IN THE COURT OF SH. DEVENDER KUMAR JANGALA
DISTRICT JUDGE (COMMERCIAL COURT-01) NORTH WEST
DISTRICT, ROHINI COURTS, DELHI

CS (COMM)/287/23
CNR No.DLNW010035052023

M/S GCMC MASALA COMPANY
(A SOLE PROPRIETORSHIP FIRM)
B-55, BASEMENT FLOOR, LAWRENCE ROAD,
DELHI-110035

...PLAINTIFF

VERSUS

1) M/s GOYAL BROTHERS
BUARA ROAD, BHOOR, MAIN MARKET
KHATAULI, MUZAFFARNAGAR, UTTAR
PRADESH-251201

2) SH. NITIN KUMAR GOYAL
PROP. M/s GOYAL BROTHERS
BUARA ROAD, BHOOR,
MAIN MARKET KHATAULI,
MUZAFFARNAGAR,
UTTAR PRADESH-251201

…DEFENDANTS

SUIT FOR RECOVERY OF RS.4,58,865.98/-(RUPEES FOUR LAKHS FIFTY EIGHT THOUSAND EIGHT HUNDRED SIXTY FIVE AND PAISE NINETY EIGHT ONLY) ALONWITH PENDENTE LITE AND FUTURE INTEREST AND COSTS

Date of institution	: 19.04.2023
Date of final arguments	: 10.07.2026
Date of judgment	: 20.07.2026

JUDGEMENT

1. By this judgment I shall adjudicate upon the suit of plaintiff for recovery of Rs.4,58,865.98/- alongwith interest, filed against the defendant.

2.1 **Brief facts:** The facts of the case in brief as per plaint are that the plaintiff is a sole proprietorship firm owned & managed by Sh. Sachin Gupta and engaged in manufacturing & supply of different Spices/Masala items at all over India. The present suit has been instituted by Sh. Amit Kumar, Authorized representative of the plaintiff, who is stated to be authorized vide power of Attorney dated 24/5/2022.

2.2 It is stated that the defendant is the dealer/seller of different kiryana/groceries/spices/masala and approached the plaintiff for the purchase of species/masala from time to time. That as per the orders placed by the defendant, the plaintiff supplied masala/spices at different occasions to the defendant. It is stated that the defendants had started buying goods from the plaintiff from the year July 2020 onwards and purchased the goods (haldi, masala, mirchi, jeera etc.) number of times. That for the purchases as made by the defendants from the plaintiff, separate Tax Invoice/Bill was generated by the plaintiff upon the defendants.

2.3 It is stated that for the goods delivered to the defendants, the plaintiff used to maintain books of accounts in its regular course of business and as per the books of accounts; the defendant has not paid its dues on time and there was the due balance Rs. 4,58,865.98/-(Rupees Four Lakhs Fifty Eight Thousand Eight Hundred Sixty Five and Paise Ninety Eight only) towards the defendant as on 27/04/2021.

2.4 It is stated that at the time of taking of the goods, the defendant had agreed to pay the bill amount within a period of 15 days of the date of purchase of the goods. That the defendant had further agreed to pay the bill amount along with interest @24% p.a. in case the bill payment is made beyond the period of such 15 days. That despite repeated requests, reminders, the defendant has not paid any amount to the plaintiff.

2.5 It is stated that the plaintiff sent a legal cum recovery notice dated 28/06/2021 to the defendants through its Advocate by speed post on 28/06/2021 which was duly served upon the defendant. That the defendant neither bothered to pay any amount not replied the aforesaid legal notice.

2.6 It is stated that the cause of action for filing the present suit arose at different occasions when the goods were delivered to the defendant and the defendant failed to pay the bill amount on time. That the cause of action further arose when the plaintiff demanded its payment and the defendant have not paid the same.

That the cause of action also arose on 28/06/2021 when the legal notice for the payment of dues was delivered to him and the defendant failed to pay the dues even after a month of receipt of the said legal cum demand notice. That the cause of action is still continuing and subsisting against the defendant as the outstanding amount remains unpaid till date.

2.7 It is stated that the cause of action also arose on 30/1/2023 & 27/02/2023 when there the opportunities to settle the account with the plaintiff in Pre-Litigation Meditation at Mediation Cell, Rohini Court, Delhi.

