IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 3698 of 2026
With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2026
In
R/FIRST APPEAL NO. 3698 of 2026
With
R/FIRST APPEAL NO. 3730 of 2026
With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2026
In
R/FIRST APPEAL NO. 3730 of 2026

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PRIMA FRUIT PRODUCTS
Versus
M/S SUREN DYE CHEM INDUSTRIES

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Appearance:
MR UNMESH SHUKLA, SENIOR ADVOCATE with MS AISHWARYA REDDY(9713) and MS NEHA MUKHERJEE, ADVOCATES for the Appellant(s) No. 1
GUPTA LAW ASSOCIATES(9818) for the Appellant(s) No. 1

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CORAM:**HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL**
and
HONOURABLE MR.JUSTICE D.N.RAY

Date : 25/08/2026

ORAL JUDGMENT
(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)

1. The draft amendment filed in the description of the respondent in First Appeal No.3730 of 2026 is hereby allowed. Necessary correction be made in the array of parties within the course of the day.

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2. On the prayer made by the learned Senior Counsel for the appellant, permission is also granted to make correction in the description of the respondent in the array of parties in the connected First Appeal No.3698 of 2026. Necessary corrections be incorporated within the course of the day.

3. Having heard Mr. Unmesh Shukla, learned Senior Counsel assisted by Ms. Aishwarya Reddy, learned Counsel for the appellant and perused the record, it is noteworthy that these First Appeals under Section 13 of the Commercial Courts Act' 2015 have been filed challenging the judgment and orders dated 16.04.2026 passed by the Commercial Court at City Civil Court, Ahmedabad in Commercial Civil Suit Nos.3351 of 2021 and 3349 of 2021.

4. For the sake of convenience, the facts and circumstances of First Appeal No.3698 of 2026 are noted hereinbelow.

5. The suit for recovery has been filed by the respondent herein to recover an amount of Rs.4,33,015/- along with interest @ 24% per annum from the date of filing of the suit till the realization of the amount from the defendant for the goods supplied by the plaintiff to the defendant during the year 2018-19.

6. In the connected appeal being First Appeal No.3730 of 2026, the recovery is for an amount of Rs5,95,077/- along with interest @ 24% per annum.

7. As per the plaint averments, as noted in the judgment

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impugned, the plaintiff was running a business of purchase and sale of chemicals in wholesale and the defendant was having business relationship with the plaintiff and has been purchasing chemicals from the plaintiff on debit for last many years. During the year 2018-19, the defendant purchased chemicals for the purpose for processing from the plaintiff's office at Ahmedabad on debit and gave letter of goods and instructed to supply the goods by transporter i.e. namely, Lalji Mulji Transport Company, Naroda, Ahmedabad.

8. The plaintiff had submitted books of accounts maintained by it to demonstrate that total Rs.10,56,543/- was due and payable by the defendant to the plaintiff. However, on 03.01.2019 and 10.03.2019, the defendant returned the goods worth Rs.29,500/- and of Rs.6,62,660/-; respectively, and as such, as per the books of accounts maintained by the plaintiff, an amount of Rs.3,34,383/- became due and payable by the defendant to the plaintiff as on 10.03.2019 with interest of Rs.93,632/- up to 30.06.2020, total of which comes to Rs.4,28,015/- shown as outstanding amount payable by the defendant.

9. The defendant in the written statement, however, pleaded that the plaintiff had suppressed the material facts that the goods supplied by them were of sub-standard quality and were unuseable during the year 2018-19. It is stated that the defendant decided to purchase food colours for the purpose of processing work at their plant from the plaintiff and purchase order No.PFP/D/0337 dated 03.12.2018 was issued by the defendant in favour of the plaintiff for supply of

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food grade materials, such as, Sunset Yellow, Tatrazine, Carmosine, Brilliant Blue, Allura Red etc., wherein the defendant has mentioned the mandatory requirement for the goods to be supplied. The defence was that the plaintiff did not meet the requirement as mentioned in the purchase order and that the goods supplied by the plaintiff were not meeting the standards, as per Food Safety and Standards (FSSAI) guidelines.

