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

\# **CNR No. DLHC010091512026**

RESERVED ON: 29th October, 2026.
DATE OF DECISION: 26th November, 2026
UPLOADED ON: 26th November, 2026

\+ **RFA(COMM) 139/2026**

UMA SHANKAR BHATT-PROPRIETOR
SAM LOGISTICS .....Appellant

Through: Mr. Nitin Kumar Upadhyay, Advocate

versus

THREE ACES GLOBAL LOGISTICS
PRIVATE LIMITED .....Respondent

Through: Mr. Uday Kumar, Advocate

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE DINESH BHATT

DINESH BHATT, J.

1. This is a regular first appeal filed under Section 13(IA) of the Commercial Courts Act, 2015 read with Section 96 and Order XLI Rule 1 of the Code of Civil Procedure, 1908 by the Appellant/Defendant challenging the impugned judgment and decree dated 28th November, 2025 passed by the ld. District Judge (Commercial Court), Saket Courts, by which a decree has been passed against the Appellant/Defendant in the following terms:

> ***"50.Issue No.5. Relief:-In result, in view of the aforenoted findings, a decree is hereby passed in***

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favour of plaintiff and against the defendant in the sum of Rs.9,47,918/alongwith interest @ 10% from the dates of bills till the actual payments are made by the defendant. The plaintiff is also awarded costs of Rs.27,435/- (inclusive of Court fees). Suit accordingly stands decreed in favour of plaintiff. Decree sheet be prepared accordingly.

File be consigned to record room after due compliance."

2. The Appellant/Defendant has challenged the impugned judgment on the grounds, that the decree is based on inadmissible evidence and has not been duly proved. It is further contended that the ld. Trial Court erred in shifting the burden of proof onto the Appellant/Defendant without the Respondent/Plaintiff first establishing its case *prima facie* through cogent and legally admissible evidence.

3. We have heard learned Counsel for the parties.

4. Learned Counsel for the Appellant/Defendant submitted that the entire case of the Respondent/Plaintiff was based on e-mail communications and digital ledger statements, which had not been proved in accordance with the requirements of Section 63 of Bharatiya Sakshya Adhiniyam, 2023, and were, therefore, inadmissible in evidence. He further submitted that the Respondent/Plaintiff was required to establish the existence of a valid contract, due performance of services and a legally enforceable debt. However, by merely producing unsigned invoices and copies of unproved ledger entries, the Respondent/Plaintiff had failed to discharge its burden of proof. He further submitted that the ld. Trial Court had itself observed, in paragraph 43 of the impugned judgment, that certain important documents

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had not been filed by the Respondent/Plaintiff and had consequently imposed costs of Rs. 10,000/- for filing an incorrect Statement of Truth. It was further submitted that that there was no valid contract between the parties in terms of Section 10 of the Indian Contract Act, 1872. Learned counsel also pointed out material contradictions in the testimony of the Respondent/Plaintiff regarding the generation and maintenance of its records. It was further contended that the ld. Trial Court had awarded interest without specifying any contractual or statutory basis and had, therefore, erred in awarding interest at the rate of 10% per annum.

5. On the other hand, learned Counsel for the Respondent/Plaintiff submitted that the Appellant/Defendant had not disputed the transactions between the parties or the invoices raised by the Respondent. He further submitted that all the contentions raised by the Appellant/Defendant had been duly considered by the ld. Trial Court and there was no infirmity in the impugned judgment. Accordingly, he prayed that the appeal be dismissed.

6. As per record, the Respondent/Plaintiff had instituted the suit CS (COMM.) No. 563/2023 seeking recovery of Rs. 9,47,918.40/- along with future interest @ 24% per annum against the Appellant/Defendant. The case of the Respondent/Plaintiff was that it is engaged in the business of International Logistics, Shipping, Airfreight forwarding and allied services, including the consolidation and forwarding of custom-cleared goods within and outside India. The Appellant/Defendant was the proprietor of a business by the name of *SAM LOGISTICS* and was also engaged in the business of export of cargo to overseas destinations by Sea and Air. The Appellant/Defendant had approached the Respondent/Plaintiff for airlifting

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his shipments and had agreed to pay air freight and other charges. On the basis of the said arrangement, the Respondent/Plaintiff had agreed to provide logistics services to the Appellant/Defendant. The Respondent/Plaintiff airlifted the shipments of the Appellant/Defendant and issued airway bills and tax invoices in respect of the air freight and other related charges (Marked as Ex. PW-1/3 to Ex. PW-1/15). It was further the case of the Respondent/Plaintiff that the Appellant/Defendant had duly received the abovementioned bills and invoices, however, an amount of Rs. 9,47,918.40/- remained unpaid despite repeated requests. Therefore, the Respondent/Plaintiff served a legal notice to the Appellant/Defendant, however, no reply was received. The Respondent/Plaintiff had also initiated pre-institution mediation proceedings; however, the Appellant/ Defendant did not appear in the said proceedings.