2.8. It is stated that this court has jurisdiction to try, adjudicating, entertain and decide the present suit as plaintiff firm is registered in Delhi and having its office in Delhi and maintaining all the account records qua defendant in Delhi and used to receive orders & payments from the defendant in Delhi. That the plaintiff used to deliver the goods to the defendant from Delhi only. That the defendant failed to make the payments within the jurisdiction of this Court. Hence this Court has got the jurisdiction to try and entertain the present suit.

2.9 That the plaintiff has previously filed the ordinary suit against the defendant which was returned by the court of Sh. Sunil Chaudhary, ADJ, Rohini Courts, Rohini, Delhi with the direction to file the same as per the procedure of Commercial Courts Act. That the said suit was returned by the court vide its order 5/12/2022. it is stated that thereafter after obtaining the certified copies, the plaintiff proceeded to file the suit as per Commercial Court Act.

2.10 It is prayed that the decree for recovery of money of Rs. 4,58,865.98/- (Rupees Four Lakhs Fifty Eight Thousand Eight Hundred Sixty Five and Paise Ninety Eight only) may kindly be passed in favour of the plaintiff and against the defendant. The plaintiff has also prayed for the pendentelite and future interest @ 24% per annum from the date of filing of the suit till realization and the cost of the suit.

3. Vide order dated 01.03.2023 the summons of the suit were issued to the defendants. The summons were received back with the report of refusal. The defendants were deemed served. However despite service none appeared on behalf of defendants and they were proceeded exparte vide order dated 01.08.2023. Thereafter the defendants moved an application under order IX Rule 7 CPC which was allowed vide order dated 16.01.2024 and the exparte order dated 01.08.2023 was set aside. The defendants were directed to file written statement within three weeks. However, the defendants have failed to file the written statement as per directions of the court and vide order dated 18.07.2024, the right of the defendant to file written statement was forfeited and their defence was struck off.

4. Vide order dated 02.04.2025, following notional issues were framed:-

1. Whether the plaintiff is entitled for recovery of Rs.4,58,865.98/- as prayed, or any other amount? OPP

2. Whether the plaintiff is entitled to any interest?, if yes, at what rate and for which period? (OPP)

3. Relief.

5. Vide order dated 02.04.2025, in exercise of power envisaged under order XV A Rule 6(o) and (p) CPC, the evidence was directed to be recorded on commission basis and Ms. Pinki Sahu, Advocate was appointed as Local Commissioner to record the evidence.

6. Before the Ld. Local Commissioner, Sh. Sachin gupta, Proprietor of plaintiff examined himself as PW1. He adduced his evidence by way of affidavit Ex. PW1/A, reiterating therein the contents of plaint and relied upon the following documents:-

S.NO.	**DOCUMENTS**	**EXHIBITS**
1	Certified copy of account statement w.r.t. the goods sold to the defendant from time to time with Certificate U/s. 65B (IE Act)	Ex.PW-1/1
2	Office copy of tax invoices- bill generated upon the defendant from time to time, starting from 17.07.2025 to 27.04.2021, for the goods delivered to	Ex.PW-1/2 (Colly)

	the defendants.	
3	Office copy/certified copy of Legal Notice dated 22.07.2021	Ex.PW-1/3
4	Postal receipt	Ex.PW-1/4
5	Form-3, non-starter	Ex.PW-1/5
6	GST Certificate of the plaintiff showing deponent as sole proprietor of plaintiff's Firm	Ex.PW-1/6

7. The PW1 Sh.Sachin Gupta was cross-examined at length by Ld.counsel for defendant. The detailed cross-examination of PW-1 is reproduced as under:

> "When I filed earlier suit in 2021, against the defendant, the same was filed through AR Rakesh Bindal. This suit was filed for a recovery of sum of Rs. 4,59,825.80/-.
>
> Q. The businesses transaction started between the parties as per the present suit?
>
> Ans. The plaintiff company advertised his business all over India and it is well known company in its field the defendant approached to us and ordered to buy and delivery of the goods.
>
> Objected by the plaintiff's counsel "As the defendant right stuck off, the defendant is not allow to setup or introduce new case/his defence".
>
> Q. At what post Mr. Rakesh Bindal was working in your company at the time of present transaction of the defendant, what was his nature of job.
>
> Ans. He was an employee of the company, he was used to look into the work inside the factory including to see as to who is coming on time or not, he was also look into the matter as to from where the material is coming or not etc.
>
> As per my knowledge my previous AR Rakesh Bindal had never met the defendant Company. I do not know as to whether AR Amit Kumar personally met with the defendant. I have appointed Amit Kumar as AR because I used to engaged in multiple work in my Firm and so I appointed Mr. Amit Kumar to file the present suit.
>
> Q. Do you have any documents to show the orders placed by the defendant?

