

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on	<b>09.02.2026</b>
Judgment pronounced on	<b>01.04.2026</b>

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**THE HONOURABLE MR JUSTICE SENTHILKUMAR  
RAMAMOORTHY**

**C.S (Comm Div) No.95 of 2024  
&  
A.No.3451 of 2025**

M/s Sri Vasam Minerals,  
Rep. By its Managing Partner,  
Mr. B.Keerthivasan,  
No.12, Old No.7/2,  
Mahilampoo Salai,  
Annamalai Nagar,  
Trichy-620 018.

... Plaintiff

Vs

M/s Totale Global Pvt. Ltd.,  
Rep. By its Managing Director,  
71-C, New Avadi Road,  
Kilpauk, Chennai-600 010.

...Defendant

**PRAYER:** Plaint filed under Order IV Rule 1 of Original Side Rules r/w.Order XXXVII Rule 1 of Civil Procedure Code, 1908 read with Section 2(1)(c)(i)(XViii) & Section 7 of the Commercial Courts Act, 2015, prays for judgment and decree:

a. Directing the defendant to pay a sum of Rs.2,55,63,034/- [Rupees Two crores fifty five lakhs sixty three thousand and thirty four only] along with interest at 24% per annum of compounded monthly



interest as per MSME Act from the date of plaint till the date of repayment; and

b. for the cost of the suit.

For Plaintiff: Mr.Yashodh Vardhan, Senior  
Advocate  
for M/s R. Gophinath

For Defendant: Mr. K. Shanmugakani  
for M/s R. Subramoniam

### **JUDGMENT**

The suit was instituted by an unregistered partnership firm, represented by its Managing Partner, Mr.B.Keerthivasan, for recovery of a sum of Rs.2,55,63,034/- from the defendant with interest thereon at 24% p.a. compounded with monthly rests as per the Micro, Small and Medium Enterprises Development Act, 2006 (“the MSMED Act”).

### **Pleadings and evidence**

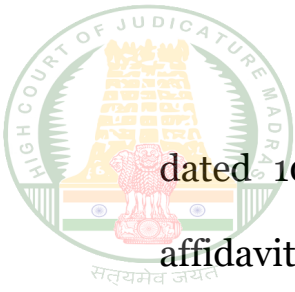
2. In the plaint, it is stated that the defendant is engaged in the business of manufacturing refractory monolithic and pre-cast pre-fired shapes. It is also stated that the plaintiff supplied materials to the defendant from the year 2017 and that payments in respect thereof were being made initially within 30 days from the date of receipt of goods. Over time, it is stated that the defendant slackened and made payments after nearly 300 days. According to the plaintiff, from financial year



2019-20 onwards, there was unexplained delay on the part of the defendant in making supply related payments to the plaintiff. With regard to invoices issued from 06.02.2023 until November, 2023, it is stated that 102 invoices remain unpaid for an aggregate sum of Rs.2,55,63,034/-.

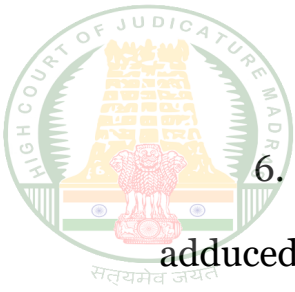
3. The plaintiff asserts that it is a matter of fact and record that the transportation of materials by the plaintiff to the defendant was under Government certified e-way bills. The plaintiff also states that the monthly stock ledger maintained by the defendant at its factory would establish that the stock cleared the quality check of the defendant. The plaintiff referred to lawyer's notices dated 20.12.2023 and 02.01.2024 demanding payment of a sum of Rs.2,55,63,034/- and to reply dated 02.01.2024 denying the claim made. After advertng to the reply of the defendant that supply was made at the instance of the plaintiff's relative, Mr. Praveen, who was the Chief Technology Officer of the defendant, the plaintiff states that the transaction had nothing to do with Mr. Praveen.

4. Because the defendant did not file a written statement within 30 days from the date of receipt of suit summons on 28.05.2024, by order



dated 10.07.2024, this Court directed the plaintiff to file the proof affidavit on or before 24.07.2024. While issuing such direction, it appears that the Court did not notice that the suit was filed as a summary suit. At the next hearing on 29.07.2024, this Court recorded that the plaintiff had filed the proof affidavit of PW1 and, consequently, directed that evidence be recorded before the learned Additional Master II on 30.07.2024.

5. At the hearing on 18.09.2024, after noticing that the suit was in the nature of a summary suit, this Court directed the Registry to verify whether an application for leave to defend had been filed and, if in order, list the same on 30.09.2024. But the application for leave to defend was not filed and listed on 30.09.2024. Eventually, at the hearing on 18.10.2024, this Court rejected the request of the defendant for an adjournment and listed the matter before the learned Additional Master-II for recording evidence on or before 22.11.2024. Thus, in effect, the suit was treated as a regular suit and not as a summary suit although the defendant failed to file an application for leave to defend. As will be evident from the discussion that follows, in any event, this suit does not fall within the scope of a summary suit under Order VII of the Original Side Rules, 1994 (the OS Rules).

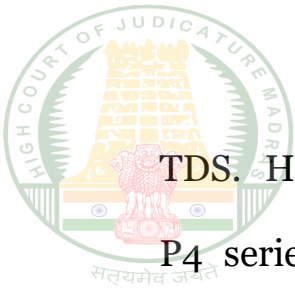


6. Pursuant to the direction issued on 18.10.2024, the plaintiff adduced evidence by examining Mr.B.Keerthivasan as PW1. In course of the examination-in-chief on 03.12.2024, Exs. P1 to P38 were marked. PW1 was cross-examined by learned counsel for the defendant in full on 04.12.2024. The defendant forfeited the right to file the written statement and, consequently, could not lead evidence.