7. In support of its claim, the Respondent/Plaintiff relied upon the KYC documents of the Appellant/Defendant (Ex. PW-1/2), the tax invoices and airway bills (Ex. PW-1/3 to Ex. PW-1/15), the Statement of Account (Ex. PW-1/16), the email communications exchanged between the parties (Ex. PW-1/17), and the legal notice along with the postal receipt and tracking report (Ex. PW-1/18 to Ex. PW-1/21).

The relevant extract of the Statement of Account (Ex. PW-1/16), relied upon by the Respondent/Plaintiff in support of its claim, is reproduced below:

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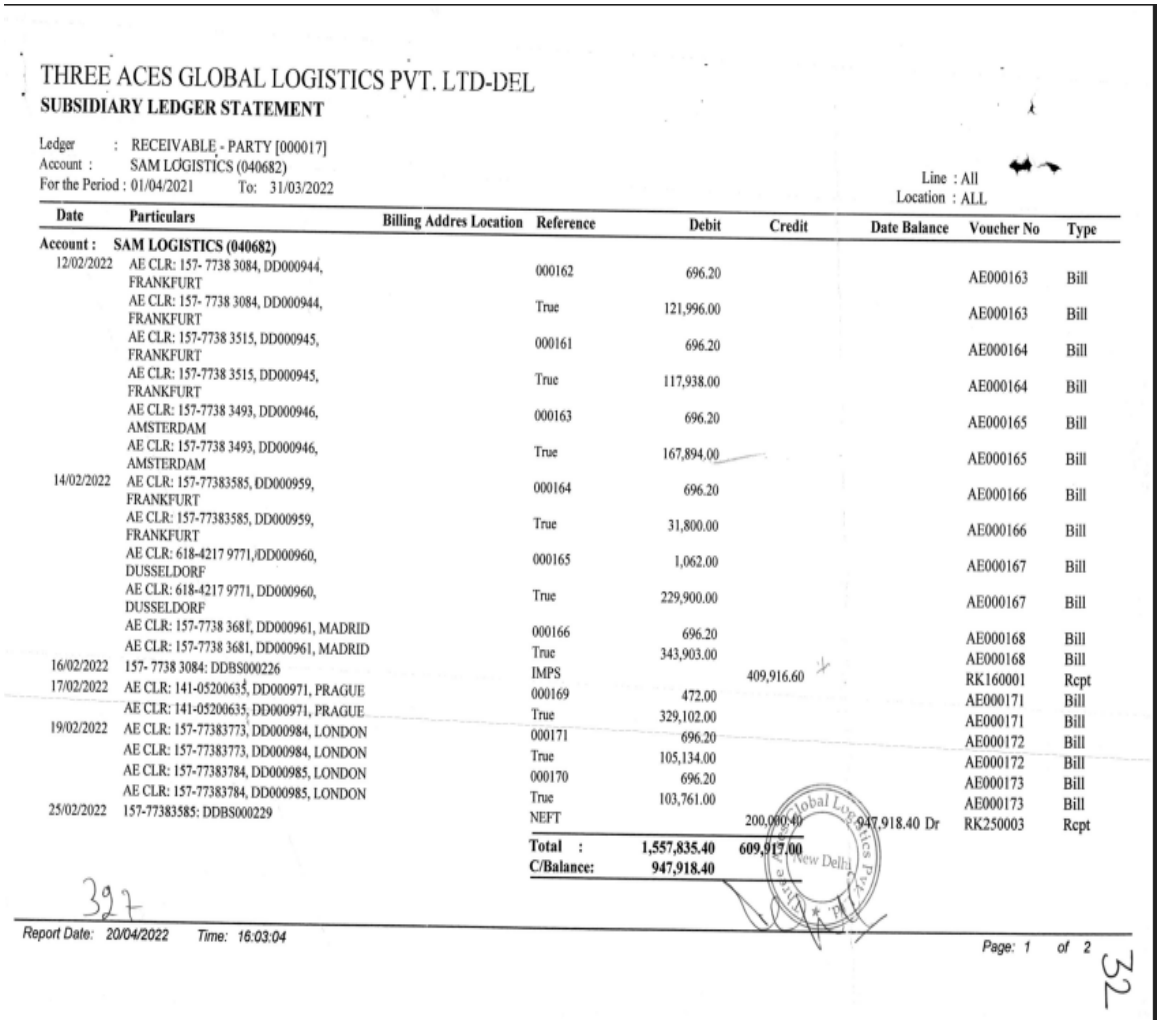