Ans. Whatever order was placed by defendant the same was instantly executed and invoice was raised containing the order placed by the defendant at that occasion and the same is already on record.

Objected by the plaintiff's counsel "As the defendant right stuck off, the defendant is not allow to setup or introduce new case/his defence".

Q. What is your policy regarding returning of damaged/expired goods?

Ans. We do not have take back the expired goods. We do not deliver any damaged goods.

Q. If the goods are damaged in transit, whether you take back or not?

Ans. We may take back such goods within 15 days only.

Objected by the plaintiff's counsel "As the defendant right stuck off, the defendant is not allow to setup or introduce new case/his defence".

Q. In which document it is written the defendant agreed to pay overdue bill amount along with interest @24 per annum?

Ans. There is no such documents in the judicial file however it was agreed orally by the defendant.

Q. Rakesh Kumar @ Rakesh Bindal is still working in your company or not?

Ans. Presently, he is not working with my company.

Q. What was the tenure working of Rakesh Kumar @Rakesh Bindal with your company?

Ans. I do not remember the exact time of period.

Q. How many time the defendant talked you regarding the retuning of defected materials?

Ans. Never.

We offer different schemes to our customers. Such a scheme is given only under my signature. If there is any schemes given to any customer the same is also mentioned upon the invoice.

It is wrong to suggest that the present is filed against the defendant ignoring the returned and inferior material by the defendant. It is wrong to suggest that the present court has no jurisdiction to entertain this suit. It is correct that the tax invoice does not contain the facts that the Delhi Court would have jurisdiction to file the suit. I had appointed a female staff to call the customer for payment reminders. She used to make calls to the customer regarding the payment of the dues. No text massages was sent to the customers. We accepts the payments by way RTGS/Cheques/online mode only. It is true that mode of payment is not mentioned in the bills.

Q. At this stage the witness is confronted the tax invoice bearing no. 4029, dated 05.08.2020 and it is put to the witness as to "what is the meaning of the terms mentioned at Mark-A.?

Ans. It means that once the goods are sold, we do not take back the same.

It is wrong to suggest that the entire business with the defendant was done through Rakesh Bindal the General Manager/AR of the company. It is wrong to suggest that the tax invoice are wrong which is filed by me. It is wrong to suggest that I am deposing falsely."

8. The plaintiff in support of his case has also examined Sh.vinod Kumar, Superintendent CGST as PW-2. He has produced on record form GSTR-3B for the period July- September, October-December, January-March in the year 2020-21 and for the month of April 2021-22, GST-2B and GSTR-2A for the period 2020-2021 (July 2020 to March 2021) and for the period 2021-22 (April 2021) alongiwth certificate u/s 63 (4) (c) BSA, 2023 Ex.PW-2/1 (Colly).

9. The deposition of PW-2 Sh. Vinod Kumar has gone unchallanged/unrebutted.

10. No other witness was examined on behalf of plaintiff and PE was closed on 18.03.2026.

11. On the other hand since the defence of the defendant was struck off, no evidence is led on behalf of defendant.

12. I have already heard the arguments advanced by Sh. Rakesh Garg, Ld. counsel for the plaintiff and Sh. Romil Pathak, Ld.counsel for defendant.

13. It is argued by Ld.counsel for plaintiff that since the defence of the defendants already struck off, the defendant can not be allowed to put defence through cross-examination. That despite detailed cross-examination no material could be elicited to discredit the testimony of PW1. That the defendants have neither produced any witness nor led any evidence to rebut the claim of the plaintiff. That in view of unimpeached testimony of PW1 and PW2 and documents placed on record, the decree as prayed may kindly be passed.

