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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 24-08-2026

Pronounced on : -09-2026

CORAM:

THE HON'BLE MR JUSTICE P. VELMURUGAN

AND

THE HON'BLE MR.JUSTICE GK.MUTHUKUMAAR

APPEAL(CAD) No. 20 of 2023
and C.M.P.Nos.6075 of 2024 and 27523 of 2025

F.N.Durai
Proprietor of M/S.Cliff India Corporation,
S/o.Nachimuthu Gounder,
Having office at No.26, N.G.R.Nagar,
K.P.N.Colony Extension,
Tirupur 641 601

..Appellant / Defendant

Vs

M/s.Jayavarma Textiles Private Limited
Rep.by its Manager /P/A.Holder, P.Ulaganathan,
S/o.Periyasamy Gounder, having office at No.105,
S.F.No.237/1,
239/2, 240/2C Sakthi nagar (North),
P.N.Road, pooluvapatti post, Tirupur - 641 602.

..Respondent / Plaintiff

Appeal is filed under Section 13 of Commercial Court Act to set aside the judgment and Decree of the learned Principal District Judge of Tirupur, made in COS.No.69 of 2022 dated 04.03.2023 and allow the appeal.

For Appellant	:	Mr. T.Srikrishna Bhagavat for Mr.P.Subba Reddy
For Respondent(s):		Mr.V.P.Sengottuvel Senior Counsel for Mr.K.R. Nishanth

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JUDGMENT

(Judgment of the Court was delivered by P.Velmurugan J.)

This appeal is filed challenging the judgment and decree of the learned Principal District Judge of Tirupur, made in C.O.S.No.69 of 2022 dated 04.03.2023.

2. ***The facts pleaded in the plaint in brief:***

The plaintiff is a Private Limited company duly represented by its Manager, power of attorney holder P.Ulaganathan. The plaintiff company is engaged in the business of manufacturing, stock and sale of 100% cotton knitted grey fabrics. The defendant is a proprietorship concern of "Cliff India Corporation" which is engaged in the business of manufacturing, stock and sale of hosiery garments. The defendant had purchased 100% Cotton Knitted Grey Fabrics from the plaintiff for a period between 10.03.2017 and 28.04.2017 and as per the books of account maintained by the plaintiff, the defendant is liable to pay a sum of Rs.58,06,320/- to the plaintiff. In this regard, 15 numbers of invoices are produced as plaint documents. In order to pay the said amount, the defendant had issued cheques bearing Nos.204806, 204807, 204811, 204808 and 204810, dated 11.08.2017, for a total sum of Rs.54,54,000/-. When these cheques were presented for collection, the same were returned for the reason "Insufficient funds". Hence, the plaintiff had issued a legal notice to the

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defendant under Section 138 of the Negotiable Instruments Act and also filed two criminal complaints before the learned Judicial Magistrate No.III, Tirupur in C.C.Nos.29 & 30 of 2018 and the same was renumbered as STC Nos.2787 and 3693 of 2019. Despite the complaints, the plaintiff repeatedly urged the defendant to pay the due amount. Since the defendant failed and neglected to pay the amount due, the plaintiff has filed the present suit.

3. ***The averments made in the written statement filed by the defendant in brief:***

The suit filed by the plaintiff is false, frivolous, vexatious, unsustainable both in law and on facts. The power of attorney dated 28.11.2019 executed in favour of Ulaganathan is not lawful, legal and non-est in law. The allegations that the defendant purchased fabrics from the plaintiff and he is liable to pay a sum of Rs.58,06,320/-, are false. The alleged statement of account filed by the plaintiff is fabricated falsely for the purpose of launching the present claim. The cheques were not issued towards any subsisting debt or liability, but issued as a security at the inception of transaction and the cheques were not supported by legally enforceable debt. There was no trade usage or custom prevailing in Tiruppur to pay 18% p.a. interest on the amount due. The defendant is engaged in the business of manufacturing and export of garment in the name and style of "M/s.Indus Clothing Corporation" in which the defendant is a partner.