THREE ACES GLOBAL LOGISTICS PVT. LTD-DEL

SUBSIDIARY LEDGER STATEMENT

Ledger : RECEIVABLE - PARTY [000017]
Account : SAM LOGISTICS (040682)
For the Period : 01/04/2021 To: 31/03/2022

Line : All
Location : ALL

Date	Particulars	Billing Addres Location	Reference	Debit	Credit	Date Balance	Voucher No	Type
Account : SAM LOGISTICS (040682)								
12/02/2022	AE CLR: 157- 7738 3084, DD000944, FRANKFURT		000162	696.20			AE000163	Bill
	AE CLR: 157- 7738 3084, DD000944, FRANKFURT		True	121,996.00			AE000163	Bill
	AE CLR: 157-7738 3515, DD000945, FRANKFURT		000161	696.20			AE000164	Bill
	AE CLR: 157-7738 3515, DD000945, FRANKFURT		True	117,938.00			AE000164	Bill
	AE CLR: 157-7738 3493, DD000946, AMSTERDAM		000163	696.20			AE000165	Bill
	AE CLR: 157-7738 3493, DD000946, AMSTERDAM		True	167,894.00			AE000165	Bill
14/02/2022	AE CLR: 157-77383585, DD000959, FRANKFURT		000164	696.20			AE000166	Bill
	AE CLR: 157-77383585, DD000959, FRANKFURT		True	31,800.00			AE000166	Bill
	AE CLR: 618-4217 9771, DD000960, DUSSELDORF		000165	1,062.00			AE000167	Bill
	AE CLR: 618-4217 9771, DD000960, DUSSELDORF		True	229,900.00			AE000167	Bill
	AE CLR: 157-7738 3681, DD000961, MADRID		000166	696.20			AE000168	Bill
	AE CLR: 157-7738 3681, DD000961, MADRID		True	343,903.00			AE000168	Bill
16/02/2022	157- 7738 3084: DDBS000226		IMPS		409,916.60		RK160001	Rcpt
17/02/2022	AE CLR: 141-05200635, DD000971, PRAGUE		000169	472.00			AE000171	Bill
	AE CLR: 141-05200635, DD000971, PRAGUE		True	329,102.00			AE000171	Bill
19/02/2022	AE CLR: 157-77383773, DD000984, LONDON		000171	696.20			AE000172	Bill
	AE CLR: 157-77383773, DD000984, LONDON		True	105,134.00			AE000172	Bill
	AE CLR: 157-77383784, DD000985, LONDON		000170	696.20			AE000173	Bill
	AE CLR: 157-77383784, DD000985, LONDON		True	103,761.00			AE000173	Bill
25/02/2022	157-77383585: DDBS000229		NEFT		200,000.00	947,918.40 Dr	RK250003	Rcpt
			Total :	**1,557,835.40**	**609,917.00**			
			C/Balance:	**947,918.40**				

Report Date: 20/04/2022 Time: 16:03:04

Page: 1 of 2

8. The Appellant/Defendant, in his Written Statement (Annexure A-3), denied the claim of the Respondent/Plaintiff mainly on the ground that he had already paid a sum of Rs. 4,09,916.60 and Rs. 2,00,000/- on 16th February, 2022 and 25th February, 2022, respectively towards the services availed from the Respondent/Plaintiff, and thereafter no amount remained due or payable. The Appellant/Defendant further contended that he had instructed the Respondent/Plaintiff to hold a Shipment pertaining to Airway Bill No. 15777383784 through e-mail dated 21st February, 2022. However,

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the Respondent/Plaintiff ignored the instructions and started dealing directly with the client, namely, *Prime Logistics* and therefore they had no liability against the said bills for all other transactions.

9. The Appellant/ Defendant in its Written Statement had also averred that there was no cause of action in favour of the Respondent/Plaintiff, and the Respondent/Plaintiff had not even mentioned in the plaint as to when it had approached the DLSA or when he had received any Non-Starter Report. He had further denied that the Respondent/Plaintiff had lifted the shipment by air for which it had issued airway bills. He had denied that any amount was outstanding. As per the Appellant/Defendant, they had already made payments of the services availed from the Respondent/Plaintiff and that the Respondent/Plaintiff had filed frivolous statements of account and concealed material facts. He had denied the email communications between the parties and stated that the Respondent/Plaintiff had concealed important conversations between the parties and produced his copy of relevant e-mail conversation as Ex. DW-1/4. He had denied having received any legal notice.

