11.07.2022 it has been mentioned by the defendants to the plaintiff in **Ex.B7** email about the Ladle Preheater about the defects in the machinery that the same do not have the flexibility to heat different types of ladle.

**59.** Subsequently Ex.B8 email was sent by the defendants to the plaintiff. This Court would find it appropriate to extract certain portion of **Ex.B8** email dated 13.09.2022 which reads as follows:-

*"3). During your discussions with me, you have pleaded that the delay were nonintervention and you should be given one*

*last opportunity on compassionate grounds and additional time should be given to you to implement all rectifications measures to complete the I & C work in a time bound schedule."*

*4) Please note that Project Work of Plant I & C of such magnitude and order value is not implemented on compassionate ground and it needs meticulous planning and execution of planned activities. We regret to reiterate that the entire project work has been carried out with the total indifference with utter disregard to commitment towards quality and timely execution. Under mentioned points support this claim.*

*(1) Purchase order placed in the month of April 2021.*

*(2) Claimed complete dispatches made during April 2021 to August 2021 (Dispatches were incomplete)*

*(3) In-spite of numerous constrains, the shed was handed over to you during November / December 2021.*

*(4) It has been observed and brought to your notice through persistent follow-up through emails and phones calls that there were shortages in equipment supplies; the matter used and workmanship was of substandard*

*quality and basic design flaws were observed in the supplied equipment.*

*(5) Your project execution team was not assigned and deputed for a long time and the people assigned to do the job neither have the expertise nor the guidance to carry out the activities to the required design specifications.*

*5) Until this stage we have been considerate and lenient towards your project management methods and were constantly advising you to implement remedial measures, and yet, in spite of this, the I & C work continues to get delayed indefinitely. The foundry should have been operational by this time to achieve operational efficiency up to 80% of its working capacity. The delays have resulted in huge monetary loss in addition to the loss of orders due to delays.*

*6) The minutes of the meeting recorded in the form of Project Activity sheet that are jointly signed by VME Enterprises and HMPL consist of 50 line items that indicate short supplies, wrong design, substandard workmanship, and low quality of materials used / outsourced. The Project Activity Sheet is attached with this mail.*

7) *We are in process of determining the exact value of monetary loss that has occurred due to the delays. However, we offer you one last opportunity to implement immediate remedial measures by;*

*(1). Deputing a trained and competent project management team at all levels*

*(2). The team must get proper back up support from your own design group.*

*(3). The team must work under the supervision and guidance of Mr.R.Subramanian and execute all activities as per planned schedule.*

*(4). The balance I & C activities must be completed within a time span of 30 days. During this time you are advised to ensure that;*

*a) All shortages in equipment supplies are made good*

*b) All substandard materials like fasteners and bearings and other items mentioned in the project activity sheet are replace.*

*We again advise you to treat this as the final caution advice and complete the I & C work in 30 days from the date of receipt of this mail so that the foundry is operational and we*

*can start executing the orders that have suffered abnormal delay.*

*Failure to comply with this may compel us to initiate rigorous measures that can result in heavy claims and damages.*

*Please acknowledge receipt and let us have a detailed project execution schedule for balance activities that must be completed in the next 30 days. I expect this schedule by 15th September 2022.*

*Best Regards,  
Sunil Sharma"*

**60.** In the written statement (COS No.7 of 2025) the plaintiff herein has not denied the email dated 13.09.2022, nor the plaintiff has not specified the receipt of such email. But, the said email has addressed to the "**vmefoundry@gmail.com**" / plaintiff by the defendants. Since the plaintiff himself in the invoice have mentioned their email ID as "**vmefoundry@gmail.com**", this Court would consider that the email has been sent promptly to plaintiff by the defendants. The aforementioned email **Ex.B8** dated 13.09.2022 would show that the project have not been completed and I & C in the mail indicates the "Installation" and "Commissioning" and the above portion of the email would show that the installation and commissioning have

not been completed as on 13.09.2022. Hence the claim of the plaintiff that the machines were installed within one week from the date of last invoice i.e., 12.07.2021 as per the version of the plaintiff in the considered view of the Court do not sustain.

**61.** A set of emails have been filed by the defendants in the present suit as **Ex.B9**. Ex.B9 carries 9 emails shared by the defendants to the plaintiff and it ensured that the copy of every email also shared to the plaintiff. In which the first email is dated 29.11.2022 and it is shared by one Mr.R.Subramanian. This Court would consider appropriate to extract some portion of emails dated 29.11.2022 in Ex.B9 which reads as follows:-

*"Dear All*

*I had a phone call from Murugaiyyan at 8.22 pm last night.*

*Since Mr.Anburaj went back, we had given him the pending list of supplies and work in installation. He asked me to when his electrical team should come. I informed him that the team can start the work right away as our DB for supplying to their boards are already in place.*