14. On the other hand it is argued on behalf of defendant that the suit of the plaintiff is barred by territorial jurisdiction. That the plaintiff never met the defendant. That the power of attorney holder of the plaintiff Mr. Rakesh Kumar @ Rakesh Bindal in the previous suit had collected Rs.1,00,000/- in cash in February 2021 and also taken back the fresh product of Rs.75,000/-. That the defendants are also having damaged stock of around Rs.60,000/- which has also not been taken back by the plaintiff. It is stated that the defendants have a claim (Difference in billing, freight and scheme billing of additional 5%, Target Scheme of 35 Boxes of

products, sampling of products, difference in margin etc) of Rs 1,51,758 (One Lac Fifty One Thousand, Seven Hundred and Fifty Eight) against the plaintiff company. That out of the total suit for recovery the defendant is liable to pay on Rs 63,211(Sixty three thousand, two hundred and eleven only). That most of the claims of the plaintiff are time barred as they are of 2020 and the present suit has been filed beyond three years. It is prayed that the suit may kindly be dismissed.

15. It may be relevant now to consider the law pertaining to discharge of burden of proof of the issues as relevant and applicable to the Civil Jurisdiction. In the binding authority of the Hon'ble Supreme Court of India, in ***M/s. Gian Chand & Brothers and Another v. Rattan Lal@ Rattan Singh***: [2013] 3 S.C.R. 601; it has been laid down:-

> *1.3. It is well settled principle of law that a person who asserts a particular fact is required to affirmatively establish it. The burden of proving the facts rests on the party who substantially asserts the affirmative issues and not the party who denies it but the said principle may not be universal in its application and there may be an exception thereto.*

16. The various aspects of proving the facts of a case and exceptions, if any, have been duly considered by Hon'ble Supreme Court of India in ***Anil Rishi vs Gurbaksh Singh*** **in Appeal (civil) 2413 of 2006 on 2 May, 2006**, wherein the binding legal position has been reinforced as under :-

> *"Pleading is not evidence, far less proof. Issues are raised on the basis of the pleadings. Indisputably, the relationship between the parties itself would be*

> *an issue. The suit will fail if both the parties do not adduce any evidence, in view of Section 102 of the Evidence Act. Thus, ordinarily, the burden of proof would be on the party who asserts the affirmative of the issue and it rests, after evidence is gone into, upon the party against whom, at the time the question arises, judgment would be given, if no further evidence were to be adduced by either side."*

It has been further laid down (supra) :-

> *'A distinction exists between a burden of proof and onus of proof. The right to begin follows onus probandi. It assumes importance in the early stage of a case. The question of onus of proof has greater force, where the question is which party is to begin. Burden of proof is used in three ways : (i) to indicate the duty of bringing forward evidence in support of a proposition at the beginning or later; (ii) to make that of establishing a proposition as against all counter evidence; and (iii) an indiscriminate use in which it may mean either or both of the others. The elementary rule is Section 101 is inflexible. In terms of Section 102 the initial onus is always on the plaintiff and if he discharges that onus and makes out a case which entitles him to a relief, the onus shifts to the defendant to prove those circumstances, if any, which would disentitle the plaintiff to the same.".*

17. As per law of the land, the onus to prove is upon the plaintiff and if the plaintiff discharges that onus and makes out a case to entitle him to the relief asserted, in these circumstance, the onus shifts upon the defendant to prove such circumstances which may disentitle the plaintiff to the relief claimed.

18. In view of settled proposition of law, now I proceed to examine the facts of the present case and my issuewise findings are as under:-

ISSUE NO.1.

"1. Whether the plaintiff is entitled for recovery of Rs.4,58,865.98/- as prayed, or any other amount? (OPP)"

19. The onus to prove this issue was upon the plaintiff. For being entitled for recovery, the plaintiff is first required to satisfy the court with regard to the jurisdiction of this court and the limitation of the suit, which are legal issues and the defendants have also raised these legal aspects of jurisdiction and limitation.

20. **(Territorial Jurisdiction)**:- I first take the issue of jurisdiction of this court. The defendant has challenged the territorial jurisdiction of this court by contending that the defendants are resident of Uttar Pradesh and that the invoices do not contain any clause conferring jurisdiction upon the Courts at Delhi.

21. Per contra, the plaintiff has pleaded that the plaintiff firm is carrying on business from Delhi, maintains its books of accounts at Delhi, the orders were received and payments were to be received at Delhi, the goods were dispatched from Delhi, and the defendant failed to make payment within the jurisdiction of this Court. The plaintiff has also reiterated these facts in the evidence of PW-1.

