WEB COPY

CS No. 497 of 2019

DR.A.D.MARIA CLETE, J.

When the matter was mentioned and listed today under the caption 'Being mentioned', it was pointed out that the appearance portion of the judgment dated 26.10.2026, have been inadvertently recorded and the same needs to be corrected.

2.Accordingly, the appearance portion of the order dated 26.10.2026 shall stand corrected as follows:

For D1 & D3 to D8:	Mr.K.M.Aasim Shehzad for M/s.BFS Law Associates
For D2:	Mr.R.Praveen for M/s.GMS Law Associates

3.The final judgment is modified only to the extent stated above and the remaining portion of the order shall remain unaltered.

4.The Registry is directed to carry out the aforesaid correction and issue a corrected copy of the judgment.

30.10.2026

GSA

https://www.mhc.tn.gov.in/judis

WEB COPY

DR.A.D.MARIA CLETE, J.

GSA

CS No. 497 of 2019

30-10-2026

https://www.mhc.tn.gov.in/judis

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.09.2026

PRONOUNCED ON : 26.10.2026

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

CS No. 497 of 2019

M/s.Salma Export Import Agency
Rep. by its Managing Partner Abdul Basith,
New No.334, Old No.142,
Purasawalkam High Rd. Kellys,
Chennai-10.

..Plaintiff(s)

Vs

1. M/s.Eastern Chrome Tanning Corpn. Pvt. Ltd.
   Third floor, Mashkur, Krishnamma Rd.
   Nungambakkam, Ch-34,
   Represented by its Directors.

2. Thadey Mohamadi Begum
   Director, Eastern Chrome Tanning
   Corpn.Pvt.Ltd. No.5/3, Anderson Rd. Ch-6

3. Kandrikar Ehsan Ahmed
   Managing Director
   Eastern Chrome Tanning Corporation. Pvt. Ltd.
   No.5/3, Anderson Rd. Ch-6.

4. Kandrikar Ameenur Rahman (Deceased)
   Director, Eastern Chrome Tanning
   Corpn.Pvt.Ltd. No.5/3, Anderson Rd. Ch-6

5. Kandrikar Shahid Mansoor
   Director, Eastern Chrome Tanning
   Corpn.Pvt.Ltd. No.2A, Anderson Rd. Ch-6

https://www.mhc.tn.gov.in/judis

WEB COPY

6. K.Thaseen Fatheema
   Wholetime Director, Eastern Chrome Tanning Corpn. Pvt.Ltd., No.44, Barnaby Rd. Kilpauk, Ch-10

7. K.Lubna Maryam
   Director, Eastern Chrome Tanning Corpn.Pvt.Ltd. No.3, Anderson Rd. Nungambakkam, Ch-6

8. Mohammed Akmal,
   C/o. Eastern Chrome Tanning Corporation Private Limited, 3, Anderson Road, Nugambakkam, Chennai - 600 006.

   (D8 Impleaded as legal representative of the Deceased 4th defendant as per order dated 04.10.2021 in A.No.3558/2021).

..Defendant(s)

PRAYER: Civil Suit filed under Order IV Rules 1 and 2 of the O.S. Rules, read with Order VII Rules 1 and 2 of C.P.C., (a) Directing the defendants to jointly and severally pay the plaintiff the sum of Rs.5,18,74,602/-together with interest at 24 per cent p.a. on Rs.5,18,74,602/- from the date of filing of this suit till date of payment in full (b) Pay costs of the suit.

For Plaintiff(s):	Ms.M.Vidya
For D1 & D3 to D8:	Mr.K.M.Aasim Shehza for Mr.G.K.Muthukumar
For D2:	Mr.G.K.Muthukumar for M/s.GMS Law Associates

https://www.mhc.tn.gov.in/judis

WEB COPY

J U D G M E N T

This Civil Suit has been filed under Order IV Rules 1 and 2 of the Original Side Rules read with Order VII Rules 1 and 2 of the Code of Civil Procedure, 1908, seeking a direction to the defendants to jointly and severally pay the plaintiff a sum of Rs.5,18,74,602/- together with interest at 24% per annum from the date of filing of the suit till the date of realisation, besides costs of the suit.