*I told him that all short supplies and non supplies should be fulfilled.*

*He replied me that he can go ahead as he is short of funds and Horizon should pay him. I told him although payment is not in*

*my hands according to me he has to sit for an accounts meeting and I feel that he has already been paid more than his supplies. I also told him that many of his supplies do not match the capacity described and there will be operational problem even if the plant is put to operation. He challenged that all the capacities in name plate details will be proved. I had told that it is essential as future operating people will have to face the constrains. I also told him to fix an appointment and go over for a meeting at Baddi. So that the decision makers are made aware of situation and simultaneously all payment related matters can be resolved. This is jut to keep all posted with the development.*

62. Subsequently on 12.12.2022 in Ex.B9 an e-mail also has been sent by Mr.R.Subramanian to the email id of plaintiff "***vmefoundry@gmail.com***" which reads as follows:-

*"Dear Murugaiyyan*

*You had made three calls to you yesterday. You were supposed to come to Bodd while returning from your trip Abroad. Based on this communication from your Anburaj our MD Mr.Suniji has come down to Baddi and was waiting*

*for you. This was twice conveyed to you we have huge orders on hand and certain basic under capacity of equipment and deviation from specification of equipment originally agreed will be posing big problem in quality, quantity and cost of production the pros and cons of the situation. Any manufacturer can not give blind assurances unless backed my scientifically proven Design calculation. Under these circumstances your visit to Baddi with appointment is vital. Please plan and inform so that others will also plan to be here. As I have conveyed to you I am only a technical consultant and any monetary help will come only if you talk to our MD and that is how you have received the Rs.2,06,00,000/- till date. Last night I have stressed these points to you and hope you will at least speak to our MD as promised for any further assistance."*

**63.** Further on 19.12.2022 (Ex.B9) Mr.R.Subramaian for Horizon Metaltech Pvt. Ltd., have sent an email to VME Foundry (***vmefoundry@gmail.com***) which reads as follows:-

*"Mr.Anburaj visited us on 13th to 15th Dec. and the project activity chart dt 5th July was discussed. Our MD was also*

*present at Baadi for three days as he was concerned about the inordinate delay in the commissioning. On 13th a minutes of the meeting was signed by Anburaj and Gowtham on behalf of VME. As per Anburaj most of the materials required for electrification was ready and would have been dispatched by now. But we have no information today I called Anburaj thrice. The first meeting he promised to ring back. After two more tries at one hour intervals with Anburaj not picking the phone. I am writing this letter. We need firm commitments on time lines from VME. In the absence of any commitments VME is pushing to the wall with disastrous results.*

*We need a reply per return mail."*

**64.** Further, another email also sent by the defendants company to the plaintiff on 20.12.2022 (Ex.B9) in which it has been mentioned as follows:-

*"We are not finding the Air circuit diagramme for the three Pneumatic cylinders. This is urgently required to the Air Pipe lines to the cylinders. Kindly send by reply mail."*

65. As Ex.B11 certain emails transacted between the plaintiff and the defendants have been filed by the defendants. The email dated 11.12.2022 have been sent by the plaintiff to the defendants. The said email dated 11.12.2022 has been sent from the plaintiff's email ID to the defendants which reads as follows

*"Dear Sir,*

*This refers to the discussion our Mr.B.Anburaj has with your Mr.Subramanian sir, we are having some financial issues. So we request you to hand over Rs.50,000 (Rupees Fifty Thousand) towards their salary expenses to our Mr.Gautam and debit the same from VME account. Sorry for the inconvenience.*

*Regards, Ravindran Murugaaiyan*

66. For the above email dated 11.12.2022 issued by the plaintiff to the defendants, the Technical Adviser DW.2 Mr.Subramanian also replied that ***"I do not have any authority to pay any body and this huge amount is usually sanctioned by Suniji from Pune. I am making this to all for their attention. Please do not sight any phone calls as I do not commit and just listen only."*** Subsequently again certain mail transactions have taken place in the month of January 2023 and the mail conversation that had been sent by the plaintiff to the defendant is also taken for consideration.

67. Further email dated 06.01.2023 issued by the defendants to the plaintiff have been attached in Ex.B9 which specifies **“about the details of modification required to run over over control panel as present ones are badly under capacity and the following will be replaced in the panel and and we need these to be supplied by you, one is 63 ams TPMCB Starter - 2 Nos etc,** with these details of materials the e-mail has been sent on 06.01.2023 to the plaintiff. Further on 07.01.2023 a email sent by the defendants has mentioned that **“as per today telecon we have competed all electrical connections to all sand plant machines. You are requested to depute your programming team to start trials”**. Subsequently on 09.01.2023 the defendants sent the email to the plaintiff mentioning that **“kindly inform the probable arrival date of electrical team as our men will not be engaged in any important work till the arrival of your team”**.