10. It was also pleaded that due to unavailability of FSSAI license, the defendant faced problem such as seizure of goods and they have addressed e-mail dated 15.04.2019 to the plaintiff wherein they have informed the plaintiff that they have returned the goods supplied by them since they were of sub-standard quality. It was also sought to be submitted by the defendant, as noted in the judgment impugned that they came to know that the plaintiff did not have FSSAI license for the goods which were supplied to him and, therefore, they immediately informed the plaintiff regarding such issue and the material supplied were returned by them to the plaintiff, which was duly accepted. It is also submitted by the defendant that they returned the goods for an amount of Rs.2,95,000/- on 03.01.2019 and Rs.6,92,660/- on 16.02.2019; respectively.

11. The crux of the defence of the defendant was that all the goods supplied by the plaintiff were returned to them being of sub-standard quality and the fact that the plaintiff did not have FSSAI license for the goods supplied . The issues framed by the trial Court reads that:-

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:: ISSUES ::

Sr. No.	***ISSUES***	***FINDINGS***
1	*Whether the plaintiff proves that the plaintiff is entitled for recovery of Rs. 4,33,015/- from the defendant?*	*In Affirmative*
2	*Whether the defendant proves that the goods supplied by the plaintiff was of sub standard quality?*	*In Negative*
3	*Whether the plaintiff proves that the plaintiff is entitled for pendente lite as well as future interest on the recovery amount, if yes, at what rate and for what period?*	*In Affirmative*
4	*What order and relief?*	*As per final order*

12. The findings on issue No.1 about the evidence adduced by the plaintiff proving that it is entitled to recover the aforesaid amount from the defendant reads that:-

> *"9. ISSUE NO.1:Burden is casted upon the Plaintiff to prove Issue No.1 in his favour as the Plaintiff has filed the suit for recovery of an amount of Rs.4,33,015/- with 24% p.a., from the Defendant, by citing the commercial transactions, took place between the Defendant and the Plaintiff as the Plaintiff has supplied the goods, as per the order placed by the Defendant. The Plaintiff has examined the partner of the Partnership Firm Mr. Mukundbhai M. Patel vide Exhibit:24, wherein he has reiterated in his examination-in-chief the facts narrated in the plaint. He has also referred and relied upon the documentary evidences, he has annexed vide List Exhibit:4. He has also referred and relied upon the*

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Certificate issued by him under Section 65(B) of the Evidence Act and he has submitted that the electronic evidence please be admitted in the evidence. In his cross-examination, this witness has admitted that their partnership firm is mainly engaged in production of color and chemicals. He has also admitted the fact that the Defendant Company has been supplying the organic dyes, high grade color. He has also admitted the fact that these colors are used in textile and leather industries. He has also submitted that the color they have supplied to the Defendants are equivalent to the food grade quality. He has also admitted the fact that they have not supplied test certificate along with the goods. He has also admitted the fact that they have not obtained manufacturing registration certificate FSSAI. The witness voluntarily stated that it is not necessary for them.

10. To fortify the Plaintiff's case, the Plaintiff has examined one witness namely Mr. Dhaval Mukundbhai Patel vide Exhibit:33, wherein the witness has submitted in his examination-in-chief that they have received E-Mail dated 01.12.2018 from the Defendant, wherein they have asked for a supply of goods and they have also mentioned that they used to sent material for lab testing but the Defendant has never asked for any FSSAI License. He has referred the relevant person from the E-Mail sent by the Defendant in relation to the supply of goods. The Plaintiff's witness has referred the Certificate of Analysis of the goods supplied by them to the Defendant and thereby he has submitted that the goods quality is certified and thereafter it was sent to the Defendant. In the cross-examination, this witness has submitted that he was having a knowledge that the goods they are going to supply is used by the Defendant, for food manufacturing process. He has also admitted the fact that their partnership is not having license of FSSAI. Here, the Plaintiff has produced list of documents