2. The plaintiff is a partnership firm engaged in the business of leather and leather products. The first defendant is a private limited company engaged in the manufacture and processing of finished leather. According to the plaintiff, the remaining original defendants are members of the same family and were exercising effective control over the affairs of the first defendant company. During the course of business, the first defendant placed orders with the plaintiff for the supply of leather and leather products, pursuant to which the plaintiff supplied the goods during the years 2013–2014. It is stated that, towards such supplies, a sum of Rs.8,75,71,447/- became due and payable by the first defendant as on 31.03.2014. Despite repeated requests and reminders, the outstanding amount was not paid.

https://www.mhc.tn.gov.in/judis

WEB COPY

3. The plaintiff further states that, after repeated demands, the first defendant issued five cheques bearing Nos.863073 to 863077, dated 09.01.2015, drawn on Indian Bank, Ethiraj College Branch, Chennai, for a total sum of Rs.4,25,00,000/- towards part payment of the outstanding dues. When the cheques were presented through the plaintiff's banker, Union Bank, Service Branch, Broadway, Chennai, they were dishonoured on 10.01.2015 with the endorsement "Funds Insufficient". On the assurance of the defendants that the cheques would be honoured, the plaintiff re-presented them on 31.03.2015 and 07.04.2015. However, the cheques were again dishonoured for the same reason. Consequently, the plaintiff issued a legal notice dated 24.04.2015, demanding payment of the outstanding amount. The defendants sent a reply dated 14.05.2015, denying their liability and disputing the amount claimed by the plaintiff.

4. It is further averred that the plaintiff initiated criminal proceedings under Section 138 of the Negotiable Instruments Act, 1881, against the defendants. According to the plaintiff, during the pendency of those proceedings, the defendants represented that the first defendant company was a family concern and that its corporate status was being utilised to obtain export subsidies and other statutory benefits. The plaintiff states that the defendants agreed to make

https://www.mhc.tn.gov.in/judis

WEB COPY

part payments and to sell a flat belonging to the fifth defendant, situated at No.502, 5th Floor, Athens Block, "Acropolis", No.20, Hosur Road, Koramangala, Bangalore, and adjust the sale proceeds towards the outstanding dues.

5. It is stated that, pursuant to the settlement arrived at between the parties, a Memorandum of Understanding dated 09.11.2015 was executed, under which the defendants allegedly acknowledged their liability and undertook to clear the outstanding amount, including by authorising the plaintiff to sell the aforesaid property. The plaintiff claims that, relying upon the assurances contained in the Memorandum of Understanding, it received part payments of Rs.2,31,96,000/- by direct bank transfer on 05.04.2016, Rs.25,00,008/- through a discounted letter of credit on 22.04.2016 and Rs.25,00,670/- through another discounted letter of credit on 01.07.2016, aggregating to Rs.2,81,96,678/-. It is further stated that, acting upon the assurances given by the defendants, the plaintiff withdrew the criminal proceedings initiated against them.

6. The plaintiff contends that, notwithstanding the aforesaid payments, a sum of Rs.5,18,74,602/- remained outstanding as on 01.07.2016. It is further alleged that the defendants had specifically undertaken to discharge the liability

https://www.mhc.tn.gov.in/judis

WEB COPY

jointly and severally under the Memorandum of Understanding dated 09.11.2015. The plaintiff also contends that the first defendant company was entirely controlled by the members of the same family and that its corporate personality was being misused to evade their financial obligations. According to the plaintiff, the first defendant was merely a sham corporate entity and, therefore, the corporate veil is liable to be lifted to fasten personal liability upon the defendants concerned. On these averments, the plaintiff claims that the defendants are jointly and severally liable to pay the outstanding sum of Rs.5,18,74,602/- together with interest at 24% per annum from the date of institution of the suit till realisation, the transaction being commercial in nature.

7. The first defendant, M/s. Eastern Chrome Tanning Corporation Private Limited, has filed a written statement denying the plaintiff's claim and contending that the suit is barred by limitation. According to the first defendant, the claim is founded upon the Memorandum of Compromise dated 09.11.2015, and the period of three years expired on 09.11.2018. Since the suit was instituted only in June 2019, it is contended that the claim is barred by limitation and that no legally enforceable debt was subsisting on the date of institution of the suit. The first defendant further disputes the alleged issuance of cheques towards the suit transactions and specifically denies that the payment stated to

https://www.mhc.tn.gov.in/judis

WEB COPY

have been made on 01.07.2016 was towards the suit claim. It is contended that the plaintiff has failed to establish that the alleged payments were made in discharge of the liability claimed in the suit.