68. Subsequent to the email dated 09.01.2023 in the email attached with **Ex.B11** an email has been sent by the plaintiff to the defendant on 10.01.2023 in which the plaintiff has mentioned that **“this refers to the discussion our Senior Engineer Mr.Anburaj had with your good selves. Kindly deposit Rs.50,000/- in our Engineer Mr.Gowtham Account towards his salary expenses. Kindly debit the amount from M/s. VME Account”**. Subsequently on 17.02.2023 the defendants had issued the legal notice to the plaintiff and the

same has been filed as **Ex.B13** before this Court and the receipt of said email have been received by the plaintiff. Prior to that on 16.02.2023 a Minutes of Meeting is mentioned to have been entered between one Mr.Subramanian on behalf of the defendant's company and one Mr.Anburaj on behalf of the plaintiff's company.

**69.** From the above email communication it is clear that till 10.01.2023 the commissioning work was not completed. Though the purchase order Ex.A4 or Ex.B3 which have been entered on 17.04.2021 and the plaintiff had agreed to supply the goods within one month from the date of purchase order Ex.A4 or Ex.B3. From the above set of the emails extracted it could be clear that the entire machineries were not supplied and there were a lots of defects noted in the machineries supplied by the plaintiff to the defendant which have been communicated to the plaintiff, but the plaintiff have not disclosed any of those facts before this Court and simply the plaintiff has taken the stand that the plaintiff has completed the installation and commissioning work in the month of July 2021 itself.

**70.** When the above contentions have been raised by the defendants in the plaint in C.O.S.No.7 of 2025 and also in the written statement in C.O.S.No.18 of 2024 that there were short coming in supplies and have taken the plea that the parties have entered into a minutes of meeting on 04.07.2022,

13.12.2022 and on 15.02.2023 which are filed as documents **Ex.B7, Ex.B10 and Ex.B12**, but the plaintiff have not disclosed any of those documents. Further it is also mentioned that on behalf of the plaintiff company in all the three meetings one Mr.Anburaj have been signed the minutes of meetings.

71. But when the PW.1 was questioned about himself signing in the Minutes of Meeting, the PW.1 during cross examination at the page No.8 have deposed as follows:-

"04.07.2022 அன்று பிரதிவாதிகளுடன் கலந்து பேசி அப்போது நடந்த பேச்சு வார்த்தையில் பிரதிவாதி நிறுவனத்திற்கு வாதி நிறுவனமான உங்கள் நிறுவனம் வழங்காத எந்திரங்களுக்கு மற்றும் குறைபாடு உடைய எந்திரங்கள் மற்றும் உதிரிபாகங்களுக்கும் வழங்க ஒப்புக்கொண்டு நடந்த கூட்டத்தின் Minutes of meeting இந்த ஆவணம் தான் என்று இவ்வழக்கில் தாக்கல் செய்யப்பட்டிருந்த Ex.B7 ஆவணம் சாட்சியிடம் காண்பிக்கப்பட்டு சாட்சி அந்த ஆவணத்தை படித்து பார்த்தார், படித்துப் பார்த்துவிட்டு இந்த meeting கிற்கு நான் செல்லவில்லை என்று தெரிவித்தார்."

72. But when Ex.B7 document is verified, it is found that one Murugaiyyan has signed in Ex.B7 documents and mentioned about the Minutes of Meeting recorded in the form of Project Activity Sheet that are jointly signed

by VME Enterprises and HMPL which consists of 50 items that indicates short supplies, wrong design, substandard workmanship and low quality of materials used / outsourced and the Project Activity Sheet is attached with the email **Ex.B8**. But the Minutes of the Meeting is also not denied by the plaintiff in the present suit in C.O.S.No.18 of 2024 nor in the written statement in C.O.S.No.7 of 2025. The defendants have specified about three minutes of meeting where in **Ex.B7** minutes of meeting also reflects about the 50 Items. But the plaintiff have not given any reply to the **Ex.B8 email** which shows that the minutes of the meeting have been intimated to the plaintiff nor the plaintiff / Murugaiyayan have not denied his signature in the minutes of meeting and he simply denied that he has not attended the meeting. Though he has stated that he has not gone for the said meetings, atleast the plaintiff / PW.1 would have taken some steps to compare the signature to prove the falsity of the Minutes of meetings mentioned. At the same time the minutes of meeting have been mentioned in the **Ex.B8** email and the same have not been denied by the plaintiff at any point of time.

73. Since all the Minutes of Meeting **Ex.B7, Ex.B10 and Ex.B12** refers to one Mr.Anburaj, this Court would consider the deposition of PW.1 regarding Mr.Anburaj and during cross examination at page No.8 and 9, the PW.1 had deposed as follows:-

"இதைத்தொடர்ந்து 13.12.2022 அன்று உங்கள் நிறுவனத்தால் ஒப்புக்கொள்ளப்பட்ட எந்திரங்களை வழங்காமல் விட்டு விட்டீர்கள் என்று மீண்டும் ஒரு கூட்டம் நடந்து, அந்தக் கூட்டத்தில் உங்கள் நிறுவனத்தின் சார்பாக திரு.அன்புராஜ் என்பவர் கலந்து கொண்டு அப்போதும் ஒரு minutes of meeting ஏற்படுத்தப்பட்டுள்ளது, அதையும் இவ்வழக்கில் நீங்கள் குறிப்பிடாமல் விட்டு விட்டீர்கள் என்று சொன்னால் அன்புராஜ் என்ற நபர் எங்கள் நிறுவனத்தில் வேலை பார்க்கவில்லை."

