

**IN THE COURT OF CIVIL JUDGE-06, (CENTRAL), TIS HAZARI COURTS,
DELHI**

DATE OF INSTT: 13.08.2019

CIS NO. : 2432/2019
CNR NO. : DLCT03-005791-2019

DATE OF DECISION: 24.06.2020

PRESIDING OFFICER: Mr. RUPINDER SINGH DHIMAN

M/s J.R. Rice India Pvt. Ltd.,
5593-94, Lahori Gate, Main Road,
Delhi – 110006
Through its Director Sh. Deepak Jain.

.....Plaintiff

Versus

M/s Krishna International,
Through its Proprietors
1. Ms. Krishna Devi.
2. Sh. Kailash,
3. Sh. Manish

Address Mandore Mandi,
Jodhpur, Rajasthan.

.....Defendants.

Argued by:

(a) **Sh. Arvind Kumar**, counsel for plaintiff.

Note :Defendant is already proceeded against ex-parte vide order dated 13.02.2020

**SUIT FOR RECOVERY OF RS. 1,01,126/-- ALONG WITH PENDENTE LITE AND
FUTURE INTEREST @ 18% PER ANNUM**

JUDGMENT:

1. Vide this judgment, I shall dispose of a suit filed by the plaintiff against the defendants for a recovery of Rs. 1,01,126/- (Rupees One Lakh One Thousand One Hundred Twenty-Six Only) along with pendente-lite and future interest @ 18% per annum.

2. In a nutshell, the factual matrix of the case is as under:-

*The plaintiff is a private limited company engaged in the business of trading and exporting the rice. The present suit has been filed by Sh. Deepak Jain, Authorized Director of the Company. The defendant is the proprietorship concern run by the three defendants. The plaintiff had business relations with the defendants. During the period 2017-2019, defendant used to purchase rice from the plaintiff on credit basis. Plaintiff duly supplied the same to the defendant. Defendants purchased rice worth Rs. 6,41,026/- against Invoice No. 713C dated 26.04.2018. Against the said purchase, part payment of Rs. 5,40,000/- has been made (Rs. 5,25,000/- on 07.08.2018 and Rs. 15,000/- on 11.08.2018) and a sum of Rs. 1,01,126/- is due from the defendants. However, the balance amount has not been paid till date. Plaintiff also issued a legal notice dated 15.11.2018 demanding the due amount but to no avail. **Left with no other equally efficacious remedy and tired of the persistent breach of financial commitments made by the defendant, the present suit was filed for recovery of Rs. 1,01,126/-.***

3. Summons of the present suit were issued to the defendant, however, the same

were received back with the report of 'Refusal'. Hence the defendant was deemed to be served on 11.09.2019 under Order V Rule 19 CPC. Further for non-appearance and non-filing of the written statement defendant was proceeded against ex parte on 13.02.2020.

4. Thereafter, the plaintiff has led ex-parte plaintiff evidence and has examined one witness i.e. AR of the plaintiff Sh. Deepak Jain whose affidavit of evidence is marked Ex.PW1/A. In his affidavit of evidence, the plaintiff has reiterated the averments made in the plaint and the same are not repeated here for the sake of brevity. To substantiate the claim of the plaintiff, the following documents have been relied upon:

Ex. PW-1/1	:	Original Board Resolution.
Ex. PW-1/2	:	Computer generated copy of statement of account.
Ex. PW-1/3	:	Certificate U/s. 65B of Indian Evidence Act.
Ex. PW-1/4	:	Invoice No. 713C dated 26.04.2018.
Ex. PW-1/5	:	Legal notice dated 15.11.2018.
Ex. PW-1/6	:	Postal receipt.

5. No one appeared on behalf of the defendant to cross examine the plaintiff. Hence, plaintiff closed his evidence on 13.02.2020. Thereafter, the matter was posted for ex- parte final arguments. I have heard the arguments advanced by Ld. counsel for the plaintiff and perused the material available on record.

6. The claim of the plaintiff is based on invoice dated 26.04.2018 Ex. PW-1/4.

PW-1 has deposed that rice worth Rs. 6,41,126/- was supplied to the defendant against the said invoice. PW-1 has deposed that part payment of Rs. 5,40,000/- was received as reflected in the statement of account Ex. PW-1/2. The said statement of account is duly accompanied by Ex. PW-1/3 i.e. Certificate under Section 65 B of the Indian Evidence Act. The said testimony has gone unrebutted. There is nothing on record to disbelieve the testimony of PW-1 in this regard. The documents Ex. PW-1/2, Ex. PW-1/3 and Ex. PW-1/4, the veracity of which has gone unchallenged establish the factum of supply of goods to the defendant. The testimony of PW1 vide his affidavit on oath **Ex.PW1/A** is duly supported and corroborated by the documents placed on record. Further unrebutted testimony of PW1 shows that balance price of goods supplied has not been paid by the defendant.

7. The present suit filed on 13.08.2019 is well within limitation as the goods were supplied against invoice dated 26.04.2018 Ex. PW-1/4. An amount of Rs. 1,01,126/- is due from the defendant for goods supplied as per statement of account Ex. PW-1/2. Despite the loan recall notice Ex. PW-1/5, the defendant failed to clear his dues. The defendant also did not bother to appear in court or file the written statement. Therefore, it can be safely presumed that the defendant had no real defence to put forth.
8. In ex-parte suits, where defendant does not file a written statement or does not appear to contest the case, the plaintiff proceeds on the basis that there is no real opposition. Hence, plaintiff is required only to prove a *prima facie* case, which has been successfully done by the plaintiff in this case, at least so far as the claim of the plaintiff is for the amount of Rs.1,01,126/- is concerned. In so far as the claim of the plaintiff regarding interest @ 18% p.a. is concerned, in my opinion, the same is exorbitant and ends of justice would be met if interest @ 9% p.a. is granted to the

plaintiff on the suit amount. Plaintiff has failed to show that there was any contractual stipulation between the parties that in case of delayed payment, 18% per annum shall be charged as interest.

9. Accordingly, **the suit of the plaintiff is decreed** against the defendants for **Rs. 1,01,126/-** along with simple interest @ **9%** p.a. from the date of filing of the present suit till the date of actual realization of the amount. Defendants are jointly as well as severally liable to pay the decretal amount. Costs of the suit are also awarded to the plaintiff.
10. Decree sheet be prepared accordingly.
11. File be consigned to Record Room after due compliance.

RUPINDER SINGH DHIMAN
Civil Judge -06 (Central)/THC
Delhi/24.06.2020