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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 1st April, 2026

Uploaded on: 6th April, 2026

+ **RFA(COMM) 406/2025 & CM APPL. 44328/2025, CM APPL. 49416/2025, CM APPL. 62547/2025**

R.K ELECTRICAL INDUSTRIES INDIA PVT. LTD. AND ORS

.....Appellants

Through: Mr. Rajat Aneja, Mr. Karan Deep Singh and Mr. Rishabh Mishra, Advs.

versus

M/S RISHABH INDUSTRIES

.....Respondent

Through: Mr. Vijay Kumar Gupta and Mr. Mehul Gupta, Advs.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present appeal under Section 96 of the Civil Procedure Code, 1908 arises out of the impugned judgment and decree dated 6th March, 2025 passed by the Id. District Judge (Commercial), Tis Hazari, Delhi by which the suit of the Respondent/Plaintiff, being *CS(Comm.) No. 76/2023*, has been decreed under Order 12 Rule 6 CPC, against the Appellant/Defendant in the following terms:

“31. Accordingly, the suit of the plaintiff is decreed in favour of the plaintiff and against defendant no. 1 only, under order 12 rule 6 CPC for outstanding amount of Rs. 1,08,30,382/- (including principal amount of Rs. 60,02,225/- and interest of Rs. 48,28,157/- @ 18% per annum till 29-09-2022) along with interest @ 18% per annum w.e.t'. 30-09-2022 till



realization along with costs of the suit.”

3. The case of the Appellant is that there were two connected suits that were filed before the same Court, details whereof are as under:

(i) ***CS (Comm.) No. 76/2023*** titled ***M/s. Rishabh Industries v. M/s R. K. Electrical Industries (India) Pvt. Ltd. & Anr.***

(ii) ***CS (Comm.) No. 433/2023*** titled ***M/s RK Electrical Industries India Pvt Ltd v. M/s Bhavya Electrical & Ors.***

4. According to the Appellant, these two suits relate to supplies of “Kalinga” branded cables and other products by and on behalf of the Appellant to one M/s. Bhavya Electricals, which is stated to be the distributor of the Appellant. The said products were manufactured by the Respondent. It is also stated that M/s. Bhavya Electricals had been introduced to the Appellant by the Respondent, and that M/s. Bhavya Electricals owed a substantial amount of money, approximately Rs. 60 lakh, to the Appellant/Defendant.

5. Accordingly, Mr. Rajesh Jain, partner in the Respondent - M/s. Rishabh Enterprises, and Ms. Anshoo Kohli, authorized representative of the Appellant, had entered into a Memorandum of Understanding dated 30th August, 2020, whereby the parties agreed to certain terms in respect of their business dealings and recovery of the amounts payable by M/s. Bhavya Electricals to the Appellant.

6. It is stated that despite the above Memorandum of Understanding the Respondent filed the subject suit *i.e.*, ***CS (Comm.) No. 76/2023***, seeking, *inter alia*, recovery of Rs, 1,08,30,382, including the pre-suit interest @ 18% *per annum* on the principal amount of Rs, 60,02 ,225/- till 29th September, 2022.

7. Thereafter, the Appellant also filed ***CS (Comm.) No. 433/2023*** against M/s. Bhavya Electricals as also the Respondent herein, seeking recovery of



its dues towards the goods supplied by the Appellant to M/s. Bhavya Electricals. It is stated that both the suits are dependent on the Memorandum of Understanding entered into between the parties herein, since the dues payable by the Appellant were to be set off against the dues of M/s. Bhavya Electricals due to the Appellant.

8. However, while the suit filed by the Appellant continues to remain pending before the same Court, the subject suit has been decreed further to an application under Order XII Rule 6, CPC filed by the Respondent.

9. It is the further submission of the Id. Counsel for the Appellant that the case was not one where there was any admission by the Appellant for decreeing the subject suit under Order XII Rule 6, CPC. It is submitted that both suits ought to have been adjudicated together.

10. On the first date when the appeal was listed, *vide* order dated 24th July, 2025, the Court had directed as under:

“9. The Court has considered the matter. The decree is a money decree against the Appellant/Defendant. The execution proceedings have already been filed and warrants of attachment are also stated to have been issued. The next hearing is stated to be coming up on 8th August 2025.

10. Under such circumstances, since this is the first appeal raising an issue on merits which deserves consideration, issue notice in the appeal as also in the applications seeking stay and condonation of delay in filing the appeal. The Respondent/ Plaintiff be served through normal process as also through Counsel who has filed the execution proceedings.