"அன்புராஜ் என்ற நபர் உங்கள் நிறுவனத்தின் ஊழியர் தான், தற்போது வழக்கிற்காக அவர் உங்கள் நிறுவன ஊழியர் இல்லை என்று மறுக்கிறீர்கள் என்று சொன்னால் சரியல்ல."

"(Ex.B.12) 15.02.2023 தேதியிலும் உங்கள் நிறுவனத்தால் பொருட்கள் வழங்க வேண்டும் என்ற காரணத்திற்காக மீண்டும் ஒரு கூட்டம் நடந்தது, அந்த கூட்டத்திலும் திரு.அன்புராஜ் அவர்கள் கலந்து கொண்டு அப்போதும் ஒரு minutes of meeting எழுதப்பட்டது, அது பற்றியும் இவ்வழக்கில் நீங்கள் குறிப்பிடாமல் விட்டு விட்டீர்கள் என்று சொன்னால் அன்புராஜ் என்பவர் எங்கள் நிறுவன ஊழியரே அல்ல."

74. Hence it is the contention of the plaintiff / PW.1 that one Mr.Anburaj is not their employee. But as extracted above in **Ex.B11** emails dated 11.12.2022 and 10.01.2023 the plaintiff has referred about one Mr.Anburaj and Mr.Gowtham. The emails have been sent by the plaintiff / PW1 to the defendants which is filed in Ex.B11 shows that one Mr.Anburaj is the employee of the plaintiff. Hence from the extracted portion of PW.1, the PW.1 is considered to have suppressed the material facts before this Court and would consider that the plaintiff have went on to an extent to say that Mr.Anburaj is not their employee. Ex.B11 email dated 11.12.2022 and 10.01.2023 has clearly shows that the said Mr.Anburaj is the Senior Engineer of the plaintiff and one Mr.Gowtham was also acted as Engineer of the plaintiff. Hence the contention of the plaintiff that the plaintiff has not signed in the Minutes of Meeting dated 04.07.2022, 13.12.2022 and 15.02.2023 which are marked as **Ex.B7, Ex.B10 and Ex.B12**, is not valid and the Minutes of Meeting **Ex.B7, Ex.B10 and Ex.B12** are considered to have been signed by one Mr.Anburaj and the said Mr.Anburaj is nothing but an Employee / Senior Engineer of the plaintiff.

75. The First Minutes of Meeting has been recorded on 04.07.2022 which mentions about 50 points of defects. Whereas the email dated 13.12.2022 refers to 18 points and also the comments of Mr.Anburaj has also been recorded and in the next Minutes of meeting dated 15.02.2023 which reads as follows:-

*"In the absence of any communication from VME, HMPL is unsure of VME completing the project to satisfaction of HMPL"*

76. Hence from the above set of email transactions and from the evidence of PW.1, from the documents filed by the plaintiff, from other documents filed by the defendants and from the email communication and from the Minutes of Meeting entered between the parties, this Court arrives at the conclusion that the plaintiff have failed to prove that the plaintiff have completed the supply of entire goods, further the plaintiff has also failed to prove that the plaintiff have not supplied the defective materials and the plaintiff has also failed to prove that the plaintiff has completed installation and commissioning of the project.

#### **Issue No.4 in C.O.S.No.7 of 2025**

77. The defendants have claimed a sum of Rs.74,50,310/- from the plaintiff for procuring additional materials to commission the machineries partly supplied by the plaintiff. It is the contention of the plaintiff that the plaintiff had supplied the entire materials to the defendants. Further it is also the contention of the plaintiff that the plaintiff has completed the installation and commissioning work in the month of June 2021 itself. But, from the answers for issues No.1 and 2 in C.O.S.7 of 2025, it has been revealed that till the month of

January 2023 the project has not been completed by the plaintiff and the machineries was not put to commissioning. While these being an one part, this Court would consider appropriate to refer the provision under **Order VIII Rule 3A of C.P.C. as amended to the Commercial Courts Act** which reads as follows:-

*“3A. Denial by the defendant in suits before the Commercial Division of the High Court or the Commercial Court—*

*(1) Denial shall be in the manner provided in sub-rules (2), (3), (4) and (5) of this Rule.*

*(2) The defendant in his written statement shall state which of the allegations in the particulars of plaint he denies, which allegations he is unable to admit or deny, but which he requires the plaintiff to prove, and which allegations he admits.*