10. Respondent/Plaintiff had also filed a replication denying the legal objections reiterating the contents of the plaint. The ld. Trial Court framed the following five issues for adjudication:

> *1. Whether the plaintiff does not have any cause of action to file the suit? OPD*
>
> *2. Whether the plaintiff is entitled for recovery of Rs.13,17,000/?OPP*
>
> *3. Whether the plaintiff is entitled for interest. If yes at what rate?OPP*
>
> *4. Whether the plaintiff is entitled for costs of the*

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Signing Date:26.11.2026 18:18

suit?OPP
5. Relief."

11. Respondent/Plaintiff had examined its Authorized Representative, Mr. Sanjeev Bora- Asst. Manager as the sole witness, on the other hand, the Appellant/Defendant also examined himself as the sole witness and thereafter both the parties closed their evidences.

12. Ld. Trial Court by elaborately discussing every objection raised by the parties, came to the conclusion that the Respondent/Plaintiff had proved his case while the Appellant/Defendant failed to substantiate any of the defences.

13. The Appellant in the present case has primarily raised following five issues:

i) That the Respondent/Plaintiff had not proved the existence of a concluded contract or terms of the contract.

ii) The Respondent/Plaintiff had to prove its own case but had filed certain computer printouts of the invoices as well as the ledger accounts that are not in compliance with Section 63 of Bhartiya Sakshya Adhiniyam, 2023 (corresponding to Section 65B of the Indian Evidence Act, 1872) and same were inadmissible in evidence. Therefore, the suit was based on inadmissible evidence and the impugned judgment is liable to be set aside.

iii) The Appellant/Defendant had paid Rs. 6,09,916.60/-, which was the only amount due for services availed by them, and there was no other amount outstanding. Thus, there was no cause of action in favour of the Respondent/Plaintiff.

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Signing Date:26.11.2026 18:18

iv) The Appellant/Defendant, in respect of one shipment of London relating to Prime Logistics, had conveyed to the Respondent/Plaintiff to hold the same, which was duly noted. However, thereafter, the Respondent/Plaintiff, on his own and without any instructions from the Appellant/Defendant, had released the goods to a third party. Therefore, the Appellant/Defendant was not liable to pay any amount against the same.

v) Ld. Trial Court applied arbitrary rate of interest.

14. In regard to Appellant/Defendant's first ground that the Respondent/Plaintiff had not proved the concluded contract. Respondent/Plaintiff in paragraph 2 of the plaint, has mentioned that the Appellant/Defendant had approached Respondent/Plaintiff for air-freighting of his shipment and had agreed to pay the air freight and other related charges for the said shipments. Appellant/Defendant in paragraph 2 and 3 of merits of his written statement, denied the same but also submitted that he had paid a sum of Rs.6,09,916.60/- for all the services availed by him, except for one shipment relating to Prime Logistics, for which he had given clear instructions to keep the shipment on hold, and therefore, he was not entitled to make payment for the same. Appellant/Defendant, thus in essence, appears to admit the existence of an agreement between himself and the Respondent/Plaintiff, as there would have been no occasion for him to make payments in the absence of an agreement between the parties. Appellant/Defendant also did not point out any specific condition which was being claimed by the Respondent/Plaintiff but was not agreed or even specify any condition which was violated by the Respondent/Plaintiff.

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Signing Date:26.11.2026 18:18

Merely, making a vague statement in this regard is of no consequence and Appellant/Defendant seems to be raising the aforesaid issue only for the sake of it and there is no substance in the same.

15. Coming to the second ground that the Respondent/Plaintiff had not complied with the provisions of Section 63 of the Bhartiya Sakshya Adhiniyam, 2023, it is seen from the record, that the Respondent/Plaintiff had filed computer printouts of invoices, ledgers and email communications along with an affidavit/certificate under Order XI Rule 6(3) CPC, read with Section 65B of the Indian Evidence Act, 1872. The conditions mentioned in the said affidavit/certificate broadly satisfy the requirements laid down for producing the electronic evidence. Appellant/Defendant also did not point out any specific condition which has not been complied with or violated by the Respondent/Plaintiff in regard to the aforesaid electronic evidence. In cross examination of PW1, there were questions put to him to give the hash value or the IP number of the connection or MAC number of the system, which PW-1 was unable to specify but these omissions are hyper technical in nature and do not lead to any conclusion amounting to violation of any basic conditions required for producing electronic records in evidence. Thus, there is also no substance in the second ground raised by the Appellant.

