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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 596/2021, I.As. 21902/2023, 23324/2023 & 23326/2023**

M/S EVERLIGHT ELECTRONICS CO. LTD. Plaintiff
Through: Mr. Venamra Mahaseth and Mr. Himanshu Kumar, Advs. (M. 7838575956)
versus

SR ELECTRO Defendant
Through: Mr. Vikas Sharma, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **30.01.2024**

1. This hearing has been done through hybrid mode.

I.A. 21902/2023 (for summary judgment)

2. The present is an application seeking summary judgment filed by the Plaintiff on the basis of the ledger account of the Defendant.

3. This is a suit filed by the Plaintiff seeking recovery of sum of USD 1,051,244.68 along with interest towards non-payment of various invoices by the Defendant.

4. The Plaintiff is a company engaged in the business of manufacturing and supply of LED Chips, LED lightning modules, digital displays and other lightning components. The Defendant on the other hand is in the business of semiconductor distribution, knitting & consolidation and supply of LED, IC, Diffusers and passive components.



5. The case of the Plaintiff is that it entered into a Distributorship Agreement with the Defendant on 1st January, 2017, for a period of 3 years. It is averred that it raised 80 invoices in respect of products it supplied to the Defendant. Out of the said invoices, 18 are still pending on behalf of the Defendant. The Defendant took the stand that few of the products which were supplied by the Plaintiff were defective. It is stated that when the Plaintiff sought details, the Defendant did not furnish of the same. Subsequent to which the Plaintiff sent a legal notice dated 18th November, 2020, in respect to the outstanding amount to which the Defendant did not revert back. Thereafter the present suit was filed.

6. The suit is at the stage of trial. The Plaintiff's witnesses have already been cross examined. The Court has heard some submissions on behalf of both the Id. Counsel for the parties.

7. After having perused the emails which have been placed on record, the defence of the Defendant appears to be that the LED lamps are defective. However, Plaintiff relies upon the ledger account of the Plaintiff and the Defendant to show that the outstanding is admitted.

8. A perusal of the record reveals that there is some contemporaneous correspondence about defective goods. Considering the nature of the disputes, this is not a case for passing summary judgment, especially after the trial has commenced. The application is, accordingly, rejected. However, any observations made in this order shall not have any bearing on the merits.

9. Application is disposed of.



I.A. 23324/2023 (seeking production of documents)

10. This is an application filed by the Plaintiff seeking production of documents on the basis of which the Defendant has adjusted a sum of Rs.4,33,11,132.732/- from the books of the Plaintiff in respect of one M/s. HQ Lamps.

11. Ld. Counsel for the Plaintiff submits that the basis of such adjustment is unknown. A perusal of the ledger relied upon by the Defendant shows that such an adjustment has been made by the Defendant. Accordingly, the Defendant shall explain in its evidence as to what is the basis of this adjustment and file all the relevant documents, failing which, an adverse inference would be liable to be drawn against the Defendant.

12. Details of the claim filed by the Defendant in the CIRP proceedings relating to M/s. NTL Electronic India Limited shall also be disclosed in the evidence along with the relevant documents.

13. Application is disposed of.

I.A. 23326/2023 (for direction)

14. This is an application filed by the Defendant seeking original documents of the 80 invoices which are mentioned in the plaint. Plaintiff's case is that the suit is based upon the 18 unpaid invoices, hence the production of 80 invoices is not relevant or necessary.

15. In view of the stand of the Plaintiff, the direction is not being issued for production of any further documents. If the 80 invoices are found to be relevant and have not been produced, adverse inference would be liable to be drawn.

16. The trial shall proceed.

17. Application is dismissed.



CS(COMM) 596/2021

18. No further unnecessary applications would be liable to be entertained. The trial should continue expeditiously considering the substantial sum of which recovery is sought. If the documents as per today's order are not produced by the Defendant, Plaintiff is free to file an appropriate application.

19. List before the Joint Registrar on 5th February, 2024.

20. List before the Court on 5th August, 2024.

PRATHIBA M. SINGH, J.

JANUARY 30, 2024

mr/ks