*(3) Where the defendant denies an allegation of fact in a plaint, he must state his reasons for doing so and if he intends to put forward a different version of events from that given by the plaintiff, he must state his own version.*

*(4) If the defendant disputes the jurisdiction of the Court he must state the reasons for doing so, and if he is able, give*

*his own statement as to which Court ought to have jurisdiction.*

*(5) If the defendant disputes the plaintiff's valuation of the suit, he must state his reasons for doing so, and if he is able, give his own statement of the value of the suit.”;*

*“Provided further that every allegation of fact in the plaint, if not denied in the manner provided under Rule 3A of this Order, shall be taken to be admitted except as against a person under disability.”;*

**78.** The provision under Order VIII Rule 3A of C.P.C. provides that the every allegations stated in the plaint has to be specifically denied by the defendant and also would ensure that the defendant has to come up with his own version. The plaintiff herein is the defendant in C.O.S.No.18 of 2024. Since joint Trial is taken, the plaintiff has referred as defendant in the present suit. The defendant in the present suit is the plaintiff in C.O.S.No.18 of 2024 and hence the defendant has referred as plaintiff in the present suit for the sake of discussion.

**79.** The defendant who is the supplier have filed the written statement in the present suit (C.O.S.No.7 of 2025). But they have not specifically denied

several aspects in particularly regarding the emails shared between the parties. Apart from that they have not denied the stand taken by the plaintiff in the plaint in the present suit. Further the contention regarding the commissioning of machineries has not also been denied by the supplier / defendant in C.O.S.No.7 of 2025 in the written statement. The supplier has denied the plaintiff's claim in the present suit vaguely and the supplier have not come up with their own version to deny the claim of the plaintiff in the present suit in C.O.S.No.7 of 2025. Under the above circumstances this Court would consider that since there is no specific denial on the part of the supplier / plaintiff in C.O.No.18 of 2024 / defendant in C.O.S.No.7 of 2025, this Court would consider that the certain facts has to be taken as admitted by the defendant / Murugan Foundry Equipment in C.O.S.No.7 of 2025 for the simple reason of non denial.

**80.** Apart from the said fact, now this Court also has to ascertain that the claim made by the defendants in the plaint is on the basis of the invoices would be sustainable, on the first point towards the claim of sum of Rs.74,50,310/- before this Court. The defendants have relied on the Ex.B17 Invoices. It is the admitted fact on the side of the defendants (plaintiff in C.O.S.No.7 of 2025) that in the month of June 2023 the installation were completed and commissioned and the machines were put into functioning. But to show that from June 2023 the machines has come into functioning, no

documents have been filed by the defendants. In the list annexed in Ex.B17 invoices, there are several invoices attached by the defendants / plaintiff in C.O.S.No.7 of 2025 for a value of Rs.79,81,028/- which reads as follows:-

<b>Date</b>	<b>Value (Rs.)</b>	<b>Date</b>	<b>Value (Rs.)</b>
25.02.2022	50,679.00	30.01.2023	3,89,400.00
20.03.2022	39,029.00	02.02.2023	6,686.00
05.08.2022	64,664.00	02.02.2023	87,980.00
22.08.2022	2,54,880.00	03.02.2023	21,655.00
23.08.2022	1,04,426.00	03.02.2023	21,655.00
24.08.2022	14,526.00	11.02.2023	5,947.00
30.08.2022	23,503.00	16.02.2023	15,234.00
17.09.2022	1,71,834.00	04.03.2023	8,156.00
28.09.2022	1,888.00	06.03.2023	1,03,875.00
29.09.2022	37,115.00	13.04.2023	10,620.00
29.09.2022	21,326.00	14.03.2023	15,930.00
29.10.2022	15,008.00	18.03.2023	14,254.00
29.10.2022	36,241.00	20.03.2023	31,860.00
02.12.2022	24,780.00	25.04.2023	42,642.00
21.12.2022	56,746.00	02.05.2023	6,160.00
21.12.2022	92,332.00	03.05.2023	4,106.00
29.12.2022	48,275.00	04.08.2023	1,14,406.00
30.12.2022	20,320.00	14.08.2023	13,12,514.00
03.01.2023	21,379.00	09.09.2023	1,60,625.00
03.01.2023	5,452.00	09.10.2023	65,490.00
05.01.2023	30,798.00	21.10.2023	34,358.00
05.01.2023	30,798.00	21.10.2023	92,040.00
05.01.2023	1,83,573.00	25.11.2023	40,343.00
05.01.2023	77,588.00	18.12.2023	3,75,000.00
06.01.2023	1,40,007.00	27.12.2023	24,863.00
09.01.2023	15,83,182.00	05.01.2024	55,294.00
10.01.2023	4,77,268.00	08.01.2024	88,913.00
22.01.2023	44,576.00	23.04.2024	32,745.00
27.01.2023	49,930.00	31.05.2024	3,24,736.00
28.01.2023	28,148.00	24.07.2024	6,90,300.00
27.01.2023	32,970.00		
		<b>Total</b>	
		<b>Rs.79,81,028/-</b>	