22. It is pertinent to note that although the right of the defendant to file the written statement was forfeited and the defence

was struck off, but defendant was still entitled to cross-examine the plaintiff's witnesses on legal issues including jurisdiction. During the cross-examination, PW-1 admitted that the tax invoices do not contain any clause conferring exclusive jurisdiction upon the Delhi Courts. However, he categorically denied the suggestion that this Court had no jurisdiction to entertain the suit. He further deposed that payments were accepted through RTGS, cheques and online modes and that the plaintiff used to pursue payment of outstanding dues from its office. The mere absence of an exclusive jurisdiction clause in the invoices is not decisive of the issue.

23. It is well settled law that where the contract is silent as to the place of payment, the debtor is obliged to seek the creditor and make payment at the place where the creditor resides or carries on business. This principle has been affirmed by the **Hon'ble High Court of Delhi** in **Satyapal v. Slick Auto Accessories Pvt. Ltd., 2014 SCC OnLine Del 998**. The relevant portion is provided as follows:

> "5. The first appellate court has surprisingly and illegally not at all referred to even remotely the detailed analysis and reasoning which has been given by the trial court to hold that the courts at Delhi have the territorial jurisdiction. Since the trial court has written, in my opinion, a very thorough and an excellent judgment, I would like to reproduce the relevant paras of the judgment of the trial court instead of using my words. The relevant paras of the trial court are 19 to 25 and the same read as under:
>
> **"ISSUE NO. 1:**
>
> **"**19. The question to be answered is as to whether this court has no territorial jurisdiction to try and entertain the present suit. The onus to prove this issue was upon the defendant.

20. The defendants have contended that the office/factory of the defendants is situated in Bhiwadi, District-Alwar, Rajasthan and the delivery of the goods was also made at Bhawadi, District-Alwar, Rajasthan at the office/factory of the defendants and therefore no part of the cause of action arose within the jurisdiction of this court. DW 1 has deposed on these lines.

21. There is no doubt the material was supplied by the plaintiff to the defendants at Bhiwadi, District-Alwar, Rajasthan. The same is clear from the invoices Ex. PW1/A and Ex. PW1/B. However even if the material was delivered at Bhiwadi, District-Alwar, Rajasthan it is clear that the material was supplied from the office/factory of the plaintiff situated at Jwala Nagar, Shahdara, Delhi-32 which falls within the jurisdiction of this court.

22. It is a well established principle of law that where, under a contract no place of payment is specified, the debtor must seek his creditor and therefore a suit for recovery is maintainable at the place where the creditor resides or works for gain, because a part of the cause of action arises at that place also with the contemplation of section 20(c) of the Code of Civil Procedure. Reference may be made to the judgments titled as "***State of Punjab* v. *A.K. Raha*" reported as AIR 1964 CALCUTTA 418 (DB), "*Jose Paul* v. *Jose*" reported as AIR 2002 KERALA 397 (DB), "*Rajasthan State Electricity Board* v. *Dayal Wood Works*" reported as AIR 1998 ANDHRA PRADESH 381, "*Munnisa Begum* v. *Noore Mohd.*" Reported as AIR 1965 ANDHRA PRADESH 231 and "*State of U.P.* v. *Raja Ram*" reported as AIR 1966 Allahabad 159.**

23. In the judgment titled as **"*State of Punjab* v. *A.K. Raha*" reported as AIR 1964 CALCUTTA 418 (DB)** it was clearly held:

"……….The general rule is that where no place of payment is specified in the contract either expressly or impliedly, the debtor must seek the creditor, see **The Eider (1893) P 119 at p. 136, *Drexel* v. *Drexel.* (1916) 1 Ch 251 at p. 261, *North Bengal, Das Brothers Zemindary Co. Ltd* v. *Surendera Nath Das*, ILR (1957) 2 Cal 8.** The obligation to pay the debt involves the obligation to find the creditor and to pay him at the place where he is when the money is payable. The application of the general rule is not excluded because the amount of debt is disputed…."

24. In the judgment titled as ***Sreenivasa Pulvarising* v. *Jal Glass & Chemicals Pvt. Ltd.* reported as AIR 1985 Cal 74** it was also held:

"……In a contract of the nature now under consideration performance of the contract consists not only of delivery of the goods but also of payment of the price. Therefore, cause of action for a suit on breach of such a contract would arise not only where the goods were to be delivered but alsowhere the price would be payable on such delivery….."

It was further held:

"…….9. Therefore, the law continues to remain the same and in a suit arising out of a contract, a part of the cause of action arises at the place where in performance of the contract any money to which the suit relates in payable…."