8. The first defendant further contends that the criminal proceedings initiated under Section 138 of the Negotiable Instruments Act, 1881, which were subsequently withdrawn, are irrelevant to the present suit. The allegations that the first defendant is a family concern operating as a sham corporate entity to obtain export subsidies and other statutory benefits are specifically denied. It is contended that the plaintiff has attempted to fasten the alleged liabilities of the company upon its directors without any legal basis. The first defendant further disputes the maintainability of the suit as a commercial dispute under Section 2(1)(c) of the Commercial Courts Act, 2015, on the ground that the claim is barred by limitation. Accordingly, the first defendant seeks dismissal of the suit with costs.

9. The second defendant, Mrs. Thadey Mohamadi Begum, has filed a separate written statement contending that the suit is not maintainable against her. She denies being a director of the first defendant company or having any involvement in its management or business activities. According to her, she is a

https://www.mhc.tn.gov.in/judis

WEB COPY

senior citizen, a homemaker residing at Ambur and a *Pardanashin* lady without formal education. She contends that she has neither participated in the transactions between the plaintiff and the first defendant nor executed any document or given any personal undertaking towards repayment of the alleged dues. It is further contended that the transactions and invoices relate exclusively to the first defendant company and that there is no contractual relationship between herself and the plaintiff.

10. The second defendant specifically denies having executed the Memorandum of Understanding dated 09.11.2015 or having acknowledged any personal liability thereunder. According to her, the said document was executed only between the plaintiff and the first defendant company, and the payments referred to by the plaintiff were made from the funds of the company. She also denies having issued any cheque or given any assurance to discharge the company's liabilities. The allegations that she exercised control over the first defendant or misused its corporate personality are also denied. She further disputes any liability in respect of transactions involving the plaintiff's group concerns. Contending that no cause of action has been disclosed against her personally, she seeks dismissal of the suit as against her with costs.

https://www.mhc.tn.gov.in/judis

WEB COPY

11. The fifth, sixth and seventh defendants have filed separate written statements raising substantially similar defences. The third defendant has adopted the written statement filed by the fifth defendant. The fourth defendant, Kandrikar Ameenur Rahman, who was stated to have suffered a stroke on 03.07.2018 and to have been incapacitated thereafter, was represented by the third defendant pursuant to the orders of this Court dated 04.03.2021. The third defendant, on behalf of the fourth defendant, also filed an adoption memo adopting the written statement of the fifth defendant. The contesting defendants contend that the transactions giving rise to the suit were exclusively between the plaintiff and the first defendant company and that the individual directors cannot be made personally liable for the contractual obligations of the company merely by virtue of their position as directors.

12. It is further contended that the first defendant is a separate legal entity and that, in the absence of any personal guarantee, independent undertaking or contractual obligation, no liability can be fastened upon its directors in their individual capacities. The defendants deny having personally acknowledged the alleged debt or undertaken to discharge the outstanding amount under the Memorandum of Understanding dated 09.11.2015. They further contend that the said document was entered into between the plaintiff and the first defendant

https://www.mhc.tn.gov.in/judis

WEB COPY

company and that the individual defendants were not personally liable thereunder. They also dispute the plaintiff's claim regarding the payments allegedly made in 2016 and contend that such payments, even if made, were from the funds of the first defendant company and would not create any personal liability upon them.

13. The defendants further contend that the suit is barred by limitation, as the claim is founded upon the Memorandum of Understanding dated 09.11.2015, whereas the suit was instituted only in June 2019, beyond the prescribed period of three years. They deny the allegations that the first defendant company was used as a sham corporate entity for obtaining export subsidies or evading its obligations. According to them, the plaintiff has not pleaded or established any circumstances warranting the lifting of the corporate veil. They further contend that the criminal proceedings under Section 138 of the Negotiable Instruments Act cannot be relied upon to impose personal liability for the debts of the company. The claim for interest at 24% per annum is also disputed. On these grounds, the defendants seek dismissal of the suit with costs.

14. During the pendency of the suit, the fourth defendant, Kandrikar Ameenur Rahman, died on 06.05.2021. The third defendant filed a memo dated

https://www.mhc.tn.gov.in/judis

WEB COPY

06.07.2021 reporting his death and enclosing the death certificate. Thereafter, by order dated 04.10.2021 in A.No.3558 of 2021, Mohammed Akmal was impleaded as the eighth defendant, being the legal representative of the deceased fourth defendant.