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to substantiate their claim. The Plaintiff has produced the copy of Bill vide Exhibit:18, 20, 22, 35, 36 & 38. They have also submitted the copy of L.R., in relation to the supply of goods. The Plaintiff has also produced the purchase order dated 01.12.2018. The Plaintiff has also produced the Certificate of Analysis vide Exhibit:49 to 52. By producing additional evidence, the Plaintiff has produced the copy of Bill No.242 dated 12.12.2018, L.R. No.241909791 dated 12.12.2018 vide Exhibit:19. They have also produced copy of Bill No.252 dated 12.12.2018 vide Exhibit:20 and L.R. for the said transaction is produced vide Exhibit:21. On perusal of the documentary evidences, produced by the Plaintiff, it is revealed that the Plaintiff has supplied the goods way back in the year 2018 and year 2019. It is also trite to note that the Plaintiff has received back goods, having a value of Rs.6,92,600/-, which is pertaining to the goods returned by the Defendant. So, here the Plaintiff has acknowledged the fact that during the entire transactions, some material have been refused by the Defendant and the Defendant has chose to return back the said goods to the Plaintiff and for that the Plaintiff has issued credit note, which is reflected in the Ledger Account Exhibit:34 and it is clearly admitted by the Plaintiff in the plaint, itself. Therefore, here the Defendant is able to show that on certain occasion, the Plaintiff has supplied the goods, which are not meet with the standard fixed by FSSAI but remaining goods which were not returned by the Defendant and Defendant took a plea in his reply dated 31.07.2020 Exhibit:41 that the goods of the Plaintiff are sub-standard material but the Defendant has not raised an issue prior to the issuance of the Notice from the Plaintiff, nor the Defendant is able to show any certificate, he has obtained by independent lab, which reflect that the goods supplied by the Plaintiff is sub-standard. On perusal of the Certificates, issued by the Plaintiff Company vide Exhibit:49 to 52, which reflect that the colors supplied by the Plaintiff is meet

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with the standard fixed by FSSAI, as per the Food Safety and Standard Regulation, 2011. Therefore, as per Section 55 of the Sale of Goods Act, the Plaintiff, the partnership firm is entitled for recovery of outstanding amount from the Defendant company. The ground, which is agitated by the Defendant that the Plaintiff company is not having FSSAI license, therefore their contract is to be remained as void contract and therefore on the sole ground, the Defendant is rescuing himself from making any payment. In support of his submission, the Defendant has referred and relied upon the following case laws:

(a) Sorabji Hormusha Joshi and Co. Vs. V.M. Ismail and Another - [1959 SCC OnLine Mad 239] - Relevant Para 27,28,32,54, Page No.1-12;

(b) Beharilal Baldeoprasad Firm of Merchants by partner Tagoor Prasad and others - [1953 SCC OnLine Mad 318] - Relevant Para 9,13,14,18, Page No.13-17;

(c) G. Mekenzie & Co. (1919) Ltd. Vs. Nagendra Nath Mahalanabish - [1945 SCC OnLine Cal 24] - Relevant Para 6, Page No.18-22.

11. I have respectfully read the case laws, referred and relied upon by the Learned Advocate for the Defendant. In the case law cited at Sr.No.1, the Hon'ble Madras High Court has held that "The Buyer must show that the goods purchased deferred from what they ought to have been in the state contracted for that."

> *"72. This dictum is relied upon, but obviously the dictum must be understood together with the implications of such a situation. It is for the buyer to establish that the defective qualities existed*

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throughout, and at the time of delivery. Unless he establishes this, the dictum cannot apply.

73. Under those circumstances, we must certainly hold that the appellants are entitled to succeed, since the plaintiffs respondents failed to prove that there was a breach of condition as to the description of these goods, assuming that this was a sale of specific goods by description, or that there was a breach of warranty as to merchantable quality. I hence agree that the appeal must be allowed, and the suit dismissed with costs throughout."

12. So, here the Defendant has to establish that the goods were not supplied as per the contract entered into between the Plaintiff and the Defendant. Here, the Plaintiff has supplied the goods on various occasion and certain goods were returned by the Defendant but the goods which were not returned by the Defendant is deemed to be meet with the standard, as per the terms of the contract as for the goods returned by the Defendant, the Plaintiff has issued credit note and for rest of the amount, the Plaintiff has claimed the outstanding amount. Here, the Defendant has not entered into the witness box nor he has examined any witness to substantiate his defence that the Plaintiff has supplied the sub-standard goods. As per the ratio laid down by the Hon'ble Apex Court in a case of Vidhyadhar Vs. Manikrao & Another reported in AIR 1999 (SC) 1441, merely, the Plaintiff does not have a license, as per FSSAI that does not preclude the Plaintiff for claiming the outstanding amount, because the contract is not void contract, as the goods supplied by the Plaintiff is not prohibited goods. Moreover, on perusal of the Certificate of Analysis Exhibit:49 to 52, it is prima facie revealed that the said goods meet with the standard with Chapter III of Food Safety and Standard Regulation, 2011. Thus, the Plaintiff has proved Issue No.1 in his favour. Hence,

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MY ANSWER FOR ISSUE NO.1, IS IN AFFIRMATIVE."