### **Counsel and their contentions**

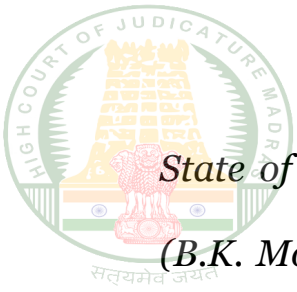
7. Oral arguments on behalf of the plaintiff were advanced by Mr.Yashod Vardhan, learned senior counsel, assisted by Mr. R. Gopinath, learned counsel. Mr. K. Shanmugakani, learned counsel, advanced arguments on behalf of the defendant. He was assisted by Mr. R. Subramoniam, learned counsel. Both parties filed written arguments.

8. Mr.Yashod Vardhan commenced his arguments by stating that the plaintiff was registered with the Ministry in-charge of micro, small and medium enterprises. The plaintiff supplied recycled raw material to the defendant for use in the manufacture of refractory, i.e. lining material. After submitting that the suit claim relates to outstanding bills of the value of Rs.2,19,73,721/-, he submitted that the aggregate suit claim was arrived at after reckoning goods and services tax (GST) and



TDS. He contended that the outstanding invoices were exhibited as Ex. P4 series consisting of 37 invoices; Ex. P7 series consisting of 44 invoices; Ex. P10 series consisting of 19 invoices; and Ex. P13 series consisting of two invoices. He also submitted that the corresponding e-way bills and test reports were filed with the invoices. In addition, as evidence of supply, he contended that relevant GST returns were filed as Exs. P5, P6, P8, P9, P11, P12, P15 and P19.

9. In response to the contention in the written arguments of the defendant that the suit is barred under Section 69(2) of the Partnership Act, 1932 (the Partnership Act), he contended that the said provision only bars a suit to enforce a contract. In support of this contention, he referred to and relied upon the judgment of the Hon'ble Supreme Court in *Shiv Developers through its Partner Sunilbhai Somabhai Ajmeri v. Aksharay Developers and Others*, (2022) 13 SCC 772 (*Shiv Developers*). In this case, he submitted that the supplies were not made pursuant to either a written or oral contract. Consequently, he contended that the suit is maintainable under Section 70 of the Indian Contract Act, 1872 (the Contract Act). With regard to a claim under Section 70 of the Contract Act, he relied on the judgments of the Supreme Court in *Union of India v. Sita Ram Jaiswal* 1976 SCC (4) 505 (*Sita Ram Jaiswal*),



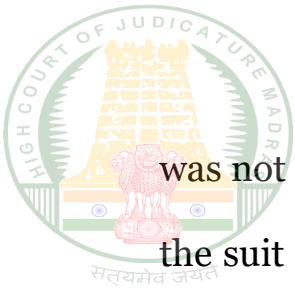
*State of West Bengal v. M/s B.K. Mondal and sons, AIR 1962 SC 779*

*(B.K. Mondal) and MTNL v. Tata Communications Ltd., (2019) 5 SCC*

341. He also relied on the judgment of the Bombay High Court in *M/s Dinshlaw and Dinshlaw and another v. Indoswe Engineers, AIR 1995 Bom 180*. He contended that the aggregate value of unpaid invoices represents reasonable compensation for the non-gratuitous supply of goods to the defendant because the defendant received such goods and put them to use.

10. His next contention was that the defendant is not entitled to cross-examine the plaintiff's witness in such manner as to plead the defendant's case without filing a written statement. In support of this contention, reliance was placed on the judgment of the Hon'ble Supreme Court in *Modula India v. Kamakshya Singh De, (1988) 4 SCC 619* and the judgment in *Balraj Taneja and Another v. Sunil Madan and Another, (1999) 8 SCC 396*.

11. In response to these contentions, learned counsel for the defendant submitted that the plaintiff did not adhere to the prescribed procedure for a summary suit. His next contention was that the plaintiff

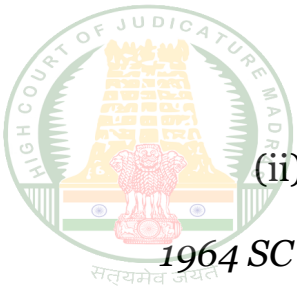


was not accompanied by a statement of truth and, in the absence thereof, the suit cannot be treated as a commercial suit. As regards the claim for

compound interest on monthly rests under the MSMED Act, learned counsel submitted that the plaintiff did not file a memorandum in terms of Section 8 of the MSMED Act and, consequently, cannot be treated as a MSME. He also added that the parties entered into transactions in 2017 even before the plaintiff obtained the registration under the MSMED Act. Therefore, he contended that the said statute does not apply. In support of this contention, he relied on the judgment of the Hon'ble Supreme Court in *Vaishno Enterprises v. Hamilton Medical AG and Another*, (2024) 12 SCC 214.

12. The third contention was that the supplies were not *bona fide*, stocks were dumped on the defendant and that the plaintiff indulged in over-invoicing. The last contention of learned counsel was that the suit is barred under Section 69(2) of the Partnership Act because it has been instituted by an unregistered partnership firm. In support of this contention, reliance was placed on the following judgments:

(i) *Raptakos Brett & Co. Ltd. v. Ganesh Property*, (1998) 7 SCC 184 (*Raptakos Brett*);



(ii) *Jagdish Chandra Gupta v. Kajaria Traders (India) Ltd*, AIR

1964 SC 1882;

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(iii) *Ess Vee Traders and Ors. v. Anbuja Cement Rajasthan Limited*, MANU/DE/2559/2006; and

(iv) *M.Muthukumaraswami v. Kumar Textiles*, AIR 1996 Madras 433.