**81.** In the above said sum of Rs.79,81,028/- the receipt for the period from 20.03.2022 to 14.08.2024 have been attached. On the first hand, this Court would consider that the claim of the defendants in the plaint in C.O.S.No.7 of 2025 for value after the period of installation i.e., after June 2023 would in the considered view of the Court may not be sustainable for the simple reason that the works that were carried out subsequent to installation and commissioning of works would not or cannot form the scope of work of installation and commissioning and functioning of the machineries. Hence, this Court is of considered stand that the claim of the defendants in the plaint in C.O.S.No.7 of 2025 for the period after June 2023 is considered as beyond the scope of the claim and the said amount comes around Rs.33,71,281/- which are as follows:-

<b>Date</b>	<b>Value (Rs.)</b>
08.01.2024	88,913.00
18.12.2023	3,75,000.00
27.12.2023	24,863.00
14.08.2024	13,12,514.00
24.07.2024	6,90,300.00
04.08.2023	1,14,406.00
05.01.2024	55,294.00
21.10.2023	34,358.00
09.09.2023	1,60,625.00
09.10.2023	65,490.00
23.04.2024	32,745.00
21.10.2023	92,040.00
31.05.2024	3,24,736.00
<b>Total</b>	<b>33,71,284.00</b>

**82.** When the said amount of Rs.33,71,284/- is deducted from the claim amount of Rs.74,50,310/-, the balance amount comes around Rs.40,79,026/-. Hence this Court would consider that the claim amount in the present suit could be at **Rs.40,79,026/-**. The next aspect which this Court would consider that whether the defendants who is the plaintiff in C.O.S.No.7 of 2025 would be entitled for the said sum of Rs.40,79,026/-. It is admitted fact that the plaintiff has to supply and install the machineries has to bring the machineries for commissioning. But from the above discussed issues and from the evidences before this Court the plaintiff has failed to establish that the plaintiff had supplied the entire goods and the plaintiff also has failed to establish that the commissioning has taken place and the machines have brought for functioning or the plant have coming into operations.

**83.** It is admitted fact that as per the purchase order, the commissioning and operations has to take place without no extra cost. Further this Court has also considered that though the plaintiff has supplied the machineries some of the installation work and incidental expenses ought to have been borne by the defendants, but the plaintiff has not taken any stand regarding the scope of expenses that has been borne by the defendants in the present suit. Further the plaintiff has also not come up any stand regarding the scope of expenses which will not fall within the expenses of the plaintiff.

**84.** In the above circumstances and in the silence on the part of the plaintiff having not stated in their written statement in C.O.S.No.7 of 2025 as per proviso to Order VIII Rule 3A of C.P.C. the claim of the defendants to the extent as discussed above is treated as admitted by the plaintiff. The defendants have also taken several stands in the arguments citing the deposition of PW.1, DW.1 and DW.2 whereas it is admitted fact that DW.1 was holding Managerial Position in the 1st defendant company and DW.2 was the Technical Adviser to them. During the cross examination of PW.1 it is admitted that some amount have been transferred from the plaintiff to DW.2 for a sum of Rs.6,00,000/-. But, the said discrepancy in the considered view of the Court would not discharge the liability of the plaintiff to the extent that the plaintiff is obliged to supply the goods and the plaintiff also obliged to have brought the plant into commissioning or functioning, but the same is not considered to have happened due to the act of the plaintiff.

**85.** From the documents it is revealed that the plaintiff has not completed the project as agreed and now it would be the burden for the defendants to complete the works some how or others and commence the production which is the object for which the project itself have been started. Hence it would be necessary on the part of the defendants to resort in some other modes to complete the project, since the plaintiff have not come forward to assist the defendants for over the period of 2 years from the date of the purchase

order. Under the above circumstances, the defendants taking initiative to complete the project and bring the machineries into functioning would be only remedy that was available in the hands of the defendants to fulfill the object of running the plant and completing the project. It is admitted fact that the plaintiff have received 90% of the amount and have not come forward to complete the supply, nor attended the work at the site of the defendants. In the above circumstances this Court would consider that with much difficulties the defendants have completed the project by handing over the work to some other persons and collecting materials from several other persons, which all puts to show that the defendants would be entitled for the part claim of **Rs.40,79,026/-**.