16. On the third ground that there were no outstanding amount to be paid, Respondent/Plaintiff has produced on record airway bills and invoices, Ex.PW1/ 3 to PW1/15 and statement of account Ex.PW1/16 to show that the total value of services provided by the Respondent/Plaintiff to the Appellant/Defendant were to the tune of Rs.15,57,835.40/- and Appellant/Defendant had paid Rs.6,09,916.60/- thereby the outstanding

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Signing Date:26.11.2026 18:18

amount was Rs.9,47,918.40/-. The Respondent/Plaintiff had also produced an email forming part of the Ex.PW-1/17, whereby it had conveyed to the Appellant/Defendant, on 19th February, 2022 *"Please find attached herewith outstanding bills detail of rs.11,47,919.00, You are requested please check and arrange the payments:-"*

17. Appellant/Defendant denied the said claim and stated that he had made two payments total Rs.6,09,916.60/- to the Respondent/Plaintiff and this was the value of the total services provided by the Respondent/Plaintiff to him except for one shipment relating to prime logistics (London) for which he had given instructions for holding the shipment for which he was not liable to make any payment. DW1 in his cross-examination as well as in his affidavit of admission and denial of documents admitted the email dated 19th February, 2022 (part of Ex.PW1/17) giving details of outstanding amounts. Appellant/Defendant denied the liability but did not produce any reply, objection or any contrary document to show that there was no outstanding amount payable to Respondent/Plaintiff. Respondent/Plaintiff has also clarified that the amount of Rs.11,47,919.00/- mentioned in the aforesaid email was including the interest calculated by him and the principal outstanding amount was Rs.9,47,918.40/- only. In these circumstances, where Respondent/Plaintiff has produced the relevant invoices and the statement of accounts relating to the outstanding amount and Appellant/Defendant has raised the defence that he had cleared the total outstanding amount, he was required to substantiate his defence or at least show discrepancy in Respondent/Plaintiff's statement of accounts or pointed out which invoice was disputed. However, Appellant/Defendant failed to

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Signing Date:26.11.2026 18:18

produce his own statement of account and also failed to specify which of the aforesaid invoices were admitted or denied by him. The Defendant even failed to show his own calculation as to how he had arrived at the total outstanding figure of Rs.6,09,916.60/-. His denial, is therefore only general or evasive denial of the Respondent/Plaintiff's claim. The relevant provisions of Order VIII Rules 3A, 4 and 5 of the CPC are extracted below:

> *"*[3A. Denial by the defendant in suits before the Commercial Division of the High Court or the Commercial Court.—(1) Denial shall be in the manner provided in sub-rules (2), (3), (4) and (5) of this Rule. (2) The defendant in his written statement shall state which of the allegations in the particulars of plaint he denies, which allegations he is unable to admit or deny, but which he requires the plaintiff to prove, and which allegations he admits. (3) Where the defendant denies an allegation of fact in a plaint, he must state his reasons for doing so and if he intends to put forward a different version of events from that given by the plaintiff, he must state his own version. (4) If the defendant disputes the jurisdiction of the Court he must state the reasons for doing so, and if he is able, give his own statement as to which Court ought to have jurisdiction. (5) If the defendant disputes the plaintiff's valuation of the suit, he must state his reasons for doing so, and if he is able, give his own statement of the value of the suit.]*
>
> *4. Evasive-denial.—Where a defendant denies an allegation of fact in the plaint, he must not do so evasively, but answer the point of substance. Thus, if it is alleged that he received a certain sum of money, it shall not be sufficient to deny that he received that particular amount, but he must deny that he received that sum or any part thereof, or else set out how much he received. And if an allegation is made with diverse*

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Signing Date:26.11.2026 18:18

circumstances, it shall not be sufficient to deny it along with those circumstances.