### ***Issues, discussion, analysis and conclusions***

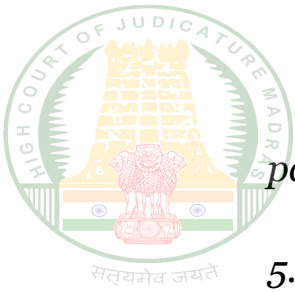
13. Although issues were not framed earlier on account of the defendant not filing a written statement, taking note of contentions, it is necessary to consider and deal with the following issues:

*1. Whether the suit is liable to be rejected in view of the preliminary objections regarding non-compliance with the procedure for a summary suit or for allegedly not filing a statement of truth with the plaint?*

*2. Whether the suit may be treated as a suit for compensation under Section 70 of the Indian Contract Act, 1872?*

*3. Whether the suit is barred under Section 69(2) of the Indian Partnership Act, 1932?*

*4. Whether the plaintiff is entitled to the suit claim or a*



part thereof?

5. Whether the plaintiff is entitled to interest at the rate claimed or at any other rate?

6. Whether the parties are entitled to any other relief?

### **Issue No.1**

14. The defendant contended that the procedure prescribed for a summary suit was not adhered to. The procedure in respect of summary suits on the original side of this Court is prescribed in Order VII of the OS Rules. The classes of suits to which such special procedure could apply are set out in Rule 1 thereof. Rule 1 reads as under:

*“Rule 1. A suit to recover a debt or a liquidated demand in money evidenced by a document, or any money payable by the defendant with or without interest, arising on a negotiable instrument or a bond or a contract for payment of a liquidated sum of money evidenced by a document, or on a guarantee where the claim arises against the principal in the manner aforesaid, **may, in case the plaintiff desires to proceed hereunder, be instituted by presenting a plaint in the form prescribed.***

*For the purpose of this order “Liquidated demand” means a demand for the amount stated or so expressed*



*that the ascertainment of the amount is a mere matter of calculation.”* (emphasis added)

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15. Thus, Order VII of the OS Rules could apply to any of the following classes of suits:

- 1. A suit to recover a debt or a liquidated demand in money evidenced by a document.*
- 2. A suit to recover any money payable by the defendant and arising out of a negotiable instrument.*
- 3. A suit to recover any money payable by the defendant and arising out of a bond.*
- 4. A suit to recover any money payable by the defendant and arising out of a contract for payment of a liquidated amount of money evidenced by a document.*
- 5. A suit to recover any money payable on a guarantee where the claim arises against the principal in the manner aforesaid.*

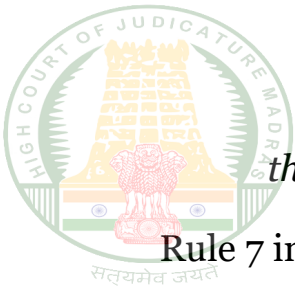
As can be seen from the portion of Rule 1 emphasised in bold font above, even if a suit falls within any of the above classes, the plaintiff has the option of filing an ordinary suit instead of a summary suit. The suit claim



clearly does not arise out a negotiable instrument, bond or guarantee. All that needs to be examined is whether the suit is for recovery of a debt or liquidated demand or arises out of a contract for payment of a liquidated amount of money. From the endorsement on the plaint, it appears that the plaintiff filed the suit as a summary suit on the basis that it arises out of a written contract, although a plea to that effect is not there in the plaint. It is appropriate to deal with and enter findings on this aspect while dealing with the merits and issues relating thereto.

16. If the defendant fails to obtain leave to defend in a summary suit, Rule 5 of Order VII provides that the allegations in the plaint shall be deemed to be admitted and that the plaintiff shall be entitled to the sum claimed in the plaint. It was recorded in course of the narration that the defendant did not apply for leave to defend. Consequently, the option of issuing a decree was available, if the suit had been treated as a summary suit. This suit was, however, treated as an ordinary suit. Rule 7 of Order VII is relevant in this regard, and is as under:

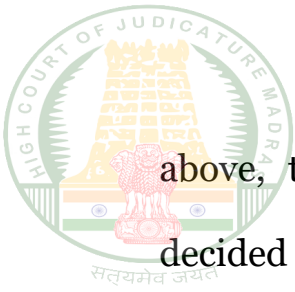
*“Rule 7. A suit which has been admitted or marked as a suit under this order may at any stage be directed to be treated as an ordinary suit or as commercial cause by the order of the Court upon the application of any party or of its own motion and upon such terms as to costs as*



*the Court may deem fit.”*

Rule 7 indicates that there should be a direction by the Court to treat the suit as an ordinary suit. While that was not done expressly, the suit was treated as a non-summary commercial suit by serving summons in Form No.13 and by directing the plaintiff to adduce evidence and prove the claim although leave to defend was not applied for and obtained. If the suit had been treated as a summary suit, as mentioned above, the suit could have been decreed by allowing the suit claim. Hence, the non-adherence to the procedure prescribed in Order VII of the OS Rules has not prejudiced the defendant and, on the contrary, has benefitted the defendant to the extent that the plaintiff was directed to prove the claim. Besides, for reasons set out later, this suit does not fall within the classes of suits in respect of which the summary procedure is applicable.