#### **Issue No.5 in C.O.S.No.7 of 2025**

**86.** The defendants has also claimed a sum of Rs.99,78,310/- towards the loss of profits and for loss of production along with interest at the rate of 18% per annum. Regarding the claim of loss of profits the defendants have described the facts in paragraph No.14 of the plaint in C.O.S.No.7 of 2025. By referring to the purchase order it is the submission of the defendants that the work ought to have been completed in the month of September 2021 and submit that till June 2023 for about 21 months the profitability has been affected and they accessed the quantum of profit as Rs.30/- per kg as certified by the Chartered Accountant and they have computed that the capacity of the plant per

day was 6-8 tonnes per day and in total the value of the profits as computed by the defendants would come around Rs.15,31,20,000/- and it is the submission of the defendants that they have restricted their claim to Rs.99,78,310/-.

**87.** Regarding the above said claim of loss of profits of Rs.99,78,310/- by the defendants in the present suit, there is no specific denial on the part of the plaintiff and they kept on defending the claim of the defendants by mentioning that they have completed the installation work in the month of July 2021 itself. In support of the claim of Rs.99,78,310/- the defendants have examined the Chartered Accountant as DW.3 who has computed the said valuation and the valuation of the chartered accountant has been filed as Ex.B18. It is the admitted fact that the plaintiff company was not a functioning company and it was only a new project on the side of the plaintiff at the time of commencement of the project. In this regard the PW.1 has also deposed that prior to the project the defendants has not shown the amount of profit earned by the plaintiff. As admitted by the defendants the project has been completed in the year 2023 itself. Subsequent to the year 2023 with the closure of financial year 2024, the defendants ought to have filed the I.T. Returns showing the Profit and Loss Account. But the defendants have not chosen to file the I.T. Returns for the period from 2023 - 2024 and 2024 - 2025. Morefully to show the transactions of the defendants' business the defendants could have filed the GST Returns for every month, But the GST Form 3B is not filed by the defendants before this

Court. Hence the actual business of the defendants for accessing the value of loss of profit have not been filed by the defendants before this Court at first.

**88.** At the same time when the DW.3 was cross examined it clearly shows that as mentioned by the plaintiff in the arguments, DW.3 has not visited the spot and DW.3 has given the details on the basis of the bills produced by the parties. Only on the basis of some two or three documents furnished by the parties the calculation arrived by the Chartered Accountant is also in the considered view of the Court should be on the basis of details furnished by the defendants in the present case and in support of the claim made by the defendants or the document showing the details of assessment is not produced by the defendants before this Court. Morefully the defendants also in the email sent on 13.09.2022 in Ex.B8 have mentioned as follows:-

*“(3) In-spite of numerous constrains, the shed was handed over to you during November / December 2021.”*

**89.** The above would show that the defendants have handed over the shed for installation of machineries to the plaintiff only in the month of December 2021 and also levelled the allegations on the part of the plaintiff. But the above portion of email would also show that the defendants have also contributed for the delay.

**90.** At the same time, though the defendants have not come up with any documents before this Court, the plaintiff have not specifically denied the stand of the defendants as contemplated under Order VIII Rule 3A of C.P.C. Under the above circumstances, this Court would find it appropriate that the claim of loss of profit could be fixed to 1/3rd of the claim of the defendants tentatively, as the project has not been completed by the plaintiff within the agreed date and there is a huge amount of delay on the part of the plaintiff and for the reason that the plaintiff have not established that the plaintiff has fulfilled their obligations as per the Purchase Order. Hence, under the above circumstances this Court would consider that the claim of loss of profit could be assessed to 1/3rd of value of the claim of the defendants in the plaint in C.O.S.No.7 of 2025 and the same comes around **Rs.33,26,103/-**.

**91.** The defendants who is the plaintiff in the present suit in COS No.7 of 2025 have claimed the interest at the rate of 18% per annum for the suit claim amount from the date suit till the date of realization. This Court would consider that the nature of transactions between the plaintiff and the defendants are commercial in nature and defendants have come up with the relief of interest at the rate of 18% per annum. This Court would consider that the plaintiff has failed to supply the entire machineries and the supplied machines were also defective and the plaintiff has failed to install and commission as per the

conditions in the purchase order entered between the parties and caused losses to the defendants and hence this Court has decided the issue No.3 and 4 that the plaintiffs in C.O.S.No.7 of 2025 are entitled for the relief of recovery of sum of Rs.40,79,026/- towards purchase of additional spare parts and the plaintiffs are also entitled for the relief of Rs.33,26,103/- toward loss of profit and productions. Considering the above nature, this Court would consider that awarding interest at the rate of 18% in a commercial transactions would be reasonable. Hence, this Court would consider reasonable in the above circumstances that the defendants (plaintiffs in C.O.S.No.7 of 2025) would be entitled for interest at the rate of 18% per annum for the decretal amount of Rs.40,79,026/- and Rs.33,26,103/- from the date of suit till the date of realization along with cost to the extent of decretal value.

#### **Issue No.2 in C.O.S.No.18 of 2024.**

**92.** As the plaintiff is not entitled to the suit relief in C.O.S.No.18 of 2024, the plaintiff is not entitled for any further relief.