11. Subject to the Appellant/Defendant depositing a sum of Rs.40,00,000/- with the Worthy Registrar General of this Court on or before 15th September 2025, the warrants of attachment shall remain stayed and the execution proceedings shall be



adjourned to a future date.

12. Let the Trial Court record in both the above cases be requisitioned, digitized and placed on record before the next date of hearing.”

11. As can be seen from the above, the Appellant was directed to deposit a sum of Rs. 40 lakhs with the worthy Registrar General, which has now been deposited and the same is lying in an interest-bearing account.

12. Thereafter, the matter was also referred to mediation, however, the mediation did not result in resolution of the dispute between the parties. In the meantime, the Court had called for the TCR of both the subject suits.

13. An application was also moved by the Respondent seeking release of an amount of Rs. 40 lakhs.

14. The Court had heard some submissions on 9th December, 2025 and after considering the allegation of the Appellant that there is a back to back arrangement between the Appellant, Respondent and M/s Bhavya Electricals, the Court had directed Mr. Rajesh Jain, authorised representative of the Respondent to be present.

15. In addition, it was directed that the Appellant would produce the original Memorandum of Understanding dated 30th August, 2020 relied upon by the Appellant.

16. It is the submission of Mr. Gupta on behalf of the Respondent that the written statement would show that apart from setting up the MoU, there is no denial by the Plaintiff that the goods had in fact been supplied by the Respondent. According to Mr. Gupta explicit admission need not be there so long as the written statement fails to show any plausible defence.

17. Heard. Mr. Rajesh Jain is present today. The original Memorandum of Understanding has been produced. The Court has also pursued the pleadings



in respect of the subject suit.

18. The case of the Respondent/Plaintiff in the subject suit is that there was supply of goods to the Appellant/Defendant in respect of which some part payments were also made by the Appellant. It is stated that after consideration of the part payments, a balance of Rs. 1,78,37,624/- was remaining, in respect of which 13 cheques were issued. Thereafter, certain payments were made, however finally there was a balance of Rs. 60 Lakhs that was remaining. The subject suit was accordingly filed seeking a sum of Rs. 1,08,30,382.70/- which included the interest component as well.

19. In the written statement, the plea of the Appellant is that there is a back to back arrangement between M/s. Bhavya Industries with whom the Respondent was also connected. In respect thereof, reliance is placed on the Memorandum of Understanding dated 30th August, 2020 that was signed by Mr. Rajesh Jain, where certain adjustments towards the dues of M/s. Bhavya Industries to the Appellant were also agreed upon by Mr. Rajesh Jain. The said MoU has been perused and the pleadings have also been perused.

20. The main emphasis of the Respondent/Plaintiff is on paragraphs 7 and 14 of the plaint in response to which the written statement reads as under:

Stand of the Respondent/Plaintiff:

“7. That Defendant no, 1 to 3 made various part payments 'on account' in the said running mutual account from time to time to the Plaintiff in respect of the said account. On appropriating the said part payments in the course of its business/transaction, a balance principal sum of Rs. 1,78,37,624 (Rs. One Crore Seventy Eight Lacs Thirty Seven Thousand Six Hundred Twenty Four only) was due and payable by the Defendants as on 22.04.2021 towards the supply of said goods; by Plaintiff to Defendants. There was no further transaction done



after 22.04.2021 between the parties.

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14. That after the said legal notice & pre suit mediation Defendants have made various part payments from 01.05.2021 till 29 .09 .2022 as shown in the account maintained by the Plaintiff in ordinary course of its business, leaving a balance principal sum of Rs . 60,0 2,225.70 besides accrued interest as on 29.09.2022. No further payments have been made by the Defendants till date. The total outstanding dues of Rs. 1,08,30,382.70/- (One Crore Eight Lac thirty Thousand Three Hundred Eighty Two and Seventy paisa only) including principal and interest @ 18% p.a..”

Stand of the Appellant/Defendant:

“7. That the content of para 7 are wrong false and denied and vehemently denied. That the facts of defendant no- 1 made various part-payments on said account from time to time to the plaintiff after the MOU become back to-back payment only after minor arrangement as more dues from Bhavya to be recovered. that the actual fact is that M/s Bhavya Electrical by making a direct dealing with the plaintiff caused huge financial loss by holding the outstanding payments of the defendant with malafide intentions. Defendant no- 1 filed a separate suit and notice against the Bhavya Electrical and Rishabh Industries for recovery of amount Rs 1 Crore 14 lacs from M/s Bhavya Electricals & the plaintiff in which the plaintiff is also a party. It is denied that no further transactions done with D1 after 22/04/2021.