17. The other preliminary objection was in relation to alleged non-filing of the statement of truth with the plaint. On that basis, it was further contended by the defendant that the suit should not be treated as a commercial dispute. This contention was refuted by the plaintiff. The record discloses that a statement of truth dated 10.05.2024 was filed by the plaintiff. From the rubber stamp affixed by the registry, this was received on 14.05.2024 when the plaint was re-presented. In view of the



above, this preliminary objection is overruled and Issue No. (1) is decided in favour of the plaintiff.

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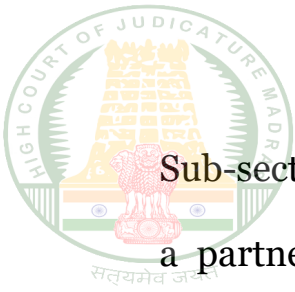
**Issue Nos. 2 & 3:**

18. The first aspect to be addressed is whether the suit is barred under Section 69 of the Partnership Act. Section 69 reads as under:

*“69. Effect of non-registration.—(1) No suit to enforce a right arising from a contract or conferred by this Act shall be instituted in any Court by or on behalf of any person suing as a partner in a firm against the firm or any person alleged to be or to have been a partner in the firm unless the firm is registered and the person suing is or has been shown in the Register of Firms as a partner in the firm.*

*(2) No suit to enforce a right arising from a contract shall be instituted in any Court by or on behalf of a firm against any third party unless the firm is registered and the persons suing are or have been shown in the Register of Firms as partners in the firm .”*

(emphasis added)



Sub-section (1) applies to a suit filed by or on behalf of a person suing as a partner in a firm against the firm. The present suit has not been

instituted against the partnership firm. Therefore, sub-section (1) is inapplicable. Sub-section (2) pertains to a suit to enforce a right arising from a contract and filed by or on behalf of a firm against a third party. The present suit has been instituted by Sri Vasan Minerals, which is an unregistered partnership firm, against a third party, i.e. a private limited company. Consequently, sub-section (2) would be attracted if the suit is for enforcement of a right arising from a contract. This leads to the question whether the suit claim arises from a contract.

19. In the plaint, there is no positive assertion that there is a contract, but it is stated that goods were supplied on request. The endorsement of counsel while re-presenting the plaint was that the suit is based on a written contract. Learned senior counsel for the plaintiff contended, however, that there was no written contract. Since this is largely a question of fact, I turn to the evidence. Documents exhibited by the plaintiff do not disclose an agreement or otherwise labelled express written contract. As noticed earlier, the defendant did not adduce evidence. The documents exhibited by the plaintiff clearly disclose that the plaintiff supplied material to the defendant over a period of time. As



evidence of supply, the plaintiff exhibited invoices and related documents. It is possible that these documents disclose the existence of a contract. Typically, supply contracts are preceded by purchase orders from the buyer calling upon the seller to make supply of specified quantities of products as per specifications and at specific rates. Therefore, such invoices and related documents should be examined to ascertain whether they evidence the existence of a contractual relationship between the parties.

20. As recorded earlier, several sets of invoices were exhibited. The first set of invoices being Ex. P4 series. These invoices relate to the period February 2023 to March 2023. In order to answer the question raised earlier, I begin the inquiry by examining invoice No.SVM-INV-1679 dated 06.02.2023. This invoice contains the name and address of the issuer, the person billed and the shipping address. It also contains a description of the goods, the quantity, the unit rate per metric ton and the total amount. Annexed to the invoice is the e-way bill. The corresponding purchase order from the defendant or any other document evidencing acceptance of rates quoted by the plaintiff is unavailable. Even the defendant's counter signature acknowledging and accepting the terms of supply, such as rate, quantity and specifications is



absent on the invoice. On perusal of invoice No.SVM-INV-1680 dated 06.02.2023, once again, I find that it contains the same information and nothing more.

21. Ex. P7 series also consists of allegedly unpaid invoices. These invoices pertain to the period April 2023 to June 2023. On examining invoice No.SVM-INV-1716 dated 01.04.2023, I find that it is similar to the invoices in Ex. P4 and P7 series. Ex. P10 series consists of invoices issued between July 2023 and September 2023. Ex.P13 consists of invoices issued between October and November 2023. Conspicuous by its absence in all these documents is any indication that the specification, quantity or rate mentioned in the invoices were accepted by the defendant.

22. The plaintiff also exhibited communications between the parties. Therefore, it is necessary to examine whether there is evidence of acceptance of the supply, including the quantity and rates in such communications. Ex. P14 is an email of 01.12.2023 from one Mrs. S. Sumitha of the defendant to the plaintiff. In relevant part, it is recorded as under in the said communication:-



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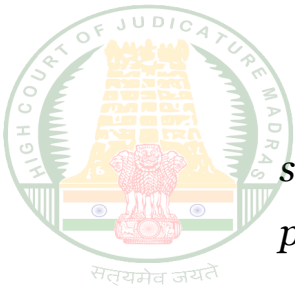
*“1. We have found that the billing to us by Sri Vasan is not 5% or even 10% margin over the purchase price but 30-40% and in some case billed even more than double over the purchase price. This has resulted in huge impact in our product cost thereby our competitiveness in the market has been lost and we are not able to compete with our counter parts.*

*2. To our surprise Mr. Praveen has booked invoices as if materials were supplied. However no materials have been brought in to the factory of those invoices. This has resulted in us accounting invoices of Sri Vasan without any material supplied which is another loss to the company.*