Adverting to the facts of the present case office/factory of the Plaintiff is situated at Jwala nagar, Shahdara, Delhi-32. No place of payment has been specified in the contract/bills/invoices. The defendants are liable to make the payment for the goods supplied to them. No application was made by the defendants to the plaintiffs for fixing a place of payment and Sec. 49 of the Indian Contract Act cannot apply to the facts of the case. Therefore, the payment was to be made at the office of the plaintiff. Further the purchase order was placed at Jwala Nagar, Shahdara, Delhi-32 and the goods were supplied from Jwala nagar, Shahdara, Delhi-32 Therefore a part of the cause of action definitely arises at Jawala Nagar, Shahdara, Delhi-32. Hence the present suit for recovery of the sale price can be filed before this court as the office of the plaintiff is situated within the territorial limits of the jurisdiction of the court.

25. I therefore hold that this court has the territorial jurisdiction to try and entertain the present suit. This issue is therefore decided in favour of the plaintiff and against the defendants."

> 6. I completely agree with the conclusion of the trial court **because it is settled law that the debtor has to seek the creditor and since no place of payment was agreed upon, payment would have been made to the seller/appellant who is residing and working for gain at New Delhi.** Trial court has also rightly relied upon Section 49 of the Indian Contract Act, 1872 that it was upon the respondent no. 1/defendant no. 1 to fix the place of payment and which has not been done, and therefore payment would have been made by the debtor to the creditor at the place of the creditor/plaintiff/appellant. As already stated the first appellate court has not even bothered to refer to the analysis and reasoning of the trial court for holding that the courts at Delhi have jurisdiction. Accordingly, the findings of the first appellate court are set aside and it is held that the courts at Delhi have territorial jurisdiction."
>
> *(Emphasis Supplied)*

24. Moreover while viewing this from another angle, under Section 20(c) CPC, a suit is maintainable at a place where the cause of action, wholly or in part, arises. In ***A.B.C. Laminart (P) Ltd. v. A.P. Agencies (1989) 2 SCC 163***, the Hon'ble Supreme Court explained that the jurisdiction of a court in contractual matters depends upon the situs of the contract and the cause of action arising from connecting factors. A cause of action is a bundle of material facts which the plaintiff must prove to obtain relief and must necessarily include some act of the defendant. Under Section 20(c) CPC, a suit can be instituted where the cause of action wholly or in part arises. Jurisdiction may lie at places where the contract was made, accepted, performed, breached, or where payment was payable. In contractual disputes, the making of the contract, its performance, breach, place of payment, or receipt of repudiation constitute connecting factors, and the presence of any such factor within a territorial limit is sufficient to confer jurisdiction on that

court. The relevant portion is provided as follows:

> "11. The jurisdiction of the court in the matter of a contract will depend on the situs of the contract and the cause of action arising through connecting factors.
>
> 12. A cause of action means every fact, which if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded. It does not comprise evidence necessary to prove such facts, but every fact necessary for the plaintiff to prove to enable him to obtain a decree. Everything which if not proved would give the defendant a right to immediate judgment must be part of the cause of action. But it has no relation whatever to the defence which may be set up by the defendant nor does it depend upon the character of the relief prayed for by the plaintiff.
>
> 13. Under Section 20(c) of the Code of Civil Procedure subject to the limitation stated theretofore, every suit shall be instituted in a court within the local limits of whose jurisdiction the cause of action, wholly or in part arises. It may be remembered that earlier Section 7 of Act 7 of 1888 added Explanation III as under:
>
> > "Explanation III.—In suits arising out of contract the cause of action arises within the meaning of this section at any of the following places, namely:
> >
> > (1) the place where the contract was made;
> >
> > (2) the place where the contract was to be performed or performance thereof completed;
> >
> > (3) the place where in performance of the contract any money to which the suit relates was expressly or impliedly payable."
>
> 14. The above Explanation III has now been omitted but

nevertheless it may serve as a guide. There must be a connecting factor.