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3.1 The defendant received export order from M/s.Jan Tex Limited and he placed the purchase order to the plaintiff for supply of 48,040 kgs of fabric for a sum of Rs.97,82,640/-. Though the plaintiff consented to supply necessary fabrics, he has not completed the delivery in time and supplied only yarns instead of fabrics. The delivery of yarns was made in 17 rounds commencing from 09.02.2017 to 31.03.2017. The delayed supply and delivery of yarns instead of fabrics caused a lot of troubles to the defendant in completing the orders in time. Through a mail dated 27.03.2017, the defendant has communicated the troubles and financial losses caused by the plaintiff to the defendant. The plaintiff has supplied the yarns to the defendant's another concern M/s.Indus Clothing Corporation. In fact, the said Indus Clothing Corporation does not own any knitting division for conversion of yarn to fabrics. The said Indus clothing corporation has not raised any knitting charges, invoices or received yarns from the plaintiff, however, the plaintiff had forged documents against the defendant and raised a false claim against the defendant.

3.2 The plaintiff has not only supplied yarns instead of fabrics with undue delay but also supplied poor and sub-standard quality of yarns, which caused the defendant a huge loss i.e. 60% from invoice face value of the export order manufactured with the yarns supplied by the plaintiff. Due to the delayed supply of substandard / poor quality of yarns by the plaintiff, the defendant's buyer has refused to clear the bills dues to the defendant and due to which the defendant

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has suffered a huge loss and damages in the said export order.

3.3 Being aware of all these facts, the plaintiff forced and compelled the defendant to make payment of the outstanding dues. Due to the ruckus created by the plaintiff on 04.10.2017, the defendant had filed a Civil Suit against the plaintiff in O.S.No.363/2017 and others from in any manner disturbing the defendant. Despite filing of the suit, the plaintiff has sent their menials on 02.02.2018 and to dispossess the machinery of the defendant kept in his factory premises and the said menials had also abused and threatened the plaintiff with dire consequences. In this regard, the Manager of the defendant had lodged a complaint against the plaintiff before the Tirupur North Police Station and thereafter, a complaint was filed before the learned Judicial Magistrate No.1, Tiruppur under Section 156(3) Cr.P.C. and the same got registered in Cr.No.689/2018 before the Tiruppur North Police Station. There is no legally enforceable debt liable to be paid by the defendant to the plaintiff. The claim of the plaintiff is not only unlawful but also unfair and unjust. Hence, the suit has to be dismissed.

4. Based on the above pleadings, the trial Court has framed the following issues:

i) Whether the power of attorney in favour of the plaintiff is valid ?

ii) Whether the suit cheques were issued towards subsisting debt or

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liability as security ?

iii) Whether there is any agreement that the defendant is liable to pay interest at 18% per annum ?

iv) Whether it is true that the plaintiff has supplied yarns instead of fabrics?

v) Whether it is true that the yarns supplied are poor and substandard quality as alleged by the defendant ?

vi) Whether the plaintiff is entitled for the suit claim as prayed for ?

vii) To what other reliefs ?"

5. In order to prove the case, the plaintiff has examined two witnesses namely P.W.1 and P.W.2 and marked Exs.A1 to A17. On the side of the defendant two witnesses were examined namely D.W.1 and D.W.2 and Exs.B1 to B3 were marked.

6. Considering the oral and documentary evidence produced on either side and also considering the facts and circumstance of the case, the learned trial Judge decreed the suit in favour of the plaintiff and directed the defendant to pay a sum of Rs.87,99,563/- together with interest at 18% per annum on the principal sum of Rs.58,06,320/- from the date of the suit till the date of realization of payment. Aggrieved over the said order, the defendant has preferred the present appeal.