*3. As his interest was to generate funds in Sri Vasan for his benefit, he has brought in huge quantities of materials which are not required for us for the immediate future. This becomes a dead stock for us and we will not be able to realize our money in a reasonable time.*

*4. Our profitability was also impacted by the fact that Mr. Praveen in connivance with some of our employees have taken money from the transporter of Rs. 200 per MT for every ton of material supplied from our factory on freight paid basis. This also led to increase in the cost of our product.*

*5. We also have verified information that he has*



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*supplied materials manufactured in the plant to outside parties without bills and took money from them and not showing the revenue to our account. This is also a very serious offence.”*

23. The above communication reveals that the defendant took the stand that there was over-invoicing and that invoices were issued without making supplies. It is also alleged that there was dumping of material. In effect, this communication reveals that the supplies were not made pursuant to either an oral or written contract. Significantly, there is also nothing in this communication to the effect that the goods or a part thereof are being returned and that the plaintiff was being called upon to take back the goods. Apart from the above communication, in reply dated 02.01.2024 (Ex. P17) to notice dated 20.12.2023, the defendant stated that materials of the aggregate value of Rs.8,34,487.5 were not received (annexure 1); that the margin was on average 30% in respect of some supplies; and that materials of the aggregate value of Rs.2.72 crores were dumped (annexure 2). Even in this communication, the defendant did not reject the goods and call upon the plaintiff to take back rejected goods. PW1 was questioned about the existence of a written contract and on related matters. The relevant questions and answers are set out below:



*“Q6: Is there any written agreement between the defendant and your firm?”*

*A: No.*

*Q7: What was the business understanding between you and defendant company?*

*A: We are suppliers, supplying raw materials*

*Q8: Is there any price mechanism or credit period?*

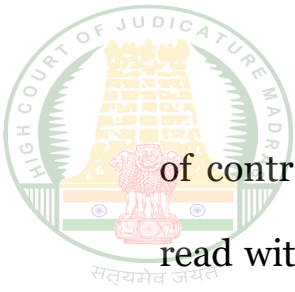
*A: There is nothing discussed regarding above mentioned matter with the defendant. But we were in understanding that we will be paid in 30 to 45 days initially.*

*Q9: Is there any price mechanism for supply of raw materials that is percentage of margin?*

*A: As the managing partner I have not negotiated any price margin with the defendant company.”*

The above answers lead to the inference that there was no agreement on price, margin, credit period or other material terms of supply. It, therefore, supports the conclusion that the supply was not based on an oral or written contract.

24. In *Raptakos Brett*, the Supreme Court considered whether a composite suit filed by an unregistered firm and founded on both breach

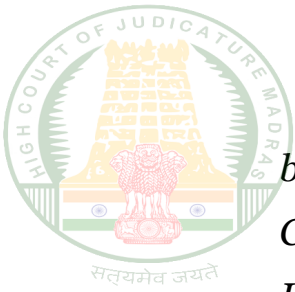


of contract and breach of a statutory obligation under Section 108 (q) read with Section 111(a) of the Transfer of Property Act, 1882, would be barred by Section 69(2) of the Partnership Act. In relevant part, it was held as under in paragraph 23:

*“...The net result of this discussion is that the present suit can be said to be partly barred by Section 69 sub-section (2) so far as it sought to enforce the obligation of the defendant under clauses 14 and 17 of the contract of lease read with the relevant recitals in this connection as found in para 2 of the plaint. But it was partly not barred by Section 69 sub-section (2) insofar as the plaintiff based a part of the cause of action also on the law of the land, namely, the Transfer of property Act whereunder the plaintiff had sought to enforce its statutory right under Section 108(q) read with Section 111(a) of the Property Act....”*

25. In *Shiv Developers*, in the factual context of a suit for a declaration relating to a sale deed, the Supreme Court cited with approval the following paragraph from *Haldiram Bhujiawal v. Anand Kumar Deepak Kumar*, (2000) 3 SCC 250:

*“9. The question whether Section 69(2) is a bar to a suit filed by an unregistered firm even if a statutory right is being enforced or even if only a common law right is*

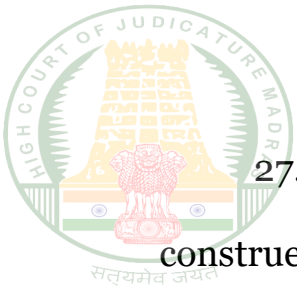


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*being enforced came up directly for consideration in this Court in Raptakos Brett & Co. Ltd. v. Ganesh Property. In that case, Majumdar J. Speaking for the Bench clearly expressed the view that Section 69(2) cannot bar the enforcement by way of a suit by an unregistered firm in respect of a statutory right or of a common law right. On the facts of that case, it was held that the right to evict a tenant upon expiry of the lease was not a right “arising from a contract” but was a common law right or a statutory right under the Transfer of Property Act. The fact that the plaint in that case referred to the lease and to its expiry, made no difference. Hence, the said suit was held not barred. It appears to us that in that case the reference to the lease in the plaint was obviously treated as a historical fact. That case is directly to point. Following the said judgment, it must be held in the present case too that a suit is not barred by Section 69(2) if a statutory right or a common law right is being enforced.”*

26. As a consequence of the conclusion that supplies were not made pursuant to either a written or oral contract between the parties, I conclude that the plaintiff is not enforcing rights under a contract in this suit. Because the plaintiff is not enforcing rights under a contract, the embargo in Section 69(2) of the Partnership Act does not apply.