15. In the matter of a contract there may arise causes of action of various kinds. In a suit for damages for breach of contract the cause of action consists of the making of the contract, and of its breach, so that the suit may be filed either at the place where the contract was made or at the place where it should have been performed and the breach occurred. The making of the contract is part of the cause of action. A suit on a contract, therefore, can be filed at the place where it was made. The determination of the place where the contract was made is part of the law of contract. But making of an offer on a particular place does not form cause of action in a suit for damages for breach of contract. Ordinarily, acceptance of an offer and its intimation result in a contract and hence a suit can be filed in a court within whose jurisdiction the acceptance was communicated. The performance of a contract is part of cause of action and a suit in respect of the breach can always be filed at the place where the contract should have been performed or its performance completed. If the contract is to be performed at the place where it is made, the suit on the contract is to be filed there and nowhere else. In suits for agency actions the cause of action arises at the place where the contract of agency was made or the place where actions are to be rendered and payment is to be made by the agent. Part of cause of action arises where money is expressly or impliedly payable under a contract. In cases of repudiation of a contract, the place where repudiation is received is the place where the suit would lie. If a contract is pleaded as part of the cause of action giving jurisdiction to the court where the suit is filed and that contract is found to be invalid, such part of cause of the action disappears. The above are some of the connecting factors."

25. In the present case, the unrebutted evidence of PW-1 establishes that the plaintiff carries on business from Delhi, maintains its accounts at Delhi, dispatched the goods from Delhi and the payments were receivable at Delhi. These facts have remained uncontroverted by any evidence on behalf of the defendants. The defendants have not led any evidence to establish that the entire cause of action arose elsewhere. Mere suggestions put during cross-examination, without supporting evidence, do not displace the positive evidence led by the plaintiff. The principle of debtor to seek creditor is also applicable in the present case. In view of the foregoing discussions, it is clear that this court is having requisite territorial jurisdiction to try and entertain the present suit.

26. **(Limitation):-** The defendant has argued that the plaintiff's claim is barred by limitation on the ground that most of the transactions pertain to the year 2020 whereas the present suit has been instituted after the expiry of three years.

27. The plaintiff, on the other hand, has pleaded that the defendant had been purchasing goods from July, 2020 onwards on various occasions and separate tax invoices were generated in respect of each transaction. It is further pleaded that as per the statement of account maintained in the ordinary course of business, a sum of Rs.4,58,865.98/- remained outstanding as on 27.04.2021. The plaintiff has relied upon the tax invoices (Ex. PW-1/2 colly) which shows that the business dealings between the parties were continuous and formed part of a running and mutual commercial account. The plaintiff has relied upon first invoice dated 17.07.2020 and last transaction between the parties is reflected by the invoice

dated 27.04.2021. The present suit has been filed on 19.04.2023. The defendant has not led any evidence to substantiate the plea of limitation. Mere oral submissions, in the absence of any evidence, cannot rebut the documentary evidence adduced by the plaintiff. In view of aforesaid it is clear that the suit has been filed by the plaintiff within three years of date of invoice/delivery of goods. Accordingly it is held that the suit of the plaintiff is within the limitation period.

28. The plaintiff has filed the present suit for recovery of the outstanding amount arising out of commercial transactions between the parties. The case of the plaintiff is that the defendant had been purchasing spices/masala from the plaintiff from July, 2020 onwards. That against the orders placed by the defendant, the plaintiff supplied goods from time to time and raised separate tax invoices. It is further the case of the plaintiff that despite repeated demands, the defendant failed to clear the outstanding amount and a sum of Rs.4,58,865.98/- remained due as reflected in the statement of account maintained in the regular course of business.

29. In order to prove its case, the plaintiff examined its proprietor, Sh. Sachin Gupta, as PW-1, who tendered his affidavit Ex. PW-1/A and proved the certified statement of account as Ex. PW-1/1, the tax invoices as Ex. PW-1/2 (Colly), the legal notice as Ex. PW-1/3, postal receipt as Ex. PW-1/4, Form-3 (Non-Starter) as Ex. PW-1/5 and the GST Registration Certificate as Ex. PW-1/6.

The plaintiff also examined PW-2, Superintendent, CGST, who produced the GST returns and GST records pertaining to the transactions in question, thereby corroborating the supplies reflected in the invoices. The testimony of PW-2 has remained completely unchallenged and unrebutted.

30. The evidence of PW-1 was subjected to lengthy cross-examination. During such cross-examination, nothing material could be elicited to discredit the testimony of the witness or to impeach the authenticity of the invoices or the statement of account. PW-1 consistently maintained that the goods were supplied pursuant to the orders placed by the defendant and that invoices were raised immediately upon execution of such orders. He further denied the suggestions that the invoices were fabricated or that inferior or defective goods had been supplied.