15. This Court by an order dated 16.12.2021, framed the following issues for consideration:

(i)Whether the suit is barred by limitation?

(ii)Whether there is misjoinder of parties and the defendants 3, 5 to 7 are not necessary or proper parties in the present suit?

(iii)Whether the plaintiff is entitled for relief of recovery of money against the defendants and whether all the defendants are jointly and severally liable towards the liability?

(iv) To what other reliefs the Plaintiff is entitled to?

16. On the side of the plaintiff, Mr. A.B. Mouinuddin, son of Abdul Basith and a partner of the plaintiff firm, was examined as P.W.1, and five documents were marked as Exs.P1 to P5. On the side of the defendants, Mr. Hafeezur Rahman, a former employee and Accountant of the first defendant company,

https://www.mhc.tn.gov.in/judis

WEB COPY

was examined as D.W.1, and three documents were marked as Exs.D1 to D3.

17. Learned counsel for the plaintiff submitted that the first defendant company was liable to pay Rs.8,75,71,447/- as on 31.03.2014 towards the supply of leather and leather products. It was contended that the said liability was acknowledged under Clause 3 of the Memorandum of Understanding dated 09.11.2015, marked as Ex.P4. Learned counsel further submitted that the cheques issued towards part payment were dishonoured, resulting in proceedings under Section 138 of the Negotiable Instruments Act. Subsequently, Ex.P4 was executed, wherein the directors signed as confirming parties and agreed to settle the outstanding liability, pursuant to which the plaintiff withdrew the criminal proceedings.

18. Learned counsel further submitted that the suit was within limitation, since the last part payment was made on 01.07.2016, as reflected in the Statement of Accounts marked as Ex.P5. According to learned counsel, the suit instituted on 10.06.2019 was within three years from the date of the last payment. It was contended that the defendants had not established that the entries in Ex.P5 were incorrect or that the payments were unrelated to the suit

https://www.mhc.tn.gov.in/judis

WEB COPY

transactions.

19. Learned counsel submitted that the individual defendants were jointly and severally liable under the specific terms of Ex.P4. Particular reliance was placed upon Clauses 5, 6, 7, 12, 13 and 14(i), which, according to learned counsel, recorded the assurances given by the company and its directors to settle the outstanding amounts, including by disposing of the Bangalore property. It was contended that the directors had signed the Memorandum of Understanding as confirming parties and that the plaintiff had withdrawn the criminal proceedings upon their assurance to discharge the liability. Learned counsel further submitted that the first defendant company was effectively controlled by the individual defendants and that its separate corporate personality could not be relied upon to defeat the obligations undertaken towards the plaintiff.

20. Learned counsel further submitted that the defendants had failed to substantiate their defence through evidence. It was pointed out that D.W.1, a former Accountant of the first defendant company, admitted during cross-examination that the transactions were reflected in the company's accounts, though he could not recollect the amounts. According to learned counsel, D.W.1 was also unaware of Ex.P4 and the suit claim. It was contended that the

https://www.mhc.tn.gov.in/judis

WEB COPY

defendants had failed to produce their books of account to disprove the entries in Ex.P5. Reliance was placed upon ***M/s. Star Paper Mills Limited v. M/s. Beharilal Madanlal Jaipuria Limited*, (2022) 17 SCC 645,** concerning the drawing of adverse inference against a party withholding relevant books of account.

21. Learned counsel further contended that the written statements contained evasive denials without specifically meeting the material allegations in the plaint. Reliance was placed upon ***Thangam and Another v. Navamani Ammal*, (2024) 4 SCC 247**, concerning the requirement of specific denial under Order VIII Rules 3 and 5 CPC. Learned counsel also referred to the common order dated 17.02.2020 dismissing A.Nos.617 and 131 of 2020, wherein the applications for summary judgment were rejected. It was submitted that the said order had not been challenged and that the defendants had failed to establish their pleas of limitation and absence of personal liability. Learned counsel accordingly prayed for a decree against the defendants jointly and severally for Rs.5,18,74,602/- together with interest at 24% per annum from the date of filing of the suit till realisation, besides costs.