7. The learned counsel for the appellant / defendant would submit that the respondent / plaintiff has not proved his case by producing any material

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documents to show that the appellant / defendant ordered for supply of yarns. Actually, the appellant placed the order only for supply of fabrics and not yarns. Instead of supplying the fabrics, the respondent supplied only yarns and that too of a poor and sub-standard quality. The defendant had also paid the said amount for the supply of yarns. Further, the learned counsel for the appellant would submit that the appellant company did not have any facility to convert the yarns into fabrics. Therefore, the supply of yarn itself is frivolous and the same is not acceptable. No acknowledgement was obtained by the respondent / plaintiff to prove that he supplied fabrics and even the invoices relied on by the respondent are false and fabricated one. There is no acknowledgement of the receipt of fabrics in the invoices and the column mentioned as “Acknowledgement of yarns” in the invoices is blank. When the respondent filed a suit for recovery based on the invoices, it is for the respondent, as a plaintiff, to prove the case for supply of goods on his own strength. He cannot take advantage of the loop holes left by the appellant / defendant.

7.1 It is further submitted by the learned counsel for the appellant / defendant that in an earlier proceedings, by mistake, the appellant has admitted the supply of fabrics. However, in the present suit, it is incumbent upon the respondent to prove that the goods were supplied to and duly acknowledged by the appellant, and that the payment for the same remains outstanding. The documents relied on by the respondent are not sufficient to decree the suit. The

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learned Trial Judge, based on the admission said to have been made in the earlier proceedings, decreed the suit without any substance in the present suit. Further, the cheques were issued for security purpose and not for any payment of legally enforceable debt. The respondent failed to prove his case and therefore, the judgment and decree passed by the trial Court is liable to be set side.

8. The learned Senior Counsel for the respondent / plaintiff would submit that the appellant admitted the transaction made between the appellant and the respondent. The appellant had issued cheques and when the same were presented, it got dishonoured and cheques were returned to the respondent as "insufficient funds. In this regard, the respondent had made complaints under Section 138 of the Negotiable Instruments Act before the Judicial Magistrate, Tirupur and the learned trial Judge had convicted the appellant herein to undergo Simple Imprisonment for a period of one year and to pay the total cheque amount. Hence, the order passed by the learned Trial Court requires no interference. When the respondent filed a suit for recovery and based on the pleadings and oral documentary evidence, the trial Court appreciated both the oral and documentary evidence and rightly decreed the suit. There is no merit in the appeal and the same is liable to be dismissed.

9. Heard both sides and perused the materials available on record.

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10. The case of the respondent / plaintiff is that he supplied knitted fabric to the defendant and in return, the defendant had issued cheques and the said cheques were dishonoured. The respondent had instituted a criminal case before the Fast Track Judicial Magistrate and the trial Judge had convicted the appellant which proves the liability of the appellant. The case of the appellant / defendant is that instead of supplying fabrics, the respondent has supplied yarns that too of a sub-standard quality material and hence the appellant is not liable to pay any amount as claimed by the respondent. Conviction in the criminal complaint is not a proof for supply of fabrics.

11. Considering the above, the points for consideration in this appeal are as follows:

(i) Whether the appellant has discharged his onus that the respondent had not supplied the fabrics despite the admission made in the earlier proceedings ?

(ii) Whether the judgment and decree passed by the trial Court is liable to be set aside ?

12. Admittedly, there is a business transaction between the appellant and the respondent. The case of the respondent is that though he had supplied fabrics, the appellant failed to pay the due amount. The appellant had filed an earlier suit against the respondent in O.S.No.363 of 2017 for permanent

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injunction in which he had admitted that due to financial crisis the appellant was unable to pay the dues to the respondent. The said suit was dismissed. Subsequently, the respondent herein filed the present suit in COS No.69/2022 for recovery. In order to substantiate his case, the respondent / plaintiff has examined two witnesses namely P.W.1 and P.W.2 and marked Exs.A1 to A17. On the side of the appellant / defendant two witnesses were examined namely D.W.1 and D.W.2 and Exs.B1 to B3 were marked.