5. Specific denial.—1 [(1)] Every allegation of fact in the plaint, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the defendant, shall be taken to be admitted except as against a person under disability: Provided that the Court may in its discretion require any fact so admitted to be proved otherwise than by such admission:

**[Provided further that every allegation of fact in the plaint, if not denied in the manner provided under Rule 3A of this Order, shall be taken to be admitted except as against a person under disability.]……"*

18. On the other hand, not only the testimony of PW-1 is corroborated on material points but even the Appellant/Defendant has admitted the Respondent/Plaintiff's claim which is evident from evidence of DW-1 whose cross-examination, was questioned with regard to the email communication, Ex. PW-1/17, whereby the details of the outstanding bills had been sent to him. When asked whether he had replied to the said email, he stated that he was not sure whether he had replied to it or not. The relevant portion of DW-1 cross examination is extracted below:

"Q I put it to you that the email communication Ex.PW-1/17 whereas entire outstanding bill wise was also sent to you Have you ever replied to this email to the plaintiff?
Ans. I am not sure whether I had replied the said email or not…."

19. Further, upon being shown the ledger statement, Ex. PW-1/16, he stated that he had paid all the outstanding amounts except the amount

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Signing Date:26.11.2026 18:18

relating to one shipment to London, as the Respondent/Plaintiff had assured him that the issue would be looked into directly with Prime Logistics. He also admitted that he had not placed on record any particulars of the payments made by him against the ledger account, Ex. PW-1/16. In aforesaid circumstances, it was for the Appellant/Defendant to have proved his defence that the Respondent/Plaintiff was not entitled for any further outstanding amount, but Appellant/Defendant failed to substantiate any of his pleas, he even failed to produce statement of Accounts or even any communication disputing Respondent/Plaintiff's claim or even give details of invoices or transactions admitted or denied by him. It is the settled position as per the CPC & settled precedents that evasive denials are no denials in the eyes of law. In this regard, the Supreme Court, in ***Badat & Co. Bombay v. East India Trading Co. [1963 SCC OnLine SC 9],*** held as under:

> *"11. Order 7 of the Code of Civil Procedure prescribes, among others, that the plaintiff shall give in the plaint the facts constituting the cause of action and when it arose, and the facts showing that the court has jurisdiction. The object is to enable the defendant to ascertain from the plaint the necessary facts so that he may admit or deny them. Order 8 provides for the filling of a written statement, the particulars to be contained therein and the manner of doing so; Rules 3, 4 and 5 thereof are relevant to the present enquiry and they reads:*
>
> > *"Order 8 Rule 3. It shall not be sufficient for a defendant in his written statement to deny generally the grounds alleged by the plaintiff, but the defendant must deal*

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Signing Date:26.11.2026 18:18

specifically with each allegation of fact of which he does not admit the truth, except damages.

Rule 4. Where a defendant denies an allegation of fact in the plaint, he must not do so evasively, but answer the point of substance. Thus if it is alleged that he received a certain sum of money, it shall not be sufficient to deny that he received that particular amount, but he must deny that he received that sum or any part thereof, or else set out how much he received. And if an allegation is made with diverse circumstances, it shall not be sufficient to deny it along with those circumstances.

Rule 5. Every allegation of fact in the plaint, if not denied specifically, or by necessary implication or stated to be not admitted the pleading of the defendant, shall be taken to be admitted except as against a person under disability.

Provided that the court may in its discreation require any fact so admitted to be proved otherwise than by such admission."

These three rules form an integrated code dealing with the manner in which allegations of fact in the plaint should be traversed and the legal consequences flowing from its non-compliance. ***The written statement must deal specifically with each allegation of fact in the plaint and when a defendant denies any such fact, he must not do so evasively, but answer the point of substance. If his denial of a fact is not specific but evasive, the said fact shall be taken to be admitted. In such an event, the admission itself being proof, no other proof is necessary.*** *The first para of Rule 5 is a reproduction of Order 19, Rule 13 of the English rules made under*

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Signing Date:26.11.2026 18:18

the Judicature Acts. ….”

20. Further, the Supreme Court in its subsequent decision titled ***Gian Chand & Brothers & Anr. v. Rattan Lal alias Rattan Singh [(2013) 2 SCC 606],*** has held as under:

> *xxxx xxxx xxxx*
>
> *“23. The said aspect can be looked from another angle. Rules 3, 4 and 5 of Order 8 form an integral code dealing with the manner in which allegations of fact in the plaint should be traversed and the legal consequences flowing from its non-compliance.* ***It is obligatory on the part of the defendant to specifically deal with each allegation in the plaint and when the defendant denies any such fact, he must not do so evasively but answer the point of substance. It is clearly postulated therein that it shall not be sufficient for a defendant to deny generally the grounds alleged by the plaintiffs but he must be specific with each allegations of fact (see Badat and Co. v. East India Trading Co.)***
>
> ***24. Rule 4 stipulates that a defendant must not evasively answer the point of substance. It is alleged that if he receives a certain sum of money, it shall not be sufficient to deny that he received that particular amount, but he must deny that he received that sum or any part thereof, or else set out how much he received, and that if an allegation is made with diverse circumstances, it shall not be sufficient to deny it along with those circumstances. Rule 5 deals with specific denial and clearly lays down that every allegation of fact in the plaint, if not denied specifically or by necessary implications, or stated to be not admitted in the pleading of the defendant, shall be taken to be admitted against him.”***