22. Per contra, learned counsel for defendants 1 and 3 to 8 submitted that the suit was barred by limitation. It was contended that the alleged liability had

https://www.mhc.tn.gov.in/judis

WEB COPY

crystallised as on 31.03.2014, as admitted by P.W.1 during cross-examination, and that the Memorandum of Understanding dated 09.11.2015, marked as Ex.P4, merely recorded a pre-existing liability without creating a fresh cause of action. Even assuming that Ex.P4 constituted an acknowledgment of liability, the suit instituted in June 2019 was beyond the prescribed period of three years. Reliance was placed upon Article 113 and Sections 18 and 19 of the Limitation Act, 1963, and the decisions in ***Dalichand Jugraj Jain v. M/s. Madhu Wool Spinning Mills and Others*, 2000 (3) Mh.L.J. 843**, and ***Smt. Mamata Ghosh and Another v. Tapas Kumar Ghosh*, 2011 SCC OnLine Cal 990.**

23. Learned counsel further submitted that the plaintiff had attempted to overcome the bar of limitation by relying upon unilateral entries in Ex.P5, particularly the alleged payment dated 01.07.2016. It was contended that certain payments related to discounted letters of credit involving Florind Shoes Private Limited, a separate corporate entity, and that no authorisation had been produced to establish that those payments were made on behalf of the first defendant. Particular reliance was placed upon Clause 14(iii) of Ex.P4, which referred to an earlier payment of Rs.25,00,000/- through Florind Shoes Private Limited for settlement of the cheque dishonour proceedings. Learned counsel contended that the entries in the plaintiff's books of account, without a written

https://www.mhc.tn.gov.in/judis

WEB COPY

acknowledgment signed by the debtor or its authorised agent, did not satisfy the requirements of Sections 18 and 19 of the Limitation Act. Reliance was also placed upon ***BSNL v. Nortel Networks India Private Limited*, (2021) 5 SCC 738.**

24. Learned counsel further contended that the plaintiff had failed to establish the underlying commercial transactions through primary evidence. Though the suit claim arose from the alleged supply of leather and leather products, no invoices or delivery documents were marked in evidence, notwithstanding the notice to produce documents marked as Ex.D1. It was submitted that Ex.P1 consisted of photocopies of cheques, Exs.P2 and P3 were notices, and Ex.P4 did not identify the individual invoices, dates of supply or value of goods. Learned counsel further submitted that Ex.P5 was a statement of account unilaterally maintained by the plaintiff and could not, by itself, establish the outstanding liability. Reliance was placed upon ***Central Bureau of Investigation v. V.C. Shukla and Others*, *MANU/SC/0168/1998,* *Madras Cements Limited v. T.M.T. Kannammal Educational Trust and others*, 2015 (1) L.W.312** and ***M/s. J.K. Synthetics Limited v. M/s. Dynamic Cement Traders , MANU/DE/4732/2012***, concerning the evidentiary value of entries in books of

https://www.mhc.tn.gov.in/judis

WEB COPY

account under Section 34 of the Indian Evidence Act, 1872.

25. Learned counsel further submitted that the plaintiff had withheld material documents necessary to establish the alleged supplies and outstanding liability. It was contended that the failure to produce the invoices, despite specific demand, warranted an adverse inference under Section 114(g) of the Indian Evidence Act. Reliance was placed upon ***Gopal Krishnaji Ketkar v. Mohamed Haji Latif*, AIR 1968 SC 1413, and *Rangammal v. Kuppuswami and Another*, MANU/SC/0620/2011**.

26. On the question of personal liability, learned counsel submitted that the first defendant was a separate juristic entity and that its directors could not be made personally liable for its contractual obligations merely by reason of their position or familial relationship. It was contended that Ex.P4 was executed between the plaintiff and the first defendant company and that the signatures of the individual defendants as confirming parties did not amount to personal guarantees or independent undertakings to discharge the company's debts. Learned counsel submitted that the plaintiff had neither established any personal contractual obligation on the part of defendants 2 to 8 nor adduced evidence of circumstances warranting the lifting of the corporate veil. Reliance was placed

https://www.mhc.tn.gov.in/judis

WEB COPY

upon ***Susela Padmavathy Amma v. Bharti Airtel Limited*, 2024 SCC OnLine SC 311, *Sanuj Bathla v. Manu Maheshwari*, MANU/DE/3911/2021, and *Rajendra Sachdev v. A.C. Engineering Private Limited and Others*, MANU/DE/1175/2025.**