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12. That the content of Para (12) are specifically wrong and denied, that the Rishabh Industries trying to mislead the d court and defendant and also



pressurised the Defendant's for the recovery of above said amount which is not due. In spite of this, there was one MOU has been signed between Mr. Rajesh and D1 where some amount of Rupees has to give each other and also mentioned that in future case in any dispute raised that above amount will be adjusted at a prior notice of three months. And during the notice period transaction of goods not to be stopped by the party. That the said legal notice become stale and illegal.”

21. In light of the pleadings, the following issues were framed in the suit on 9th October, 2023:

- “1. Whether the plaintiff is entitled to recovery of Rs.1,08,30,382.70 along with interest from the defendant as alleged? OPP*
- 2. Whether the suit is not maintainable? OPD*
- 3. Whether suit is bad for mis-joinder of necessary parties? OPD*
- 4. Whether the suit has no.1 been filed by proper Authorized Representative as per law? OPD*
- 5. Whether the suit is not maintainable in view of MOU executed between the AR of the parties as alleged? OPD*
- 6. Relief.”*

22. Thereafter, at the stage of evidence, the application under Order XII Rule 6 of CPC was moved by the Respondent/Plaintiff which led to the impugned decree being passed.

23. The clear and unequivocal position of law under Order XII Rule 6 of CPC is that there has to be an express or implied admission by the defendant of the liability.

24. As can be seen from pleadings extracted above, there is no admission which could have been held against the Appellant/Defendant. In fact, there is not even an implied admission in the written statement. The clear case of the



Appellant was that in terms of the MoU responsibility was taken by the Respondent/Plaintiff to clear the dues of M/s. Bhavya Electricals. Hence, the amount was not owed by the Appellant to the Respondent. There is a reference made to the MoU in the impugned decree, however, the Id. District Judge proceeds to hold that the liability of M/s. Bhavya Electricals cannot be imposed upon the Respondent/Plaintiff, and hence, the decree would be liable to be granted.

25. In the opinion of this Court, Mr. Rajesh Jain, who is present today admits his signatures on the MoU. The manner in which the MoU is worded is as per trade customs, where the MoU is written in short sentences and certain adjustments qua M/s. Bhavya Electricals appear to be mentioned in this MoU between Mr. Rajesh Jain and the Appellant.

26. The question as to whether the liability of M/s. Bhavya Electricals towards the Appellant can be imposed upon the Respondent or not would be a question of trial. The sentences in the MoU would have to be properly interpreted and oral evidence would be required. In fact, when the issues were framed and one of the issues related to the MoU itself, the invoking of Order 12 Rule 6 CPC to pass a decree on admissions, was unwarranted – that too when the defence which was set up in the written statement was far from an admission.

27. In the opinion of this Court the grant of decree on admissions, in these facts, is not tenable. Accordingly, the impugned judgement and decree is set aside.

28. It is directed that the subject suit *i.e.*, **CS (Comm.) No. 76/2023** and the suit filed by the Appellant against M/s. Bhavya Electricals being suit no. **CS (Comm.) No. 433/2023** shall be heard and adjudicated together.

29. The following are the details of both the suits.



- (i) *CS (Comm.) No. 76/2023* titled *Rishabh Industries v. M/s R. K. Electrical Industries (India) Pvt. Ltd. & Anr.* and
- (ii) *CS (Comm.) No. 433/2023* titled *M/s RK Electrical Industries India Pvt Ltd v. M/s Bhavya Electrical & Ors.*

30. The Court is informed that in the other suit, *i.e. CS (Comm.) No. 433/2023*, the matter is at the stage of final arguments.

31. Let the trial in *CS (Comm.) No. 76/2023* be concluded within a period of three months before the same Court and the ld. District Judge, Commercial Court shall hear both the suits together and adjudicate them together finally.

32. The amount of Rs. 40 lakhs which is lying deposited with the worthy Registrar General shall continue to remain deposited and retained in a FDR. Once the judgment is pronounced in the two suits, parties would be free to move an appropriate application in this regard for appropriate orders.

33. List before the Trial Court on 16th April, 2026.

34. If the physical TCR had been requisitioned, let the same be returned to the Trial Court.

35. The original MoU is returned to the Appellant.

36. The appeal is disposed of in the above terms. Pending applications, if any, also stand disposed of.

**PRATHIBA M. SINGH
JUDGE**

**MADHU JAIN
JUDGE**

APRIL 1, 2026/ys/msh