27. The next aspect to be considered is whether the claim may be construed as a claim for compensation under Section 70 of the Contract Act. Section 70 of the Contract Act is as under:

***“70. Obligation of person enjoying benefit of non-gratuitous act.- Where a person lawfully does anything for another person, or delivers anything to him, not intending to do so gratuitously, and such other person enjoys the benefit thereof, the latter is bound to make compensation to the former in respect of, or to restore, the thing so done or delivered.”***

28. From the language of Section 70, the requirements for the applicability of Section 70 are the following:

(i) A person should do something for another or deliver something to another;

(ii) such act of delivery should not be intended to be gratuitous; and

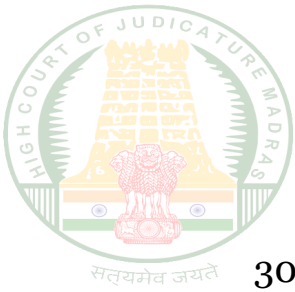
(iii) the recipient should enjoy the benefit thereof.

These requirements are evidently cumulative as is evident from the use of the conjunction “and” before the third requirement and, therefore, upon satisfaction of all the requirements, the recipient is liable to either compensate the provider or restore what was delivered. Before drawing



definitive conclusions on whether the plaintiff qualifies for compensation on the principle of *quantum meruit*, it is necessary to examine judgments relating thereto.

29. In *Sita Ram Jaiswal*, the Supreme Court dealt with a suit for recovery of price for supplies made. After taking note of the contention of counsel for the defendant therein that the three ingredients of Section 70 of the Contract Act had not been pleaded, the Supreme Court nonetheless directed that the suit be decreed upon taking note of the trial court's factual finding that the goods were accepted by the defendant. In *B.K. Mondal*, the Supreme Court dealt with a monetary claim for work done on the basis of an alleged contract and, in the alternative, under Section 70 of the Contract Act. After noticing that the approval of the Government had not been obtained under Section 175(3) of the Government of India Act, 1935, the Supreme Court affirmed the finding of the High Court that there was no contract. The Supreme Court proceeded to hold, however, that work was done lawfully by the contractor and that he is consequently entitled to compensation under Section 70. This judgment is authority for the proposition that an incorrect plea that the action is founded on a contract would not defeat an alternative claim under Section 70.

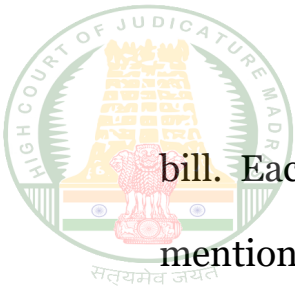


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30. In *Mahanagar Telephone Nigam*, the Supreme Court examined Chapter V of the Contract Act and noticed that each provision therein, including Section 70, applies when there is no contract, but the relationship between the parties resembles a contractual relationship. The Supreme Court set out the third paragraph of Section 73 of the Contract Act and held that compensation becomes payable in terms thereof in case of a quasi-contract. The third paragraph of Section 73 is set out below:

***“Compensation for failure to discharge obligations resembling those created by contract – When an obligation resembling those created by contract has been incurred and has not been discharged, any person injured by the failure to discharge it is entitled to receive the same compensation from the party in default, as if such person had contracted to discharge it and had broken the contract.”***

31. The materials on record reveal beyond doubt that the plaintiff did not intend to supply goods gratuitously. If it had been intended to deliver goods gratuitously, the plaintiff would not have made supplies under multiple sets of invoices making monetary claims in respect thereof. As discussed earlier, each invoice is accompanied by an e-way



bill. Each e-way bill draws reference to the corresponding invoice. It mentions the GST IN of both supplier and recipient, the place of despatch and the place of delivery. It also provides particulars of the transporter, including mode of transport and vehicle number.

32. In the light of such evidence, delivery to the defendant also stands established. It is not the defendant's case that goods supplied by the plaintiff were returned or restored to the plaintiff because such goods were not required. The endorsement on the plaint by counsel that the suit claim is founded on a contract does not defeat a claim under Section 70 because of the finding that there was no written or oral contract coupled with the principles formulated in *B.K. Mondal*, where the alternative plea on the basis of *quantum meruit* found favour. In the ultimate analysis, the rationale underlying Section 70 is that there should be no unjust enrichment. Therefore, I conclude that all three requirements to sustain a claim for compensation under Section 70 of the Contract Act stand established. Because of this conclusion, this suit also does not fall within any of the classes of suits for which the summary procedure in Order VII of the OS Rules could be applied. Issue Nos.2 and 3 are disposed of on the above terms, and the open aspect of Issue No.1 is resolved.

**Issue No.4**

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33. The next issue relates to whether the plaintiff is entitled to the principal suit claim. Each invoice contains a description of goods supplied, the HSN code, the total quantity, the unit rate, and the amount, including GST. Such invoices are accompanied by e-way bills evidencing despatch and delivery to the defendant. These supplies were made between February 2023 and November 2023. In the absence of any evidence that the goods were returned or any evidence that the goods were not put to use, the plaintiff is entitled to reasonable compensation. The defendant has failed to file a written statement and, consequently, could not lead evidence to establish that the amount claimed by the plaintiff is not reasonable.