27. Learned counsel further contended that the mere allegation that the first defendant was a closely held family company did not justify disregarding its separate legal personality. According to learned counsel, the plaintiff had not pleaded specific acts of fraud or misuse of the corporate structure, nor adduced sufficient evidence to justify lifting the corporate veil. It was submitted that, in the absence of any personal guarantee, independent undertaking or proof of fraudulent conduct, defendants 3 to 8 were neither necessary nor proper parties to the suit. Reliance was also placed upon ***Sanjay Dutt and Others v. State of Haryana and Another*, Criminal Appeal No.11 of 2025**, concerning the absence of automatic vicarious liability of directors for the acts of a company. Learned counsel accordingly submitted that the suit was barred by limitation, that the plaintiff had failed to establish the outstanding liability, and that the individual defendants had been wrongly impleaded. On these grounds, dismissal of the suit with costs was sought.

https://www.mhc.tn.gov.in/judis

WEB COPY

Issue No.(i):

28. The plaintiff seeks recovery of Rs.5,18,74, 602/- towards the balance allegedly due for leather and leather products supplied to the first defendant company during the financial year 2013–2014. According to the plaintiff, a sum of Rs.8,75,71,447/- was outstanding as on 31.03.2014.

29. The plaintiff refers to a payment of Rs.75,00,000/- following the dishonour of a cheques dated 02.06.2014 for Rs.5,00,00,000/-. It also relies upon Ex.P4, the Memorandum of Understanding dated 09.11.2015, under which payment of Rs.4, 25,00,000/- was agreed to be made on or before 31.03.2016.

30. The subsequent receipts pleaded by the plaintiff are: (i) Rs.2,31,96,000/- by direct transfer to its bank account on 05.04.2016; (ii) Rs.25,00,008/- by way of a letter of credit on 22.04.2016; and (iii) Rs.25,00,670/- by way of a letter of credit discounted with its bankers on 01.07.2016. These three receipts aggregate to Rs.2, 81, 96,678/-. Together with the earlier payment of Rs.75,00,000/-, the aggregate is Rs.3,56,96,678/-. The defendant's dispute the subsequent payments relied upon to save limitation. The plaint was presented on 10.06.2019.

https://www.mhc.tn.gov.in/judis

WEB COPY

31. The execution of Ex.P4 is not in dispute. Even taking 31.03.2016, the agreed last date for payment under Ex.P4, as the starting point most favourable to the plaintiff for the present analysis, the three-year period would ordinarily have expired on 31.03.2019. The alleged receipts dated 05.04.2016 and 22.04.2016 would not, even if accepted as qualifying payments under Section 19 of the Limitation Act, 1963, carry limitation up to 10.06.2019. The alleged payment dated 01.07.2016 is, therefore, crucial to the plaintiff's plea that the suit is within time.

32. Where the plaintiff relies upon a disputed payment to obtain a fresh period of limitation, the burden lies upon it to establish the payment and the statutory conditions necessary to attract Section 19. The section requires payment on account of the relevant debt, before expiry of the prescribed period, by the person liable to pay it or by an agent duly authorised in that behalf. The proviso further requires an acknowledgment of the payment in the handwriting of, or in a writing signed by, the person making the payment. Receipt of money by the creditor, without proof of its character and attribution to the debtor, does not by itself establish compliance with these requirements.

33. To prove the alleged payment dated 01.07.2016, the plaintiff relies upon

https://www.mhc.tn.gov.in/judis

WEB COPY

Ex.P5, its ledger extracts relating to the periods 01.04.2015 to 30.03.2016 and 01.04.2016 to 31.03.2017. A ledger regularly maintained in the course of business is a book of account within the meaning of Section 34 of the Indian Evidence Act, 1872. Entries in such books are relevant to the matters under inquiry; however, the section expressly provides that those entries alone are insufficient to charge a person with liability. The plaintiff's unilateral accounting entry cannot, without supporting evidence, establish the disputed payment by the defendants on which the plea of limitation depends.

34. The two relevant entries in Ex.P5 dated 01.07.2016 are described as follows:

Particulars	Amount
Union Bank of India, A/c No.31047	Rs.24,15,580.00
L/C discounting charges	Rs.85,090.00
Total	Rs.25,00,670.00

35. The plaintiff having received net proceeds of Rs.24,15,580/- from its banker and having accounted for Rs.85,090/- as discounting charges. They do not, by themselves, establish that the defendants or their duly authorised agent paid the underlying debt on 01.07.2016.

https://www.mhc.tn.gov.in/judis

WEB COPY

36. The defendants have not admitted that any letter of credit was furnished at their instance in favour of the plaintiff. The existence of the alleged letter of credit and its connection with the first defendant and the suit debt therefore required proof. The material averment in the plaint reads: **"10. c) Rs.25, 00,670/- by way of letter of credit that was discounted by the plaintiff with its bankers on 1/7/2016".** This averment is the plaintiff's assertion and cannot be treated as an admission by the defendants. The expression "its bankers" refers to the plaintiff's bankers. Even assuming that the alleged discounting took place, it must be distinguished from payment by the defendants or the issuing bank's subsequent honour or settlement of the bill on maturity.