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Signing Date:26.11.2026 18:18

21. Most recently, this position of law under Order 8, Rule 3, 4 & 5 of CPC has again been reiterated by the Supreme Court in ***Thangam & Anr. V. Navamani Ammal [2024 INSC 164]*** and it has been held as under:

xxxx *xxxx* *xxxx*

> *"14. Before we part with the judgment we are constraint to observe the manner in which the pleadings have been filed in the Trial Courts or may be in some cases in the High Courts.*
> *14.1 A perusal of the plaint filed by the respondent shows that it contains ten paragraphs besides the prayer.* ***In the written statement filed by the appellants, no specific para-wise reply was given.*** *It was the own story of the respondent containing fifteen paragraphs besides the prayer in para 16.*
> ***15. In the absence of para-wise reply to the plaint, it becomes a roving inquiry for the Court to find out as to which line in some paragraph in the plaint is either admitted or denied in the written statement filed, as there is no specific admission or denial with reference to the allegation in different paras.***
> ***15.1 Order VIII Rules 3 and 5 CPC clearly provides for specific admission and denial of the pleadings in the plaint. A general or evasive denial is not treated as sufficient. Proviso to Order VIII Rule 5 CPC provides that even the admitted facts may not be treated to be admitted, still in its discretion the Court may require those facts to be proved. This is an exception to the general rule. General rule is that the facts admitted, are not required to be proved.***
> ***15.2 The requirement of Order VIII Rules 3 and 5 CPC are specific admission and denial of the pleadings in the plaint. The same would necessarily mean dealing with the allegations in the plaint para-wise. In the absence thereof, the respondent can***

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Signing Date:26.11.2026 18:18

always try to read one line from one paragraph and another from different paragraph in the written statement to make out his case of denial of the allegations in the plaint resulting in utter confusion.

15.3 In case, the defendant/respondent wishes to take any preliminary objections, the same can be taken in a separate set of paragraphs specifically so as to enable the plaintiff/petitioner to respond to the same in the replication/rejoinder, if need be. The additional pleadings can also be raised in the written statement, if required. These facts specifically stated in a set of paragraphs will always give an opportunity to the plaintiff/petitioner to respond to the same. This in turn will enable the Court to properly comprehend the pleadings of the parties instead of digging the facts from the various paragraphs of the plaint and the written statement.

15.4 The issue regarding specific admission and denial of the pleadings was considered by this Court in ***Badat and Co. Bombay Vs. East India Trading Co****. While referring to Order VIII Rules 3 to 5 of the CPC it was opined that the aforesaid Rules formed an integrated Code dealing with the manner in which the pleadings are to be dealt with. Relevant parts of para '11' thereof are extracted below:*

xxx

15.5 The matter was further considered by this Court in Lohia Properties (P) Ltd., Tinsukia, Dibrugarh, Assam Vs. Atmaram Kumar after the 1976 Amendment Act in CPC whereby the existing Rule 5 of Order VIII of the CPC was numbered as sub-rule (1) and three more sub-rules were added dealing with different situations where no written statement is filed. In paras 14 and 15 of the aforesaid judgment, the position of law as stated earlier was reiterated. The

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Signing Date:26.11.2026 18:18

same are extracted below:

> *"14. What is stated in the above is, what amount to admit a fact on pleading while Rule 3 of Order 8 requires that the defendant must deal specifically with each allegation of fact of which he does not admit the truth.*
> *15. Rule 5 provides that every allegation of fact in the plaint, if not denied in the written statement shall be taken to be admitted by the defendant. What this rule says is, that any allegation of fact must either be denied specifically or by a necessary implication or there should be at least a statement that the fact is not admitted. If the plea is not taken in that manner, then the allegation shall be taken to be admitted."*

> *15.6 We have made the aforesaid observations as regularly this Court is faced with the situation where there are no specific para-wise reply given in the written statement/counter affidavit filed by the defendant(s)/respondent(s). In our opinion, if the aforesaid correction is made, it may streamline the working.*
> *16. For the reasons mentioned above, we do not find any merit in the present appeal. The same is, accordingly, dismissed."*