13. The learned Single Judge relying on the documents Exs.A17 (Certified copy of Original Suit No.363/2017) and A10 (Private notice in O.S.No.363/2017), held that once the appellant had admitted in writing that he is liable to pay the dues to the respondent, now he cannot turn around and contend there was no due and he is not liable to pay the amount. Once, in an earlier proceedings, the appellant had admitted that there was a business transaction between him and the respondent herein and there was a due in paying the amount, it is for the appellant to prove that subsequently he has repaid or discharged the liability. Though the appellant had now stated that he had hurriedly made such pleadings, it is for him to establish the same.

14. In the earlier proceedings, the appellant had stated that he is dealing in hosiery garments export business in the name and style "Cliff India Corporation" as a Proprietor and the respondent herein is a yarn supplier to the

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appellant for the past two years and get the yawns for production of hosiery garments to export his garments at various companies and also issued cheques. The learned Trial judge appreciated the said evidence and observed that the appellant has made an admission in the earlier proceedings that the respondent had supplied the yarns and due to resistance in the textile markers, due to some delay in payment by their customers and also due to his ill health, the appellant could not concentrate in his business and could not pay the amount due to the respondent in time.

15. The learned counsel for the appellant / defendant would contend that the respondent had only supplied yarns and not fabrics to the defendant's another concern M/s.Indus Clothing Corporation which does not own any knitting division for conversion of yarn to fabrics. But no materials are produced by the appellant to prove the same. In the absence of any materials to prove his contention that the respondent did not supply any fabrics, the same cannot be accepted. Admittedly, in the earlier proceedings the appellant had admitted the business transaction between the respondent and the appellant and the appellant has some dues to pay the respondent.

16. In one of the contention of the appellant it is stated that the yarns supplied by the respondent are of sub-standard quality and the appellant had reprocessed the fabrics and supplied to his buyers and since the buyers have

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refused to clear their dues, the appellant had suffered a huge loss. In order to substantiate this claim, the appellant has not examined any of his customers or buyers. Thus, the appellant has failed to discharge his onus that the respondent has supplied only substandard quality of yarns and the learned Trial Judge has rightly decreed the suit. Accordingly, Issue Nos.1 & 2 are answered in favour of the respondent.

17. The learned Senior Counsel for the respondent has produced the judgment of the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Tirupur dated 29.06.2026 made in STC Nos.3693 & 2787 of 2019 and submitted that the appellant was convicted for the offence under Section 138 of the Negotiable Instruments Act. However, the scope and object of the proceedings under Section 138 of the Negotiable Instruments Act is limited as to whether the cheque has been issued to discharge the legally enforceable debt. The findings in the Criminal Court will not bind the proceedings before the Civil Court. Before the Civil Court, the parties have to plead and prove independently. Whereas, in this case, in the suit filed by the appellant in O.S.No.363/2017, the appellant has admitted the transaction and also admitted the non-payment of dues. That being the case, the appellant has to prove that subsequent to that pleadings and proceedings, he had discharged the liability by making payment. However, to substantiate the same, no materials were produced by the appellant. Through oral and documentary evidence, the

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respondent has proved his case and the preponderance of probability lies in favour of the respondent.

18. Considering the pleadings, oral and documentary evidence and also the admission made by the appellant in the earlier pleadings and also in the present suit, this Court by re-appreciating the evidence, does not find any perversity in the appreciation of evidence by the trial Court and there is no reason for interference and the same is confirmed. As far as the interest imposed by the trial Court in concerned, though the trial court has granted 18% interest from the date of plaint till the date of realisation, this Court after considering the facts and circumstances of the case, modifies the interest from 18% to 12% from the date of the plaint till the date of realisation.

19. To the extent indicated above, the appeal is partly allowed. No costs. Connected miscellaneous petitions are closed.

(P.V.,J.) **(G.K.M.,J.)**
-09-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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P.VELMURUGAN, J.
AND
GK.MUTHUKUMAAR, J.

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Pre-delivery judgment made in
APPEAL(CAD) No. 20 of 2023

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