37. The plaintiff's banker does not become the defendants' duly authorised agent merely because it discounts a bill covered by a letter of credit. An advance made by that banker to the plaintiff cannot, without further evidence of the underlying arrangement, be treated as payment by the defendants for the purposes of Section 19. Equally, whether the issuing bank subsequently honoured the letter of credit, when it did so, and whether such payment satisfies Section 19 are matters requiring proof. The discounting date cannot automatically be substituted for the date of a qualifying payment by the debtor or its authorised agent.

https://www.mhc.tn.gov.in/judis

WEB COPY

38. The plaintiff has not produced its bank statement, the alleged letter of credit, the discounting advice, or records establishing the issuing bank's honour or settlement of the bill. Nor has it produced other independent evidence establishing that the alleged letter of credit was issued at the first defendant's instance towards the suit debt, or connecting the receipt dated 01.07.2016 with a payment by the defendants or an agent duly authorised by them. In the face of the defendants' denial, neither the furnishing of the alleged letter of credit at their instance nor a qualifying payment on 01.07.2016 has been established by the ledger entries and the plaint averment alone. The finding is, therefore, one of failure of proof; it is not a proposition that payment through a letter-of-credit arrangement can never attract Section 19.

39. The plaintiff has quantified its claim by reference to an outstanding amount and the specific receipts pleaded against it. The mere maintenance of a ledger, or the recording of successive credits in it, does not establish a mutual, open and current account attracting a different rule of limitation. No such basis for extending limitation has been established on the materials relied upon.

40. The plaintiff further contends that Applications Nos.617 and 131 of 2020,

https://www.mhc.tn.gov.in/judis

WEB COPY

filed by the 2nd, 3rd, 5th 6th and 7th defendants under Order XIII-A Rule 3 of the Code of Civil Procedure seeking summary judgment on the ground of limitation, were dismissed on 17.02.2020, and that the issue is consequently barred by res judicata.

41. A determination finally made at an earlier stage may bind the parties at a subsequent stage of the same suit. The effect of the earlier order, however, depends upon what was actually decided. As recorded in paragraph 8 of the order dated 17.02.2020, the question of limitation was treated as a mixed question of fact and law requiring trial, and summary judgment was refused on that basis. The order did not finally determine that the suit was within limitation or that the alleged payment dated 01.07.2016 stood proved.

42. The distinction is material. Order XIII-A permits disposal without recording oral evidence where its prescribed conditions are satisfied. Refusal to adopt that procedure because disputed facts require trial does not preclude determination of those facts after evidence has been recorded. The earlier order left the issue of limitation open for adjudication at trial. Accordingly, the dismissal of Applications Nos.617 and 131 of 2020 does not operate as res judicata against the present determination.

https://www.mhc.tn.gov.in/judis

WEB COPY

43. Upon consideration of the pleadings and the evidence, this Court finds that the plaintiff has failed to establish a payment dated 01.07.2016 by the defendants or their duly authorised agent satisfying Section 19 of the Limitation Act, 1963. No other subsequent acknowledgment or qualifying payment capable of carrying limitation up to the date of presentation of the plaint has been proved. Even on the computation most favourable to the plaintiff discussed above, the plaint presented on 10.06.2019 is beyond the prescribed period. The suit is, therefore, barred by limitation. Issue No.1 is answered against the plaintiff.

Issue No. (ii):

44. The plaintiff, a partnership firm registered with the Registrar of Firms, supplied leather and leather products to the first defendant company. The remaining defendants have been impleaded as directors of the company or as the legal representative of a deceased director. The plaintiff seeks a decree against defendants 2 to 7 in their individual capacities also.

45. According to the plaintiff, defendants 2 to 7 belong to the same family and exercise effective control over the affairs of the first defendant company. It

https://www.mhc.tn.gov.in/judis

WEB COPY

is alleged that they used the company as a vehicle to defraud the plaintiff and obtained substantial loans from the plaintiff's group companies. On these grounds, the plaintiff seeks the lifting of the corporate veil and the imposition of personal liability upon defendants 2 to 7.