34. Apart from invoices and e-way bills, the plaintiff has also exhibited returns filed under applicable GST enactments as part of each invoice series. By way of illustration, reference may be made to the filing of a return in Form GSTR-1 for supplies made in the January-March period of financial year 2022-2023. This return discloses the total supply value of Rs.1,44,99,926 during this period. It also reveals payment of Central Goods and Services Tax (CGST) and State Goods and Services



Tax (SGST) of Rs.12,52,395.35 each thereon. The return in Form GSTR-3B for this period is also part of this series of invoices. The supply

value mentioned in the GSTR-3B return for the January-March period of financial year 2022-2023 matches the supply value mentioned in the GSTR-1 return. In addition, it also reflects the eligible input tax credit (ITC) for this period. Thus, apart from evidence of supply, there is evidence of payment of GST. The plaintiff has also prepared and included an abstract with date, invoice number, amount, TDS, CGST, SGST, total balance and e-way bill number for each outstanding invoice in the relevant periods. Paragraph 3 of Section 73 of the Contract Act supports a decree on the basis of invoice values because it enables the determination of compensation by invoking a deemed contract. Ex.P 17, which is a reply from the defendant to the lawyer's notice from the plaintiff, states that goods of the value of Rs.2.72 crores were dumped. The annexure pertaining thereto is, however, vague and bereft of particulars, including the dates of supply, nature and quantity of goods, invoices under which supplies were made and the like. On carefully weighing the evidence on a balance of probability, I find no reason to conclude that the amounts claimed by the plaintiff are not reasonable. Therefore, the plaintiff is entitled to the principal suit claim. Issue No.4 is disposed of on these terms.

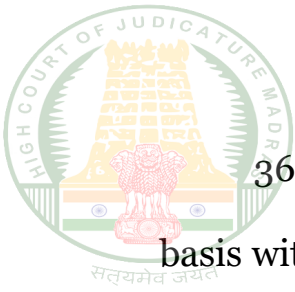
**Issue No.5**

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35. Issue No.5 pertains to the claim for interest at 24% per annum to be compounded with monthly rests. This claim has been made by invoking the provisions of the MSMED Act. The MSMED Act stipulates that the buyer of goods from a supplier, as defined in the said statute, is liable to make payment within a period not exceeding 45 days from the date of acceptance or deemed acceptance, unless agreed otherwise as regards the time for payment. 'Supplier' is defined under Section 2(n) of the MSMED Act as under:

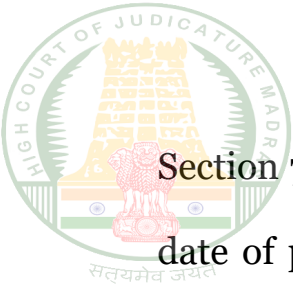
*“supplier” means a micro or small enterprise, which has filed a memorandum with the authority referred to in sub-section (1) of section 8.”*

The plaintiff has produced the UDYAM registration certificate dated 16.02.2022. This document was exhibited as Ex. P3. The defendant raised the objection that the plaintiff had not filed the memorandum under Section 8 of the MSMED Act. The record reveals that such memorandum has not been exhibited and the only evidence regarding the MSME status of the plaintiff is Ex. P3.



36. In any event, the plaintiff cannot claim interest on compounded basis with monthly rests, whether by invoking Section 16 of the MSMED Act or otherwise, in an action for compensation under Section 70 of the Contract Act, as opposed to an action to recover a debt. An action for compensation under Section 70 of the Contract Act is maintained under the principle of *quantum meruit* where a supply is made without a contract, and, therefore, the terms of supply have not been agreed to by and between the parties. In those circumstances, the claim is not for a debt due but for reasonable compensation. Therefore, I conclude that the plaintiff is not entitled to interest at 24% per annum either as simple interest or compounded with monthly rests.

37. Nonetheless, I take note of the fact that supplies were made between February, 2023 and November, 2023. In spite of receiving the goods and probably putting the same to use, the defendant has not made payment to the plaintiff. Interest represents the time value of money. The transaction between the parties is commercial. Given that such transaction is not supported by a contract and taking into account the absence of any agreement with regard to interest, I hold that the defendant shall pay interest at the rate of 9% per annum. Considering that the suit claim is being awarded by way of compensation under



Section 70, such interest shall be applied on the principal claim from the date of plaint until realisation. Issue No.5 is disposed of on the above terms.

### **Issue No.6**

38. As the successful party in respect of the principal suit claim, the plaintiff is also entitled to costs. The plaintiff paid a sum of Rs.7,66,892/- as court fee. Because the plaintiff only partly succeeded with regard to the interest claim, costs of Rs.3,00,000/- shall be paid towards court fees. In the aggregate, the defendant shall pay a sum of Rs.6,00,000/- as costs towards court fees, lawyer's fees and expenses.

39. In the result, the suit is decreed by directing the defendant to pay the plaintiff the sum of Rs.2,55,63,034/- with simple interest thereon at 9% per annum from the date of plaint till the date of realisation. The defendant is also directed to pay the plaintiff a sum of Rs. 6,00,000/- as costs towards court fees, lawyer's fees and other expenses. Consequently, connected application is closed.