22. In regard to the Appellant's claims that he had given instructions to the Respondent/Plaintiff for holding one shipment of prime logistics, ld. Trial Court has elaborately dealt with this issue and has specifically referred to the emails part of Ex.DW1/4 (produced by Appellant/Defendant). In the said e-mail dated 23rd February, 2022, Respondent/Plaintiff had forwarded

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Signing Date:26.11.2026 18:18

the message of airline informing the Appellant/Defendant that though airline was asking if the shipment was still to be kept on hold. The Respondent/Plaintiff had asked the Appellant/Defendant to resolve the issue immediately and to take up the matter on urgent basis but Appellant/Defendant did not show any further reply to the said email, nor has shown any further instructions given by him to the Respondent/Plaintiff on this issue. The relevant discussion from the Trial Court judgment is extracted below:

> *"40. The defence of defendant qua one of the consignments related to invoice **000238** dt 19.02.2022 i.e. Ex PW1/14 is that he had asked the plaintiff to hold the consignment, however, the plaintiff did not comply with the instructions. The defendant in this regard relied upon emails exchanged between the parties and tendered in evidence of DW-1 as Ex.DW-1/4. A part of this mail has been relied by the plaintiff. The defendant has additionally filed emails sent specifically on 19.02.2022. The defendant vide email dt.19.02.2022 asked the plaintiff at 12.16 about the status of shipment. On 21.02.2022 at 14.38 the defendant asked the plaintiff to hold both shipments and confirm. On the same day at 17.03 the plaintiff forwarded an email received by it stating that plaintiff has taken note of the mail of defendant seeking holding of the delivery of the goods at destination and also informing that the holding on shipment at destination could incur storage and the cost for the same shall be billed to plaintiff. The defendant wrote at 17.04 - **well noted below.** On 23.02.2022 the plaintiff forwarded the message of airline informing defendant that airline was asking if the shipment was still to be kept on hold. The defendant is further relying upon the email by plaintiff written to Sam Logistic stating clearly that the issue should be*

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*resolved **immediately** as the storage was incurring costs and the shipment was lying undelivered at destination. The defendant was asked to take matter on **urgent basis.** This is the last email relied by defendant. The defendant does not say that this mail was replied by it and if yes how. The emails relied upon by defendant thus are showing that although the defendant wrote to the plaintiff telling it to hold the consignment; he however, did not do anything after the plaintiff wrote that it was difficult to keep holding the consignment for a long time as it was incurring costs. There is no email of defendant after this email on record suggesting that the defendant told the plaintiff that he was willing to bear the cost and that the plaintiff should continue to keep consignment on hold. The consignment therefore, if released to the consignee was under proper information to the defendant, whereby it was told to resolve the issue on the said date positively in fact word used was immediately. The plaintiff under given circumstances cannot be held responsible for having released the goods to the consignee, having not got any instruction from the defendant after this email, wherein it said categorically that huge storage had already incurred and the issue needed to be resolved on the same day. No response to this mail would convey that there was a consent on the part of defendant, who was till then writing regularly to the plaintiff to hold the consignment. The defendant therefore, has not been able to show that the plaintiff had failed in any manner to comply with the directions of defendant.*

It would be worth mentioning at this juncture that DW-1 in his cross-examination admitted that he had received part of the freight in respect of this consignment. The dispute therefore, was between the defendant and the consignee regarding the payment of remaining freight, which was to be resolved between

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the two; and the plaintiff can not be expected to keep on hold the consignment indefinitely as part of freight was not paid by the consignee to the defendant."

23. Ld. Trial Court, therefore, in paragraph 40 had rightly analysed the issue and held that Respondent/Plaintiff could not have been expected to keep the consignment on hold indefinitely as only part of freight was not paid by the consignee to the Appellant/Defendant. Further storage charges were also being attracted and in the absence of clear instructions, the Defendant had to release the consignment.

24. The last issue raised by the Appellant is that the ld. Trial Court had applied arbitrary rate of interest. Respondent/Plaintiff had claimed interest @ 24% per annum. The Ld. Trial Court, after discussing the relevant provisions, particularly the requirement of awarding reasonable interest having regard to the rate of interest charged by nationalised banks for commercial lending, awarded interest at the rate of 10% per annum. The rate of interest so awarded cannot be said to be excessive and is appropriate in the facts and circumstances of the present case.

25. Accordingly, there is no merit in the appeal, and the same is dismissed.

DINESH BHATT
JUDGE

PRATHIBA M. SINGH
JUDGE

NOVEMBER 26, 2026*/ss/rs/pv*

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