13. On issue No.2 as to whether the defendant proves that the goods supplied by the plaintiff were of sub-standard quality, the trial Court gave reasoning as under:-

> *"13. ISSUE NO.2: Here, the Defendants has cross-examined the Plaintiff as well as the Plaintiff's witness Mr. Dhaval Mukundbhai Patel. In the cross-examination to the Plaintiff, Mr. Mukundbhai M. Patel has clearly submitted that the goods supplied by them is equivalent to the Food Grade Quality. Merely, they does not have a certificate under the FSSAI, does not ipso facto, a reason to be believed that the goods supplied by them was sub-standard. The Defendant has accepted the goods. Moreover, in the purchase order, they have not said anything about FSSAI certification. Therefore, merely not having a license under FSSAI, the Plaintiff may liable to the penalty as provided under the Food Safety and Standard Act or Rules thereon but on that count, the Defendant cannot evade the liability to pay the outstanding amount for the goods he has received from the Plaintiff. The Defendant has not entered into the witness box nor he has tendered any oral or documentary evidence, to prove the Issue No.1, in his favour. Therefore, MY ANSWER FOR ISSUE NO.2, IS IN NEGATIVE."*

14. Taking note of the above, pertinent is to note that the submission made by the learned Senior Counsel based on the decision of Apex Court in ***Asha John Divianathan Vs. Vikram Malhotra and Others, [*(2021) 19 SCC 629]** of the contract being contrary to mandatory law of requirement of possessing FSSAI license by the plaintiff would not be

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available in the present case, as no such issue was framed before the trial Court. It is well settled principle of law that the issues are framed by the trial Court on the points of the dispute raised by the parties. The only issue raised by the defendant before the trial Court in defence was that the goods supplied by the plaintiff were of sub-standard quality and the defendant had returned all goods on two dates, i.e. 03.01.2019 and 06.02.2019, and hence it was not liable to pay a single penny, which has been dealt with by framing an issue as to "whether the defendant proves that the goods supplied by the plaintiff were of sub-standard quality"?. The case of the plaintiff was considered by framing an issue "Whether the plaintiff proves that it is entitled for recovery of Rs.4,33,015/- from the defendant?"

15. Pertinent is to note that the defendant has not led any evidence and the plaintiff's witness was duly cross examined by the defendant when the issue was raised as to the plaintiff having no certificate under FSSAI. The trial Court has rightly recorded that once the defendant has accepted the goods and there was no requirement in the purchase order while narrating mandatory requirement to be fulfilled by the plaintiff of the goods to be supplied having FSSAI certificate, the mere fact that the plaintiff did not have a license under FSSAI would not demolish the case of the plaintiff.

16. The plaintiff has proved by leading evidence that it has supplied the goods as per the certificate issued by the plaintiff Company vide Exhs.49 to 52 and that the colour supplied by the plaintiff meet the standards fixed by FSSAI as per the food

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Food Safety and Standard Regulation' 2011. No evidence to the contrary has been adduced by the defendant. We, therefore, do no find any error in the opinion drawn by the trial Court that on perusal of the certificate of analysis Exhs.49 to 52, it was *prima facie* revealed that the goods meet the standards with Chapter 3 of the Food, Safety and Standard Regulation' 2011 and once the plaintiff has proved the supply of goods to the defendant and the defendant having received the same, the defendant is liable to pay the outstanding amount to the plaintiff for the goods kept or not returned by them.

17. In view of the above, we do not find any error in the judgments impugned of decreeing the due amount along with the interest @ 24% per annum.

18. The present Appeals stand dismissed, accordingly. No order as to costs. Connected Civil Applications would not survive and shall stand disposed of accordingly.

(SUNITA AGARWAL, CJ.)

(D.N.RAY, J.)

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