**01.04.2026**

Neutral Citation: Yes / No

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**Plaintiff's witness:**

Mr.B.Keerthivasan

- P.W.1

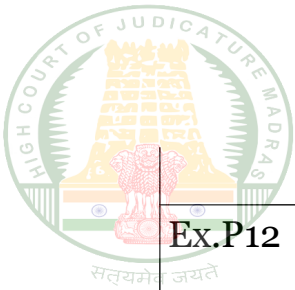
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**Defendant's witness:**

Nil

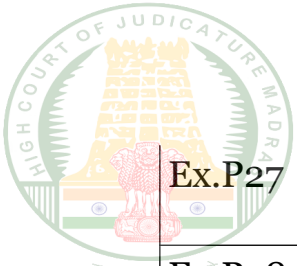
**Documents exhibited by the plaintiff:**

Exhibits	Description
Ex.P1	The photocopy of authorisation letter dated 10.05.2024.
Ex.P2	The photocopy of partnership agreement entered between the partners of the plaintiff's firm dated 03.10.2017.
Ex.P3	The UDYAM Registration Certificate of the plaintiff's firm dated 16.02.2022.
Ex.P4	The pending invoices (nos.37) with the defendant company from February 2023 to March 2023.
Ex.P5	The quarterly return summarizing the outward supplies of plaintiff firm for the tax period January 2023 to March 2023 (GSTR-1).
Ex.P6	The summary of all inward and outward supplies, tax liability and ITC claimed by the plaintiff firm for the period January 2023 to March 2023 (GSTR-3B)
Ex.P7	The series is the pending invoices (Nos.44) with the defendant company from April 2023 to June 2023.
Ex.P8	The quarterly return summarizing the outward supplies of plaintiff firm for the tax period April 2023 to June 2023 (GSTR-1)
Ex.P9	The summary of all inward and outward supplies, tax liability and ITC claimed by the plaintiff firm for the period April 2023 to June 2023 (GSTR-3B)
Ex.P10	The pending invoices (Nos.19) with the defendant company from July 2023 to September 2023
Ex.P11	The quarterly return summarizing the outward supplies of plaintiff firm for the tax period July 2023 to September



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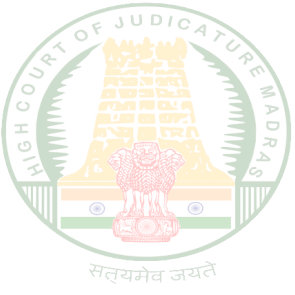
	2023 (GSTR-1)
Ex.P12	The summary of all inward and outward supplies, tax liability and ITC claimed by the plaintiff firm for the period July 2023 to September 2023 (GSTR-3B)
Ex.P13	The pending invoices (nos.2) with the defendant company from October 2023 to November 2023.
Ex.P14	The mail communication from one Mrs.Sumita to the managing partner of the plaintiff's firm, Mr.B.Keerthivasan dated 01.12.2023
Ex.P15	The yearly reconciliation and summary of all inward and outward supplies of the plaintiff firm for the period April 2022 to March 2023 (GSTR-9) dated 11.12.2023.
Ex.P16	The office copy of legal notice dated 20.12.2023.
Ex.P17	The office copy of legal notice dated 02.01.2024.
Ex.P18	The office copy of reply notice dated 02.01.2024.
Ex.P19	The quarterly return summarizing the outward supplies of plaintiff firm for the tax period October 2023 to December 2023 (GSTR-1)
Ex.P20	The mail communication from the Managing partner of the plaintiff firm to one Mr.Praveen Kumar dated 13.01.2024.
Ex.P21	The summary of all inward and outward supplies, tax liability and ITC claimed of the plaintiff firm for the period October 2023 to December 2023 (GSTR-3B)
Ex.P22	The mail communication from one Mr.Praveen Kumar to the Managing Partner of the plaintiff firm dated 25.01.2024.
Ex.P23	The balance sheet and profit & loss of the defendant company from the year 2014-2023
Ex.P24	The Key Managerial Personnel and Directors remuneration of the defendant company for the year 2022-2023
Ex.P25	The comprehensive compilation of the defendant company through "the company check.com".
Ex.P26	The production value of the defendant company for the year 2022-23.



Ex.P27	The raw material supplied to the defendant compiled from the “closing stock details of factory”.
Ex.P28	The compilation of statement of raw material supplied to the defendant company including the usage data of the defendant company from the “closing stock details of factory”.
Ex.P29	The compilation of invoices raised for burnt rice husk.
Ex.P30	The details of burnt rice husk usage data of the defendant company from “closing stock details of factory”.
Ex.P31	The non starter report issued by the Hon’ble State Mediation Forum dated 18.04.2024.
Ex.P32	The compilation of pending invoices with the defendant company from February 2023 to November 2023.
Ex.P33	The true copy of closure report made in C.No.G4/175/3015/2024 from the office of District Superintendent of Police, Kancheepuram dated 18.07.2024
Ex.P34	The downloaded copy TDS traces Annual Tax statement of the plaintiff firm for the financial years 2021-2022 to 2024-2025.
Ex.P35	The downloaded copy of compilation of statement of invoices raised by the plaintiff and the TDS deducted thereof by the defendant company.
Ex.P36	The downloaded copy of compilation of monthly summary reflecting TDS deducted and paid by the defendant company
Ex.P37	The downloaded copy of GST returns of the plaintiff firm for the financial years 2022-2023 and 2023-2024.
Ex.P38	The downloaded copy of Goods and Services Tax payment receipt for the financial years 2022-2023 and 2023-2024.

**01.04.2026**

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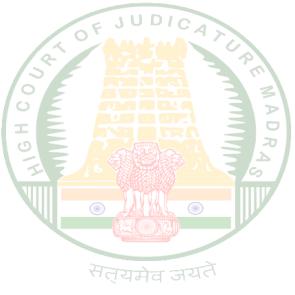


C.S.(Comm Div) No.95 of 20



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To

M/s.Totale Global Pvt. Ltd.,  
Rep. by its Managing Director,  
71-C, New Avadi Road,  
Kilpauk, Chennai-600 010.



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C.S.(Comm Div) No.95 of 2024



**SENTHILKUMAR RAMAMOORTHY J.**

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**Pre-delivery judgment made in  
C.S.(Comm Div) No.95 of 2024**

**01-04-2026**

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