46. A company incorporated under the Companies Act is a legal entity distinct from its shareholders and directors. Its contractual obligations do not ordinarily become the personal obligations of those who own or manage it. This principle is recognised in ***Salomon v. A. Salomon & Co. Ltd.*, [1897] AC 22**. The fact that the directors are members of the same family, or exercise effective control over the company, does not, by itself, deprive the company of its separate legal personality.

47. The doctrine of lifting the corporate veil is an exception to this principle. Its application is not confined to proceedings concerning oppression and mismanagement. In an appropriate case, the Court may disregard the company's separate personality where the corporate structure is shown to have been used as a façade for fraud or to evade an existing legal obligation. Nevertheless, mere control over the company, an allegation of fraud, or default in payment does not, without supporting material, justify imposing the company's liability upon its directors.

https://www.mhc.tn.gov.in/judis

WEB COPY

48. In the present case, the supplies forming the subject matter of the suit were made to the first defendant company. The plaintiff has not established that any of the individual defendants purchased the goods in a personal capacity, guaranteed payment of the company's dues, or otherwise undertook personal liability for the suit debt. Nor has the plaintiff established, through specific pleadings and cogent evidence, any fraudulent conduct attributable to the individual defendants that would justify lifting the corporate veil.

49. The general allegation that the defendants obtained loans from the plaintiff's group companies does not, without proof of its connection with the suit transactions and the alleged misuse of the corporate structure, establish personal liability for the price of goods supplied to the first defendant company. Likewise, the legal representative of a deceased director cannot be made personally liable merely by reason of that relationship. Any claim against the deceased director's estate would first require proof of an enforceable personal liability incurred by that director.

50. Accordingly, no basis has been established for imposing personal liability upon defendants 2 to 7 and consequently, against the 8th defendant, who is the legal representative of the 4th defendant. Insofar as the present issue specifically concerns defendants 3 and 5 to 7, their presence is unnecessary for the effective

https://www.mhc.tn.gov.in/judis

WEB COPY

and complete adjudication of the claim arising from the supplies made to the first defendant company. They are, therefore, neither necessary nor proper parties to that claim.

51. However, under Order I Rule 9 of the Code of Civil Procedure, misjoinder of parties does not, by itself, defeat the suit against the first defendant company. Issue No. II is answered accordingly.

Issue Nos. (iii) and (iv):

52. These issues are considered together. In view of the finding on Issue No. I that the suit is barred by limitation, the plaintiff is not entitled to recover the suit amount from the first defendant company. Further, for the reasons stated under Issue No. II, the plaintiff has not established any independent personal liability on the part of defendants 2 to 8. Consequently, the prayer for a joint and several decree against all the defendants cannot be granted. Issue Nos. III and IV are answered against the plaintiff.

53. In the result, the suit is dismissed with costs**.**

26-10-2026

https://www.mhc.tn.gov.in/judis

WEB COPY

GSA

List of witnesses examined on the side of the plaintiff:

P.W.1 – Mr.A.B.Mouinuddin

List of documents marked on the side of the plaintiff:

Ex.P1	Series of 5 photocopies of cheques (The learned counsel for the plaintiff has stated that explanation has been given in the plaint why they have not marked original cheques, for which the learned counsel for the defendant has not raised any objection, but objected with regard to photocopy).
Ex.P2	Office copy of the legal notice issued to the defendant dated 24.04.2015.
Ex.P3	Copy of the reply notice dated 14.05.2015.
Ex.P4	Memorandum of Understanding dated 09.11.2015.
Ex.P5	Statement of Accounts for the period 2015 to 01.07.2016.

List of Witnesses examined on the side of the defendants:

D.W.1 – Mr.Hafeezur Rahman

List of Documents marked on the side of the defendants:

Ex.D1	Form 7 Appendix C notice to produce dated 22.12.2023.
Ex.D2	Original reply to notice to produce documents dated 02.01.2024
Ex.D3	Board Resolution dated 27.09.2024.

26.10.2026

GSA

https://www.mhc.tn.gov.in/judis

WEB COPY

Order QR

DR.A.D.MARIA CLETE, J.

GSA

PRE-DELIVERY ORDER MADE IN
CS No. 497 of 2019

26-10-2026

https://www.mhc.tn.gov.in/judis