#### **Issue No.6 in C.O.S.No.7 of 2025.**

**93.** As the defendant who is the plaintiff in C.O.S.No.7 of 2025 is granted with the relief as entitled for, the defendant is not granted with any further relief.

**94. In the result the suit in C.O.S.No.18 of 2024 is dismissed and no cost. The suit in C.O.S.No.7 of 2025 is partly decreed that the plaintiffs are entitled for the relief of recovery of sum of Rs.40,79,026/- towards purchase of additional spare parts and the plaintiffs are also entitled for the relief of 1/3rd of the amount towards the loss of profits and productions which comes around Rs.33,26,103/- along with interest at the rate of 18% per annum from the date of suit till the date of realization along with cost to the extent of decretal value.**

Dictated to the Steno-Typist, Transcribed and Computerized by him, Corrected and Pronounced by me, on the **18<sup>th</sup> day of March 2026.**

Judge,  
Commercial Court,  
(District Judge Cadre)  
Coimbatore

**List of witnesses examined on the side of plaintiff in C.O.S.No.18 of 2024:-**

PW.1 - Mr.R.Murugaiyan  
PW.2 - Mr.Ashok Prabhu

**List of Witnesses examined on the side of defendants in COS No.18 of 2024:-**

DW.1 - Mr.Ashok Sharma  
DW.2 - Mr.Subramanian  
DW.3 - Mr.Dinesh Vijayprakash Rathi

**List of documents marked on the side of plaintiff in COS No.18 of 2024:-**

<b>Exhibits</b>	<b>Date</b>	<b>Description of documents</b>
Ex.A1	01.07.2017	Copy of GST Registration Certificate of the plaintiff firm
Ex.A2	10.12.2007	Copy of Acknowledgment of Registration of plaintiff firm
Ex.A3	19.11.2020	Copy of Reconstituted Partnership deed of plaintiff firm
Ex.A4	17.04.2021	Purchase Order from the defendant to the plaintiff
Ex.A5	20.04.2021	Copy of Tax Invoice No.10
Ex.A6	29.04.2021	Copy of Tax Invoice No.16
Ex.A7	09.05.2021	Copy of Tax Invoice No.20
Ex.A8	09.05.2021	Copy of Tax Invoice No.21
Ex.A9	12.07.2021	Copy of Tax Invoice No.39
Ex.A10	06.01.2022	Copy of Tax Invoice No.141
Ex.A11	--	Ledger Account Statement for the period from 01.04.2021 to 31.03.2022
Ex.A12	17.02.2023	Copy of Legal Notice sent by the defendant to the plaintiff
Ex.A13	07.09.2023	Copy of Reply Notice sent by the plaintiff to the defendant
Ex.A14	16.06.2023	Non Starter Report in PIM No.128/2023

**List of documents marked on the side of defendants in COS No.18 of 2024:-**

<b>Exhibits</b>	<b>Date</b>	<b>Description of documents</b>
Ex.B1	27.09.2024	Copy of Board Resolution of the defendant firm
Ex.B2	11.01.2021	Copy of Proposal provided by the plaintiff (Project Report of No Bake Moulding Line)
Ex.B3	17.04.2021	Purchase Order along with Annexures
Ex.B4	--	List of defects and missing supplies
Ex.B5	21.06.2022	Copy of Email Communication sent by the defendant to the plaintiff
Ex.B6	11.07.2022	Copy of Email Communication sent by the defendant to the plaintiff

Ex.B7	04.07.2022	Project Activity Sheet / Minutes of meeting
Ex.B8	13.09.2022	Copy of Email Communication sent by the defendant to the plaintiff
Ex.B9	29.11.2022	Copy of Email Communication (9 series) sent by the defendant to the plaintiff
Ex.B10	13.12.2022	Copy of Email Communication along with attachment of Minutes of Meeting dated 13.12.2022 and project activity sheet.
Ex.B11	03.12.2022	Copy of Email Communications between the plaintiff and the defendant regarding payment.
Ex.B12	15.02.2023	Minutes of Meeting
Ex.B13	17.02.2023	Copy of Legal Notice issued by the defendant to the plaintiff
Ex.B14	07.03.2023	Copy of Reply sent by the plaintiff to the defendant through email to the legal notice
Ex.B15	02.01.2025	Non Starter Report in PIM No.119/2024
Ex.B16	--	Vouchers towards the food and accommodation of employee
Ex.B17	--	Bills and Receipt for procuring missing and additional spares for the Plant
Ex.B18	09.09.2024	Certificate issued by the Chartered Accountant
Ex.B19	--	Invoices (5 series) towards raw material / scrap metal purchased for the Plant
Ex.B20	--	Invoices towards various consumables purchased for the Plant
Ex.B21	07.07.2023	Copy of Electricity Bill
Ex.B22	07.02.2024	Copy of Invoice towards sale of iron castings and e-way bill

Judge,  
Commercial Court,  
(District Judge Cadre)  
Coimbatore