31. The principal defence sought to be projected by the defendant during cross-examination and final arguments was that cash payments of Rs.1,00,000/- had been made through the previous authorised representative of the plaintiff, defective goods worth Rs.75,000/- had been returned, and further adjustments were liable to be made on account of schemes, freight and other commercial claims. However, admittedly the right of the defendant to file the written statement had already been forfeited and the defence had been struck off. No evidence whatsoever has been led by the defendant in support of these pleas. The law is well settled that a

defendant whose defence has been struck off may cross-examine the plaintiff's witnesses but cannot establish an independent defence in the absence of pleadings and evidence. Mere suggestions put in cross-examination do not constitute proof of the facts suggested. The statement of account Ex. PW-1/1 is duly supported by the certificate under Section 65B of the Indian Evidence Act. The invoices forming Ex. PW-1/2 stand corroborated by the GST returns and records produced by PW-2. There is nothing on record to indicate that these documents are fabricated or manipulated. Significantly, the defendant has neither produced any documentary evidence contradicting the entries in the statement of account nor examined any witness to establish that payments had been made or goods had been returned.

32. In view of aforesaid discussions, it is clear that the plaintiff has successfully established the supply of goods to the defendant, the raising of invoices, maintenance of the statement of account in the ordinary course of business and the outstanding liability of Rs.4,58,865.98/-. The defendant has failed to rebut the plaintiff's evidence by leading any cogent or reliable evidence.

33. In view of aforesaid discussions, the plaintiff has proved, on the touchstone of preponderance of probabilities, that a sum of Rs.4,58,865.98/- was legally recoverable from the defendant.

34. Issue No. 1 is accordingly decided in favour of the plaintiff and against the defendant. The plaintiff is held entitled to recover Rs.4,58,865/- from the defendant.

ISSUE NO.2

2. Whether the plaintiff is entitled to any interest? If yes, at what rate and for which period? (OPP)

35. The plaintiff has claimed pendente lite and future interest @24% per annum on the ground that at the time of supply of goods, the defendant had agreed to pay interest at the said rate in case the payment was not made within fifteen days from the date of the invoices.

36. To substantiate the claim for contractual interest, the plaintiff was required to establish the existence of an agreement between the parties incorporating such a stipulation. During his cross-examination, PW-1 categorically admitted that there is no document on record containing any agreement whereby the defendant agreed to pay interest @24% per annum. He further admitted that the alleged agreement regarding interest was only oral. Significantly, the tax invoices relied upon by the plaintiff also do not contain any stipulation regarding payment of interest @24% per annum. In the absence of any written contract, invoice condition or other documentary evidence evidencing such an agreement, the claim for contractual interest at the rate of 24% per annum cannot be accepted merely on the basis of the oral assertion of PW-1.

However, considering the fact that the defendant retained the amount lawfully due to the plaintiff despite repeated demands and the legal notice. The plaintiff is, therefore, entitled to reasonable compensation by way of interest under Section 34 of the Code of Civil Procedure. Considering the nature of the commercial transaction, the prevailing banking rates and the facts and circumstances of the case, this Court is of the considered opinion that awarding interest @ 9% per annum would meet the ends of justice. The rate claimed by the plaintiff, namely 24% per annum, is found to be excessive and unsupported by any contractual document and is, therefore, declined. Accordingly, the plaintiff is held entitled to pendente lite and future interest @9% per annum on the decretal amount of Rs.4,58,865/- from the date of institution of the suit till the date of realization.

Issue No. 2 is accordingly decided partly in favour of the plaintiff and against the defendant.

ISSUE NO.3

Relief

37. In view of the findings on the aforesaid issues, the suit of the plaintiff is decreed in favour of the plaintiff and against the defendant for a sum of Rs.4,58,865/- (Rupees Four Lakhs Fifty-Eight Thousand Eight Hundred Sixty-Five only). The plaintiff shall further be entitled to pendente lite and future interest @9% per annum on the aforesaid decretal amount from the date of institution of the suit till its realization. The plaintiff shall also be entitled to the costs of the suit. Decree sheet be prepared accordingly.

38. File be consigned to record room, after due completion.

Announced in the open Court today
on this 20th day of July, 2026

(Devender Kumar Jangala)
District Judge (Commercial Court)-01
North-West, Rohini, Delhi.
20.07.2026

DEVENDER KUMAR JANGALA

Digitally signed by DEVENDER KUMAR JANGALA
Date: 2026.07.21 16:14:44 +0530